

**TOWN OF PATTERSON**  
**PLANNING BOARD MEETING**  
**February 2, 2012**

**AGENDA & MINUTES**



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3) <b>Watchtower Education Center – Amended Site Plan</b>	23 – 29	Discussion of DEP Correspondence and Findings Statement almost completed.
4) <b>Alpine Restaurant – Site Plan Waiver</b>	29	Applicant did not appear, no discussion.
5) <b>Thunder Ridge Ski Area – Site Plan Waiver</b>	29	Applicant did not appear, no discussion.
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<b>450 Haviland Drive Discussion</b>	73 – 74	Discussion of driveway and wetland.

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**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF APPEALS**

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

**Planning Board  
February 2, 2012 Meeting Minutes**

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



Present were: Chairman Rogan, Board Member McNulty, Board Member Montesano, Board Member Taylor, Rich Williams, Town Planner, Ted Kozlowski, Town of Patterson Environmental Conservation Inspection, Andrew Fetherston of the Town Engineer’s office Maser Consulting and Mr. Michael Liguori, of the Town Attorney’s office Hogan & Rossi.

Chairman Rogan called the meeting to order.

There were approximately 3 members of the audience

Chairman Rogan led the Salute to the Flag.

The meeting was called to order at 7:03 p.m.

Michelle Russo was the Secretary and transcribed the following minutes.

**1) RAYMOND MERLOTTO – Fill Permit**

The Applicant did not appear.

Chairman Rogan stated okay, first case we have is Ray Merlotto Fill Permit, the Planning Board did a site walk last Saturday. Mr. Merlotto is planning or has placed some fill on his property for leveling up his driveway, we actually know, this is one of the rare cases where we know where the fill came from, right down the road on Kendall Road from a Habitat for Humanity house excavation, clean fill. The only concern that was noted really was the stabilization of the embankment to the neighbor’s property and Mr. Merlotto said he would use large stones to stabilize, which I think everybody was pretty comfortable with but I would ask Rich if we could ask you to just kind of keep an eye on this and maybe speak to Mr. Merlotto as it goes just to make sure this bank gets stabilized. The permit is for up to 1,000 yards but I don’t think, he’s almost got, on site what he’s bringing in, there is no other fill available I don’t think on the Habitat house, so I’d be surprised if he brought in a couple of hundred yards, it’s not, there wasn’t that much there.

Rich Williams stated there wasn't that much, no.

Chairman Rogan stated so I would just be, I would just ask for the Town Planner to kind of oversee that stabilization, the silt fence was in place, there wasn't any construction/demolition material in the fill so we were real happy with that, even the topsoil I think he put over his garden was from the site as well, so anybody have any comments, questions, concerns...

Board Member Montesano stated no.

Board Member McNulty stated no, it looked fine to me.

Chairman Rogan stated okay, then, make a motion that the Planning Board approves the fill permit for Ray Merlotto, 17 Flint Road, not to exceed, obviously the amount of fill listed on the application, we do SEQRA on this on and grant a negative determination of significance of SEQRA.

Board Member Montesano seconded the motion.

Chairman Rogan asked for all in favor:

Board Member Taylor	-	aye
Board Member Montesano	-	aye
Board Member McNulty	-	aye
Chairman Rogan	-	aye

The motion carries by a vote of 4 to 0.

Chairman Rogan stated do you have anything.

Rich Williams stated nope.

Chairman Rogan stated oh I thought you were going to say something on it.

## 2) **ADAM LEVINE – Fill Permit**

Mr. Adam Levine was present.

Chairman Rogan stated okay, Mr. Levine.

Mr. Levine stated yes.

Chairman Rogan stated sir, if you want to come on up please. Okay, since last time you were here, I know that the surveyors have been to our to your house, I saw them on the day they had said they were going to be on your property doing their surveying. What is the status with the survey at this point, I know you gave me something here tonight but...

Mr. Levine stated ah yes, I had given you a document that the Terry Bergendorff company e-mailed me today stating that they had the staking which we discussed that needed to be done from the property line

where my property meets up to the neighbor's property and they are getting prepared to do the next step which is staking, not really staking out but putting on the graph or map the fill lines and then also deciding or as they put it guesstimating how much fill is there...

Chairman Rogan stated sure.

Mr. Levine stated and that's where are now, I was told at the last meeting to get in touch with Terri Hahn and the Terri's all speak together, so Bergendorff and Hahn, they already communicated multiple times in reference to this and Terri Hahn said that they need to take care of their portion then once you grant me the permit to move everything, then Terri Hahn gets back involved to do a plan or you have to let me know if I'm allowed to move it first because Terri said she can't draw up a plan without knowing if it's not allowed to do it or what we can and can't do, that's makes sense, doesn't it.

Chairman Rogan stated sure, sure.

Mr. Levine stated the water test as I'm positive everybody probably heard, came back about and beyond positive, perfect, so even the water company said go ahead, drink the water, you know it's great water, very good water, which we were happy about...

Chairman Rogan stated yeah, good. We did see those results and we were obviously happy that there was not a detect...

Mr. Levine stated always, yes.

Chairman Rogan stated obviously that's no guarantee of future results but this is why we assess things.

Mr. Levine stated understandable.

Chairman Rogan stated the Planning Board specifically, Ron, has been very instrumental in trying to lay out a time line because obviously now that we have some information to rely on, we want to move forward in a progressive manner and make sure that things happen, in as much as possible obviously...

Mr. Levine stated sure.

Chairman Rogan stated like Terry Bergendorff still has some work to do.

Mr. Levine stated yes.

Chairman Rogan stated and we, one thing that was drafted by our legal counsel was the affidavit and I'm not, maybe I'm not referring to it properly but in essence, yeah it was an affidavit...

Rich Williams stated if I could maybe just jump in here to explain.

Chairman Rogan stated sure.

Rich Williams stated the Planning Board was concerned about some of the statements that had been put on the record and they just need to have those confirmed so they have a clear direction going forward, one of those was that there was no money exchanged for the fill...

Mr. Levine stated that was no money exchanged.

Rich Williams stated because if there was, then that would trigger other permit requirements.

Chairman Rogan stated right.

Rich Williams stated so they've asked the Town Attorney to draft attestation, you know basically for you to review and sign off...

Mr. Levine stated absolutely.

Rich Williams stated that no money did change hands.

Mr. Levine stated should I have some legal counsel read it first.

Mr. Liguori stated I would.

Chairman Rogan stated I wouldn't ask you sign anything like that without...

Mr. Levine stated I don't know anything about it, I do have a client that's a lawyer and I'll ask him to read it first. I did not receive any money, any compensation in any way, shape, or form. I was just told as noted before that they were going to put the fill, it was legal and make it look nice.

Rich Williams stated that's fine...

Mr. Liguori stated Can I, I just have a question, let me just grab the mic...

Mr. Levine stated sure, you want this one.

Rich Williams stated I don't think you need it tonight.

Chairman Rogan stated yeah, this picks up great.

Mr. Liguori stated okay great, on the water test results, okay, that was a sample from the well or were those...

Chairman Rogan stated from his drinking water.

Mr. Liguori stated okay from okay but...

Rich Williams stated from the well.

Mr. Liguori stated from the well but that's different than the sample of the materials brought onto the property, right.

Chairman Rogan stated that was a soil sample, yeah.

Mr. Liguori stated that included the soil sample or no.

Rich Williams stated no, soils samples were different...

Mr. Liguori stated okay, gotcha.

Rich Williams stated the soil samples showed trace amounts of contaminants above acceptable levels.

Mr. Liguori stated okay, gotcha, I just wanted to clarify that because that is going to drive how we react you know going forward.

Chairman Rogan stated exactly.

Mr. Liguori stated so I just wanted to be clear for myself.

Chairman Rogan stated sure, well if the soil samples were clean, I don't think we would have requested the water sampling, one drove the other, yeah.

Mr. Liguori stated okay, gotcha, gotcha, I just had a little issue with the timing on this thing, I didn't know if there was going to be a requirement for additional, number one, I wasn't positive if the soil sampling was you know just recent of it had even occurred or whether you know it was just recent or was it last year, I went back to the file, I saw that you know, we had some memorandum go back and forth, some to the DEC about VOX, semi-VOX and some other materials and hearing that the drinking water sample came back clean, I was just curious if there was additional soil testing and that was clean as well...

Chairman Rogan stated there was not an additional soil sample, no.

Mr. Liguori stated ok great, then I'm clear.

Chairman Rogan stated great and okay so we have this affidavit that is part of this whole process, what Ron tried to lay out and assist the Board is to say how can we reasonable progress so that because obviously now you have some work to do, you have, first of all what is the direction of the Board, what is the Board telling you to do. I think based on the information that now have, the Board has to make a decision are we moving forward with what our engineers recommended which was capping the material with a demarcation layer, there are a lot legal elements to this, like the deed restrictions that would notify future, potential property owners that this material is there, so we need to give you direction now to say okay, we're all on the same page, we are removing from here forward and then do it in a way that sets up a time frame that we're not saying okay, we're waiting on you and then six months goes by and we haven't heard from you. We're going to set this up...

Mr. Levine stated not going to happen.

Chairman Rogan stated so clearly we're going to finish this through, also I just want to let you know that I did speak to the DEC today, I speak to Steve Parisi or Parisio...

Rich Williams stated Parisio.

Chairman Rogan stated Parisio, I reached out to them because there has been some concern that we are acting because they are not quite honestly and he did not refute the idea that this is under DEC jurisdiction, it very well does fall under their jurisdiction but he also acknowledged that the DEC is in a crisis in essence for the number of workers that they have, the staffing and that they have the prioritize their work like

anyone else and that this type of an application and violation probably falls below a certain threshold that would require or get them act, they are going to look at higher impact actions that might impact more people so certainly if this was fill at a school a public site or if there was, if were within 200 feet of a reservoir or 500 feet of a reservoir you know, in this case the drainage from the site, going towards the [Interstate] 84 corridor, you are somewhat isolated and obviously everyone is hoping that the impacts just remain within the soil. He also said as we've heard from Maser Consulting that the contaminants that were found in the soil, are the types of chemicals that typically, not typically, are not very mobile in the soil, in other words they stay bound to the soil and so they are less likely to migrate through the soil and that's what we're hoping obviously from the standpoint of your drinking water. So, what he did say was that when we come up with a remediation plan, when your engineer comes up or hired staff comes up with a plan, a mitigation plan, that they would be happy of course to review and comment on it, we're certainly going to send that to them and allow them that opportunity within in a very strict time frame again we don't want to hold up, we've waited long enough on this.

Mr. Levine stated no, understandable.

Chairman Rogan stated so I think we're in a position to at least codify what our intent is to move forward, I'm assuming everyone is in agreement to move forward with capping as recommended by Maser, there was a lot that you're going to have to work, your engineer will have to work with the parameters that need to be met, obviously there are demarcations layers, things that need to be done obviously concerns for the steep slopes, that is part of an erosion control plan that will need to be part of that and I think we need to move forward along that avenue, so let's set up what we anticipate being done for next meeting. Next, February 6<sup>th</sup> ...

Rich Williams stated if I could just maybe jump in here, make it a little easier...

Chairman Rogan stated sure.

Rich Williams stated as you started to say Ron had come up with a whole time frame about what action should occur and when they should be occurring and then that was handed off to me and I put some meat into it, I added what those actions would entail and then those actions were then reviewed by the Town Engineer who again added into that and I do have some questions I think we all need to talk about...

Chairman Rogan stated okay.

Rich Williams stated what I would like to do, if everybody is in acceptance to this when we get it the way we want it, is you know, just put it on Planning Board stationary and then send it to Mr. Levine so he has you know everything, he can see all the trips, all the triggers and everything that needs to be done in between.

Chairman Rogan stated yeah, that makes a lot of sense.

Mr. Levine stated I'd like that, I'd like to...

Chairman Rogan stated sure it's...

Mr. Levine stated definitely so then we all know where we're supposed to be and I'm hoping I've gotten things up to as far as physically possible, with dealing with other companies unfortunately...

Chairman Rogan stated sure.

Mr. Levine stated but I kept everybody abreast of the situation and even the other party who is not here today, they should know of course that the drinking water is clean, Rich did you get a chance to send that off to them, the attorney.

Rich Williams stated I did and I got a response back.

Mr. Levine stated okay, that's great, I did forward it to them but maybe he's busy and just didn't, he didn't respond to me, I said please respond, he didn't, so I figured if it comes from Rich Williams, better...

Chairman Rogan stated good news usually doesn't elicit a response as quickly as bad news.

Mr. Levine stated exactly, I understand that.

Chairman Rogan stated if your water was bad, I think he probably would have responded.

Mr. Levine stated I know he wasn't jumping up and down joy but I was, so I'm sure he's happy...

Chairman Rogan stated I wouldn't, I wouldn't take it that way at all, I'm sure they appreciate you didn't get contaminated water.

Mr. Levine stated my first phone call was to my neighbor across the street and he said Adam, I knew it was clean and don't worry, don't worry and I said look, I haven't been able to sleep because you have kids, I have my dog, I have family members staying with me, you know this is a big thing.

Chairman Rogan stated just so you know Mr. Levine, I wake up in the middle of night sometimes and think about this case as well and I wish you didn't have this issue either but...

Mr. Levine stated yeah, well...

Chairman Rogan stated these are the kinds of things that get all of us a little bit worried.

Mr. Levine stated I know we'll get through it and that's what keeping me going.

Chairman Rogan stated Mike, please.

Mr. Liguori stated the DEC...

Chairman Rogan stated yes.

Mr. Liguori stated I was working off of the Andrew, I forget the name of the document...

Andrew Fetherston stated Don...

Rich Williams stated DER...

Mr. Liguori stated the DER...

Rich Williams stated DER 10.

Board Member McNulty stated DER 10.

Mr. Liguori stated the DER 10 and I got a link to the DEC's template for, they have two documents, one is called an environmental easement and the other is the declaration. I'll work on the best method for the recordation of a document of notice but one of the things I wanted to bring up and I really think this is important is that in whatever it is that's recorded in the land records, I think it's important for the Town to maintain an easement over the area identified where the fill is and that will give the Town the ability to come in at some later point...

Chairman Rogan stated wouldn't that be the entire lot, at this point, it surrounds the house.

Rich Williams stated yeah, just a quick question so we can get it on the record. Would that put us in the chain of title in any way, shape, or form.

Mr. Liguori stated no, no, no, no...

Rich Williams stated okay.

Mr. Liguori stated not in ownership, the chain of title is ownership...

Rich Williams stated okay, well, an easement is a partial ownership of land rights.

Mr. Liguori stated well it's, well yeah there are land right but the easement would be, look Adam's gone, right, there are two new, there are two people new in the chain of title and you have, you know a dispute among the neighbors or whatever it is, I just think, after seeing it and thinking about it, I think it would be important to have some right to go on to the property for the limited purpose of testing and that is something that I want the Board to think about. I'm not saying that we have to do it, I just, when I saw it today in the documents, I wasn't thinking about it when I was looking at what was the best way to do it, when I was, the best way I thought to deal with this was what we do when we have a wetland permit from the DEC, we record what's called a confirmation deed and that has a block section of language that says this tax parcel is benefitted by a DEC wetland permit, wetland L-9 is located on this property, this is notice to all future landowners, and it's in caps, they require you to put that on there, record it and then send them a copy and so when I was going through the environmental easement documents which is a little different, that kind of deals with you know, brown, I'm trying to think of the right word, the brown fields and those sites where you have a little bit more municipal involvement but then when I looked at their declaration, it was similar so, it's just something to think about, it might be worth it.

Chairman Rogan stated the other thing, Mike, Michael, I'd like you to, you've probably already thought about this but one question I have is again assuming, let's say Mr. Levine sells the property two years from now, we have a new owner and we have a part of remediation plan after he caps the fill it might say that we want yearly water sampling done and the new owner says screw them, I'm not doing it, I'm not taking the samples. That is one concern, it would be certainly the enforcement of that or some escrow or some way that then the Town still has the ability to hire a lab...

Mr. Liguori stated right, (inaudible)...

Chairman Rogan stated and then the other thing would be and Mr. Levine part of what we've been considering of course is at a later date, if your well starts getting contaminated, that fill may very well have to be removed out of there. You know, there are certain trigger levels that have to be considered and again how enforceable are these things, how do you add teeth to it so that it can be done, whether it's Mr. Levine's property or someone else's property, maybe ten years from now.

Mr. Liguori stated no, it's, generally when you have a document like a declaration or an easement the agreement is that if the Town ever incurs any cost, they automatically become a lien on the property, you don't have to go through the process of, let's say you don't pay your taxes and you have to go through a tax sale in order to get the lien on to the property or a special assessment if there's a district and that's the language you would use in a document like that. And again it doesn't matter who it is that owns the lands, it's tied to the land and the only people I worry about are the, you know, the one attorney that misses reading that title document but you know when you get your title report, I don't know if you, if you've all bought land and you've asked your attorney to look at your title report and see your schedule B which has your exceptions to title, in it is going to be and I am pretty sure the title company is going to highlight it because that is what they do, see confirmation deed, see declaration covenants and restrictions regarding soil contamination, it is very obvious and you know, anybody that's, you don't even need to be worth your salt...

Chairman Rogan stated yeah.

Mr. Liguori stated you get, you're an attorney you get the title report, and you see that, the first thing you do is you call your client, this is why getting rid of the fill is, you know, it's...

Chairman Rogan stated yeah.

Mr. Liguori stated that's why it would be better to get rid of it as opposed to covering it because you're always going to have this issue, you go to sell your house and anybody that reads that thing is going to say, oh you know, I'm not so sure I want to buy here, I can buy across the street.

Mr. Levine stated well we can give them the samples from the soil, can't we.

Mr. Liguori stated well you're going to give them samples but they don't have, half-life, is that the right, you know they don't have a half-life, it's going to be the same in 20 years.

Chairman Rogan stated yeah.

Mr. Levine stated but the, as far as...

Chairman Rogan stated but your soil samples say that you've got contaminated fill, it doesn't say that it's clean, your soil samples say you've got contamination...

Mr. Levine stated well it is says what it is.

Chairman Rogan stated and your water sample only says that the chemicals haven't migrated to your water yet.

Mr. Liguori stated right.

Chairman Rogan stated maybe in 30 years the water might be contaminated and that is the problem this Board has had with this all along...

Mr. Liguori stated right, right...

Chairman Rogan stated because that, you know, no one wants to be hearing about this 25 years from now with somebody with a contaminated well, so believe me we applaud the idea that you have a clean result today but and this is only, the fill has been there was a year and half...

Mr. Levine stated I guess almost 2 years, yeah.

Chairman Rogan stated almost 2 years...

Mr. Levine stated that is a substantial amount of time, I guess.

Chairman Rogan stated yeah, so you know, these are things that we have to...

Mr. Liguori stated yeah, we'll talk more...

Chairman Rogan stated start playing with, okay.

Mr. Liguori stated I'll give you guys something that you know, we'll work on, certainly you know Rich and Andrew will exactly what I send to the Board and we'll fashion something that's appropriate.

Chairman Rogan stated but obviously in lieu of you receiving this time per se from the Town Planner, it sounds like Terry Bergendorff Collins is probably going to have your survey work completed by next meeting, she says February 6<sup>th</sup>...

Mr. Levine stated yup.

Chairman Rogan stated she's out there next Monday...

Mr. Levine stated they work pretty quick.

Chairman Rogan stated yeah.

Mr. Levine stated and from what they're telling me it's going to be a guesstimate of that fill and they're going to do not just the fill that's on that property but the fill that's on my property also...

Chairman Rogan stated of course.

Mr. Levine stated so because it was a concern of what's on there but I said do it all, well they're doing it, they measured and everything and they're going to do it.

Chairman Rogan stated well you're going to need it for Terri Hahn anyway, for your property...

Mr. Levine stated yes, exactly, I guess she needs to know.

Chairman Rogan stated because she needs to know what to work with, right.

Mr. Levine stated and then you'll take care of it.

Chairman Rogan stated so what I would ask is, the day that you get the completed survey from Terri, send a copy at least over to Rich...

Mr. Levine stated I'll send it to Rich, okay.

Chairman Rogan stated so that there's, so we're not waiting for the next meeting to get things.

Mr. Levine stated he's usually my first call and if I don't get him...

Chairman Rogan stated good, good.

Mr. Levine stated I e-mail him and...

Board Member Taylor stated if I could jump in...

Chairman Rogan stated please.

Board Member Taylor stated I think the two ways we should proceed, we've got one issue about what professional we're going to allow to prepare the plan, there were questions about that and then we've got the issues I think, feeding off of what Rich has said, that we need to tell them what we're going to allow and what we're not going to allow, in terms of the plan that they've prepared rather than waiting for them to bring us a plan and we have to say modify it...

Rich Williams stated well that's correct and certainly the issue with who is going to prepare the plan is one issue, I've actually got four issues...

Board Member Taylor stated okay, so let's deal with those issues and just move along.

Mr. Liguori stated are we dealing with Terri Hahn or LADA because if it's LADA then they're going to submit a plan that's going to comply with the...

Rich Williams stated the issue is, the civil engineer, our Engineer in reviewing the document, has recommended that the plan be prepared by a civil engineer, somebody with a P.E.

Mr. Liguori stated gotcha.

Rich Williams stated LADA is not a P.E.

Mr. Liguori stated no, they're planners, yeah they usually.

Rich Williams stated they're planners and landscape architects. That otherwise would be perfectly okay with preparing them...

Mr. Liguori stated I only ask because usually when I've come across that with LADA they usually get BVH to you know, come in and sign.

Rich Williams stated right.

Andrew Fetherston stated yeah.

Chairman Rogan stated in other words they have a consultant of their own which would be a civil engineer.

Mr. Liguori stated yeah.

Andrew Fetherston stated we're doing work for the Village of Cornwall-on-Hudson, DPW garage on a contaminated site and it all have to be certified by a P.E. which went to Steve Parisio, recently, very recently.

Rich Williams stated DEC is absolutely going to insist that it be a P.E.

Board Member Taylor stated and I think we should in terms of future liability for the Town.

Board Member McNulty stated or Terri Hahn's organization at least has a P.E., have them have a P.E. sign off on it...

Board Member Taylor stated well they can hire somebody that signs off on it, that's all.

Chairman Rogan stated that's what Mike was talking about.

Rich Williams stated my concern is and no disrespect to the field of engineering but you know what are we doing out here that is so complicated that you need an engineer for.

Andrew Fetherston stated right and what are the qualifications of a landscape architect to judge environmental contaminants...

Chairman Rogan stated we're not asking them to judge contaminants are we...

Andrew Fetherston stated let's leave that one right now.

Chairman Rogan stated we're just asking them to do a remediation plan, right.

Rich Williams stated we're talking about somebody to design a two foot cap with...

Andrew Fetherston stated certify it, if it's going to the DEC, it's certified, that's what DEC...

Chairman Rogan stated well you know what, here is the question I have though, the DEC isn't going to approve this plan, we're moving, right...

Rich Williams stated right.

Chairman Rogan stated we might send them a complimentary copy, so that if they any comments they have the opportunity...

Mr. Liguori stated yeah, Shawn it should be.

Andrew Fetherston stated right, right.

Chairman Rogan stated but I don't anticipate them sending us an approval if they're going to do that, let them put forward...

Board Member McNulty stated for our own protection we should...

Mr. Liguori stated that letter to DEC should be, dear DEC, this project clearly falls within your jurisdiction...

Chairman Rogan stated right.

Mr. Liguori stated you've chosen not to take any action, here's the plan.

Chairman Rogan stated exactly, right.

Ted Kozlowski stated but could that open the door for them to change their minds.

Mr. Liguori stated yeah sure.

Chairman Rogan stated sure but based on my conversation today, I don't foresee that happening.

Rich Williams stated but if they do that, then they are going to come down with a whole set of new criteria and change the game and at that point they are going to say absolutely got to be an engineer.

Ted Kozlowski stated I know.

Board Member Taylor stated so then well, I think we need to ask this of counsel, if at some point this stuff migrates and somebody starts suing everybody whose involved, including the Town, do we want to be able to say we had a certified engineer prepare this plan, does this give us more leverage in court than if we just had landscape architect, not, no issue of whether they are qualified or not, but the fact that it's certified, they've got certain liability insurance that covers that certificate.

Andrew Fetherston stated I think, I mean I think the question is what would a similar engineer or a similar circumstance, what would be done by a similar competent individual, it's clearly an engineer's work if it's going to DEC, I think that answers, no...

Board Member Taylor stated okay...

Andrew Fetherston stated in a similar situation, it would be an engineer, why would this be different.

Mr. Liguori stated yeah that and Ron, I don't know that the, I don't know what the difference in weight between a RLA and a P.E., other than I know you guys take a significantly more expansive test but I don't know what the difference is between the two so I, I know what they do differently but I don't know whether one carries more weight than the other.

Board Member Taylor stated but your recommendation is we do need an engineer, does anyone disagree with this.

Mr. Liguori stated yeah get an...

Board Member McNulty stated no, I think logic says we want to protect ourselves the best we can, whether it's Terri Hahn or someone else...

Board Member Taylor stated well she can get somebody to certify it.

Board Member McNulty stated she can have someone certify the plan...

Chairman Rogan stated what you're saying is Terri Hahn can do the work and...

Board Member Montesano stated Mike, I got a question for you when they get through.

Mr. Liguori stated whatever, just the requirement should just be, should be stamped by a P.E.

Board Member McNulty stated exactly.

Mr. Liguori stated that's it, end of story.

Mr. Levine stated okay, that's fine.

Board Member Taylor stated okay.

Chairman Rogan stated go ahead Mike.

Mr. Levine stated I'll ask Terri Hahn to have somebody do it.

Board Member Montesano stated if the Town, if whoever decides to abandon the property and walk away completely, the Town being in this situation, a lien holder, is the Town going to be held responsible to clean that mess up or what...

Mr. Liguori stated no, no, you're not going to come into title, the County does.

Board Member Montesano stated okay.

Mr. Liguori stated you know the County facilitates the tax sales, they get the property, so, look you're a tax payer in Putnam County so either you own it as a Town...

Board Member Montesano stated so we're going to pay one way or the other.

Mr. Liguori stated one way or the other, you know but the County will own it so you'll pay a smaller slice but is the County going to be responsible to implement the Town's requirements on the remediation plan, if they're the owner, good luck, you know we can't, you see what happened with a lot line or that subdivision thing, I don't think we're going to have to worry, you know...

Board Member Taylor stated all right and what were your other three points.

Rich Williams stated all right, item B says if the fill is to be moved from the adjacent property owner to the Xolar Corp to the Levine property, the plan must show where the fill will be placed including the grades,

the engineer has suggested that we have the written concurrence of the Xolar Corporation. I don't know that we need the written concurrence where the fill will be placed on Mr. Levine's property, I think it was more along the lines of having some sort of written concurrence that the fill is going to be taken off of the adjacent property in a reasonable manner.

Andrew Fetherston stated yeah, that was the intent, yeah.

Rich Williams stated yeah.

Board Member Taylor stated and the property restored to some level.

Rich Williams stated yes.

Board Member McNulty stated I think we're looking for Xolar to agree with the plan...

Board Member Taylor stated yes.

Board Member McNulty stated that's put in place, do we need them to have...

Board Member Taylor stated but need to put...

Chairman Rogan stated only on their own property.

Board Member McNulty stated authority of their own property.

Rich Williams stated well that's the thing, we don't have an application and Mike jump in here at some point, we don't have an application for them, we have no way to enforce whether their happy or not and really it's a civil issue more than it is an issue for the Board so certainly we want something from them that says we understand what the plan is going to be and we're okay with it.

Mr. Liguori stated what I would ask from Xolar is a letter that says, you have our permission to come on to the property and remove the fill and to you know bring it back to the, restore it to its prior condition.

Mr. Levine stated and to remediate.

Board Member McNulty stated the Town should get that letter or Mr. Levine should get that letter.

Board Member Taylor stated we should get that letter.

Mr. Liguori stated we...

Rich Williams stated we should have a copy of it, sorry.

Mr. Liguori stated I think the Planning Board should get to, Adam should also have a copy but you guys should have copy, you should have a letter directly that says you know, because you are authorizing a plan, you're putting, you know, you're giving a resolution of approval, of course it's going to say subject to receipt of approval from neighboring land over to come on to their property to do this but we should have that.

Mr. Levine stated she wants it off.

Chairman Rogan stated oh she said that on the record.

Board Member Taylor stated then I have a question on that part b too, is we've talked about him removing fill from the neighbor's property and bringing it on, are we going to restrict how much fill he can additionally pile on this property, how high are we going to allow it to go.

Chairman Rogan stated I think it depends what I think the plan needs to show...

Board Member McNulty stated we need the survey to tell us, to give us an idea of how much fill is on Xolar's property.

Andrew Fetherston stated you have to see the survey, you're going to see the survey, what's existing and then well what are you doing, how much of this is moving off, you have to see the plan first, it's only fair to the Board.

Chairman Rogan stated because some of it probably is going to be instrumental in tapering those slopes that he has behind his house that right now are pretty significant.

Mr. Levine stated up by house, there is now an opening which needs to raise the well and I spoke to Terri about that and she said it's not a big deal actually, they put a cap on it, raise it, boom, done, so we would be filling that area which is a significant amount to move over and then continuing where the other where it drops off, continuing to fill that area, so definitely it is just moving it from A to B, you know...

Board Member Taylor stated but it may not be, that's what we need to know...

Mr. Levine stated she said that, Terri said that.

Board Member Taylor stated yeah but that's what we need to know...

Mr. Levine stated okay.

Board Member Taylor stated so we need to wait for the survey so we can see that...

Andrew Fetherston stated the survey and then the plan get them...

Board Member Taylor stated but I think that is something we've got to think about, that maybe not all of this fill is going to disappear onto his property.

Rich Williams stated no but that's what again we need Terri...

Board Member Taylor stated yes.

Rich Williams stated to, in her best judgment place the fill on Mr. Levine's property in an appropriate manner, we're going to review that and say yeah we agree it's an appropriate manner or we're going to say no it's not, revise the plan, before the fill gets moved.

Board Member Taylor stated right.

Board Member McNulty stated because you're going to add all that fill plus a cap, I mean how high are going to, how much room is there to raise everything up.

Board Member Taylor stated yes but what I'm trying to avoid as much as possible...

Mr. Levine stated it goes far.

Board Member Taylor stated is having to revise the plan, I mean if we can give her some guidelines...

Mr. Liguori stated yeah but Ron you know, you have to see what comes in, there's no way to predict what it's going to look like until, yeah...

Board Member Taylor stated okay but there are some things we could say, we are going to require a buffer between the neighbor's property and his property where they have to remove the fill back to existing grade away from the property line a certain distance...

Board Member McNulty stated I think Rich addressed that about a slope...

Board Member Taylor stated no, that was the slope.

Board Member McNulty stated Ron's question was how is there a buffer between Xolar and Levine's property, how far the fill has to be removed from...

Board Member Taylor stated or does the...

Rich Williams stated it just has to be removed from Xolar's property, assuming that's what they want, you know the toe of slope then can start right at that line and slope up.

Chairman Rogan stated well let's, yeah...

Board Member Taylor stated well that's what I'm asking, do we want to have the toe start at the property line or do we want...

Andrew Fetherston stated it's off the property.

Rich Williams stated or you want a buffer.

Board Member Taylor stated or do we want to create a little buffer, so if there is erosion it doesn't erode onto the neighbor's property.

Rich Williams stated we're going to stabilize it so there's not going to be erosion.

Board Member Taylor stated all right, so we can do it right on the property line, that's...

Rich Williams stated yeah.

Chairman Rogan stated so in essence the two foot clean fill could go right to the property line and then taper back, what kind of slope is required for that.

Andrew Fetherston stated yeah, you know, without the plan you don't know if you can even fit that buffer, you know, you don't know, you've got the material that's going to go from one property to the other and then cap it, it's going to be a lot different than what it is today.

Rich Williams stated Ron, understand too he's going to have to put up silt fence, the silt fence is going to be on his property...

Board Member Taylor stated right.

Rich Williams stated and then he's going to start from there...

Board Member Taylor stated right.

Board Member McNulty stated does, that's right.

Rich Williams stated he already started to push it back...

Board Member Taylor stated okay, that's all I wanted to know...

Andrew Fetherston stated in that respect...

Board Member Taylor stated I just, it's something that we can make a decision on...

Andrew Fetherston stated well in that respect it's almost no different than any other construction project you look at where there's a property line and they have to, yeah, yeah...

Board Member Taylor stated that's what you do, okay so that's fine, we've dealt with that, he has two more issues.

Rich Williams stated all right, let's forget about the other one because it's not big of a deal but the last issue I do want to bring up is what do you want to do about future water quality testing, the Town Engineer has said downward or neutral trending in contaminants for consecutively, for consecutive tests maybe reduce the frequency of testing from quarterly to semi-annually to annually at the Board's discretion which I think is good but not clear enough the way it's written and what do you want to do, would be okay with that.

Chairman Rogan stated well if I interpret what's written there plainly is Andrew is saying they recommend every 6 months for a few years and if we don't get any hits then bump up to ever year. I think that...

Rich Williams stated tell me what they say, I have to go get a drink.

Andrew Fetherston stated okay.

Board Member Taylor stated I don't think we need to make that decision now because that doesn't affect his plan.

Chairman Rogan stated yeah, I didn't think so either.

Board Member Taylor stated we've got a couple, I've got two more points I want to bring up here, one is he says the slope will be regarded to not steep than three to one and covered with top soil and then seeded and mulched. Are we talking about just the slope between his property and the neighbors or are we talking about the slope all the way around the fill, okay, I think that needs to be clarified.

Chairman Rogan stated all the way around the fill.

Andrew Fetherston stated maximum slope, that's maximum...

Board Member Taylor stated everything, all of the fill.

Andrew Fetherston stated yeah, that's what it is.

Board Member Taylor stated okay, on the well casing, he had, Rich had proposed either putting a vault or extending the casing...

Chairman Rogan stated he's going to extend the casing, since day one that was said...

Mr. Levine stated well I, somebody said putting this pipe and then you can crawl down in there which I don't know if that's a good idea because I was thinking okay day it would be nice to put a patio back there, so then you can actually put a stone above it and then take the stone off, somebody mentioned that instead of having this big iron thing stick out.

Board Member Taylor stated so you prefer the casing.

Mr. Levine stated does it really matter, the Board doesn't care I guess...

Board Member Taylor stated but we might care, I have the same concern about a vault, I would prefer that we extend the casing so I would say take the or out and let's just say they extend the casing, period.

Andrew Fetherston stated I'm just suggesting they show it on the plan.

Board Member Taylor stated yes.

Andrew Fetherston stated what's your intent...

Mr. Levine stated can I discuss it with Terri, that makes sense right because it...

Chairman Rogan stated I don't, can you, just for my edification Ron, what is your concern with a vault.

Mr. Liguori stated I don't think it's for us...

Chairman Rogan stated I am just curious.

Board Member Taylor stated you've got the problem, what he was saying, you've got to crawl down in there...

Chairman Rogan stated yeah.

Board Member Taylor stated it's a lot cleaner just to extend the casing, you're going to fill anyway.

Mr. Levine stated it's not a good looking thing if I'm going to put a patio back there one day and put chairs and everything, you've got this big iron thing sitting, while I'm doing everything, you know, it's...

Board Member McNulty stated it just brings your well cap above grade...

Mr. Levine stated yeah that's the iron thing...

Board Member McNulty stated so you reduce the risk of any run off into the well.

Mr. Levine stated I looked up that gate, that thing, the vault you would call it, I looked that up and it actually, you can go down into the ground below the frost line when you do it, so it is basically, it looks like it's a bomb shelter actually, it's pretty impenetrable, that's why it's done that way.

Chairman Rogan stated well I agree with what Andrew said, show your intention of that plans so that we can review it, so then we know what type of...

Mr. Levine stated I'll talk to Terri, yeah I'll talk to Terri, it's neither here nor there, by the time I get to the patio is quite a ways away and we just want to get through this, that's what is giving me hope for the future.

Chairman Rogan stated yeah I understand, yeah.

Board Member McNulty stated the casing will be most economical, the best economic way to...

Board Member Taylor stated so while you were out Rich, I just clarified that the slope we're talking about is the slow all the way around the fill.

Rich Williams stated right.

Board Member Taylor stated there seems to be a contradiction you said that they could some chipping and use it to stabilize the exposed westward slope...

Rich Williams stated yes.

Board Member Taylor stated we wanted to reseed that too, don't we.

Rich Williams stated yes, we do, ultimately, they, we do but you can use chips for temporary mulch.

Board Member Taylor stated okay, all right, so just those two things should be clarified, we're talking about temporarily using the chips there but eventually we want everything reseeded...

Rich Williams stated vegetation, yes.

Board Member Taylor stated all the slopes, all the way around, yeah.

Mr. Levine stated well I'm going to seed the whole thing, my plan is to have grass.

Board Member Taylor stated so let's, Rich will give you the set of guidelines and you can pass them on to your planner and then next time hopefully you will have a plan for us.

Mr. Levine stated okay, okay, so I...

Board Member Taylor stated no, that's the timing right...

Chairman Rogan stated no.

Board Member Taylor stated next time we will give you a resolution saying that this is the intent of what we will do, assuming the plan meets the guidelines, we will then allow you remove the fill from the neighbors put it on your property and cap, rather than remove it completely, those are our only two options.

Chairman Rogan stated you know in essence we've already said that tonight on the record, what we need now is an approvable plan to show that, we've already set the Board's intent tonight to do that, so I don't think we need a resolution saying that...

Board Member Taylor stated okay.

Chairman Rogan stated we've said it on the record, our intent is that to allow you to move forward with a plan, a mitigation plan to allow the fill to stay with a two foot cap and following the obviously design parameters that need to be met.

Board Member Taylor stated so moved, I think...

Board Member McNulty stated and we're looking to have that plan.

Board Member Taylor stated we need to formally do that, that's all I was saying about a resolution.

Chairman Rogan stated all in favor, you're seconding I'm assuming.

Board Member Taylor stated I'm seconding.

Chairman Rogan asked for all in favor:

Board Member Taylor	-	aye
Board Member Montesano	-	aye
Board Member McNulty	-	aye
Chairman Rogan	-	aye

The motion carries by a vote of 4 to 0.

Board Member McNulty stated just so you know, we are looking to have that remedial action plan by March.

Chairman Rogan stated we're not, no, he's not going to have it, there's no way, you might be looking to have it but it isn't realistic, he hasn't even released it...

Board Member McNulty stated I think we should try and attempt to get it by then.

Board Member Taylor stated by March 20<sup>th</sup>, I was saying...

Chairman Rogan stated by the work session in March.

Board Member Taylor stated the work session for April.

Board Member McNulty stated yeah, not March 1<sup>st</sup> but for the April meeting.

Board Member Montesano stated the April meeting.

Chairman Rogan stated I'm just trying to be realistic.

Board Member Taylor stated yeah, no, we understand that.

Board Member McNulty stated just to let you know, to be clear to you...

Mr. Levine stated I need to get it first, then...

Chairman Rogan stated right.

Board Member McNulty stated you need to get the ball rolling on that.

Mr. Levine stated yeah but I don't know what I have to do yet, so once I get that then...

Chairman Rogan stated I think what you can do at this point is...

Mr. Levine stated I'll take care of this.

Chairman Rogan stated call Terri Hahn and say look what I do know is we're getting some guidelines that are going to coming from the Town Planner so that will...

Mr. Levine stated make her aware.

Chairman Rogan stated guide you to creating this mitigation plan and I do know that they are going to want a civil engineer to certify your plan, so that she can line that up...

Mr. Levine stated okay.

Chairman Rogan stated and that is just notifying her look, we're going to get moving on this in the next couple of weeks and in the interim you've got Terry Collins finishing up her work which Terri Hahn is going to need anyway, all righty.

Mr. Levine stated and that of course, she's going to send it to Terri Hahn as she told and then I'll get it to Rich and then we'll go...

Chairman Rogan stated great.

Mr. Levine stated so I think we're good, I will read this over and check it out, I'll get it back...

Chairman Rogan stated yeah.

Mr. Levine stated no, you can have that for your record, I will get this over to you, a Photostat or a copy, I'll e-mail it to you and then I'll bring a copy or the original back...

Rich Williams stated original signature.

Chairman Rogan stated that's got to be notarized...

Mr. Levine stated so I'll bring it to the next meeting or do you need it sooner than that.

Chairman Rogan stated no, we don't need it sooner.

Mr. Levine stated then the next meeting.

Chairman Rogan stated okay, thank you.

Mr. Levine stated enjoy your evening, thank you guys.

Board Member McNulty stated you're welcome.

Chairman Rogan stated have a good evening. Okay, have a good night. Okay, we have Watchtower Education Center up on the agenda...

### **3) WATCHTOWER EDUCATION CENTER – Amended Site Plan**

Mr. Richard Eldred and Mr. Joel Heier of Watchtower Bible & Tract Society were present.

Mr. Eldred stated I have one question, the two people here, do they have a point on the agenda.

Chairman Rogan stated they don't, no, not specifically...

Mr. Eldred stated okay.

Chairman Rogan stated but that was a very nice gesture.

Mr. Eldred stated wanted to give them an opportunity if they did.

Chairman Rogan stated yeah, appreciate that.

Rich Williams stated if I could just jump in here, by way...

Chairman Rogan stated sure.

Rich Williams stated of what we're here for tonight, you know again, I apologize I didn't get the finding statement done, I'm very close it having it finished but at the work session or right after the work session we received a number of comments or concerns that Ron had expressed and I thought it would be beneficial to go through those tonight to see if there's any additional guidance or what we were or how we're going to address those.

Chairman Rogan stated we've been, obviously as Rich has and everyone else going through the FEIS and the responses to the comments that were brought up initially, Ron admittedly doing the bulk of the review seems to have a knack for this, for really getting into the nitty gritty of this stuff, but one reoccurring theme that we wanted to just talk about is ensuring that the correction has been done to the number of residents and people that the increase of this proposal is going to impact on, in terms of stormwater, in terms of water usage, I saw a number of places in the document where the numerical information has been corrected and changed and it looks like Ron is pulling up some of his information here but...

Mr. Eldred stated we have made a diligent effort to go through and make it consistent throughout and to give the full number of individuals be on the site plus the smaller number of commuters who might come on site and also to make the water usage as far as the population would use, the sewage treatment volumes, traffic, trying to bring it all together so it is one consistent package throughout.

Board Member Taylor stated I think you did a great job, I think my concern is I haven't read the appendix yet...

Mr. Eldred stated okay.

Board Member Taylor stated where the real numbers get crunched and that's all I'm suggesting to the Board that before we vote on anything, we should ourselves...

Chairman Rogan stated sure.

Rich Williams stated is that what you're doing, you did this to kind of raise issues to the Board to look at...

Board Member Taylor stated yes.

Rich Williams stated the second time with the FEIS or are you looking for us to respond to this.

Board Member Taylor stated no, no, I just...

Rich Williams stated either myself or would you like Rich [Eldred] to respond to this.

Board Member Taylor stated I don't think so, unless somebody disagrees with me, it was basically board...

Chairman Rogan stated no, I think that was a tickler...

Board Member Taylor stated we were about to make a decision...

Chairman Rogan stated yeah.

Board Member Taylor stated are we on the same page on these issues, I don't see anything major...

Chairman Rogan stated there were clearly things that Ron picked up that he felt maybe the answers weren't as detailed as they could have been but then also admitted is this a concern for the Board in fairness, you know there were certainly some things but I think this was more as a thought provoking document for the Board to say hey, have we all thought about these things...

Mr. Eldred stated might I, could I...

Chairman Rogan stated sure.

Mr. Eldred stated just enter an additional comment, we still have site plan review to go through...

Chairman Rogan stated and that's...

Mr. Eldred stated and we feel a lot of the details would be ironed out and the site plan review...

Chairman Rogan stated and we, and there was an acknowledgment of that, that a lot of the concerns will bear out in the site plan.

Board Member Taylor stated it's just we have to do a SEQRA...

Mr. Eldred stated right, understood.

Board Member Taylor stated and this is the discussion for us to think about the SEQRA, that's all, yes, certainly the site plan will take care of a number of things but what pops up, visual impacts, that's one thing we've expressed concerns about, do we think they are minimal, not adverse or not significant, that's what we're got to decide, we don't have to do it tonight but...

Chairman Rogan stated sure.

Board Member Taylor stated just, did you, have you been able to go over and take a look at it.

Board Member McNulty stated at the site.

Board Member Taylor stated well at the site or Cornwall Hill Road or...

Board Member McNulty stated no I haven't.

Board Member Taylor stated that's where I'm going to go, I'm going to go over to Edie's and...

Ted Kozlowski stated Cornwall Hill Road...

Board Member Taylor stated look down over with their page of what it's going to look like and look across the valley and say what is it going to look like.

Chairman Rogan stated yeah.

Rich Williams stated not when they're hunting out there but a good place to go is the parking and ride where they have the state lands and just walk a little bit in the back, into the fields...

Chairman Rogan stated yeah and now's a good time.

Board Member McNulty stated off Cornwall Hill [Road].

Board Member Montesano stated yeah.

Rich Williams stated Cornwall Hill [Road].

Chairman Rogan stated there's not much going on out there.

Rich Williams stated no.

Board Member Taylor stated just wear an orange vest.

Chairman Rogan stated yeah, walk softly and carry a big stick.

Board Member Montesano stated actually if you've got a spare tank you'll feel safer.

Chairman Rogan stated you know, there is no doubt that there will be visual impacts but I think that what they've proposed from what I see stays within the character of the architecture that's out there, certainly there's still a clustering of the impacts on the site. Even while I was reading, I think it was this morning or last night looking at some of the positive that the Watchtower contributes to the community, certainly with the tax base from the Patterson Inn, that alone is much more than what we would have ever gotten from that property under its former use, you're paying taxes on something like fifteen, a little over fifteen million dollars a year of assessed value just on the Inn. Separate of course from this proposal, that's a certainly, has a positive impact for the community. Crunching the numbers, boy that's not something that I'm great with, with these types of things and I appreciate your diligence in that but I go back to our professional staff that you know, when it comes to wastewater, the numbers have been reflected, I'm going to look to you guys to say yes it's been done correctly or not...

Andrew Fetherston stated you're got DEP in those.

Chairman Rogan stated yeah, so you know I'm going to really look for your guidance to say yeah you know they are addressing your concerns and we can do this...

Board Member Taylor stated and the concern the last time was they were talking about usage and occupancy usage rather than the maximum possible occupancy and that was our concern and we have no control over occupancy percentages...

Chairman Rogan stated you hope for full occupancies in realty...

Board Member Taylor stated well they don't want full occupancy...

Chairman Rogan stated with any but I mean with any design, you hope, you plan for full occupancy.

Board Member Taylor stated you plan for full occupancy and that is really what we want to see, did that redo the numbers for the, for everything so that it's at full occupancy and they are within their limits at those, that was our big concern from the very beginning and I just, as I said, I haven't read it yet, I'll get to it before the next meeting.

Rich Williams stated we did that when (inaudible).

Mr. Eldred stated I might mention that it's how we've re-casted is at full occupancy...

Board Member Taylor stated very good.

Mr. Eldred stated we understood the problem you were struggling with and we put it together in that way and as you state we will not be able to use it at that full occupancy because we have an ongoing internal maintenance of rooms, people they move in or out so like a hotel, if they get 80% occupancy, they're doing really good and sometimes we're similar.

Board Member Taylor stated yeah.

Chairman Rogan stated in this economy I think they'd be happy with 40%, yeah.

Rich Williams stated Mr. Eldred did you get the memo from the DEP.

Mr. Eldred stated we did get the memo, yes.

Rich Williams stated we've reviewed that, or at least I've reviewed, I didn't see a lot of big issues, I don't think, Ted had a lot of big issues but the one thing that was a big concern to me was their statement in there that essentially said that if there is any disturbance in a wet or a stream buffer, the overall project is limited to 25% expansion.

Mr. Eldred stated within the stream buffer.

Rich Williams stated that would be my interpretation that is not what I took out of the memo.

Andrew Fetherston stated yeah, it's worth another look, it's worth a phone call...

Mr. Eldred stated right.

Andrew Fetherston stated if not a sit down meeting.

Mr. Eldred stated yeah.

Chairman Rogan stated significant...

Andrew Fetherston stated it could be a significant comment, right...

Board Member Montesano stated it's a significant comment, it can be.

Board Member McNulty stated it's under item five in their memo.

Mr. Eldred stated we, our consultant AKRF sent us a copy because they [DEP] didn't send us a copy, so but we do have a copy of it.

Chairman Rogan stated yeah, they mentioned things like having a Northeastern Cottontail Rabbit study, you know they have even better property over on Cranberry mountain that they have control over, well not DEP but DEC does but they can do a great study on rabbits...

Rich Williams stated oh yeah.

Chairman Rogan stated you know in habitat that is more appropriate.

Ted Kozlowski stated Mr. Eldred don't worry about the Norway spruce either.

Mr. Eldred stated pardon me.

Ted Kozlowski stated don't worry about the Norway spruce.

Chairman Rogan stated it's within the memo...

Mr. Eldred stated okay.

Ted Kozlowski stated don't worry about it.

Chairman Rogan stated in essence you have the City's you know items and the Town doesn't see a whole of issues there right now.

Board Member Montesano stated the City people (inaudible).

Mr. Eldred stated right, on the Cottontail Rabbit, the type of rabbit they're talking about, I'm going to make a comment about that...

Chairman Rogan stated yeah.

Mr. Eldred stated it likes a wooded dense area, it gets frightened if it comes out into a field type of situation and where our development is taking place is in a field type of situation and around where our construction will be located we'll be putting a construction fence that will be higher than a rabbit can jump.

Board Member Montesano stated well there are New York City rabbits we're talking about, they're very worried about that.

Board Member McNulty stated just be looking for rabbit on the menu, that's all.

Mr. Eldred stated so the only way you can really determine whether it's that type of Cottontail is to actually put it under the knife.

Chairman Rogan stated right.

Mr. Eldred stated yeah.

Chairman Rogan stated yeah, it was interesting.

Mr. Eldred stated we don't plan to do that and I'm sure they don't want us to do that.

Chairman Rogan stated no, I would say not.

Board Member Montesano stated don't say that loudly, you'll have rabbit protest.

Chairman Rogan stated okay, anything else for this evening from this gentleman.

Rich Williams stated we're good.

Chairman Rogan stated Ted.

Ted Kozlowski stated nope.

Mr. Eldred stated thank you for your time.

Board Member McNulty stated thank you.

Chairman Rogan stated thank you, we appreciate your time Mr. Eldred.

Board Member Taylor stated we appreciate what a great report it is.

Board Member McNulty stated thorough.

Board Member Taylor stated yes.

Mr. Eldred stated take care.

Chairman Rogan stated all right.

Board Member McNulty stated it is one detailed document.

#### **4 & 5) ALPINE RESTAURANT & THUNDER RIDGE SKI AREA – Site Plan Waivers**

Applicants did not appear.

Chairman Rogan stated for the record, item four, Alpine Restaurant and item five, Thunder Ridge Ski Area, have been tabled, we have no new information on them for this evening...

#### **6) ANTHONY BONIELLO/B&V REALTY – Lot Line Adjustment**

Applicant did not appear.

Chairman Rogan stated we have a lot line adjustment for Anthony Boniello and B&V Realty which we have to consider. Okay, in essence we have a lot line adjustment which will create a more conforming lot for the residential lot, there is one violation that is shown on the lot line adjustment for the commercial property which is addressed within the resolution which would need a zoning variance and there is an issue of unpaid fees to the Town from the commercial property in reference to a site plan review that had been

undergone by the Town previously. It seems that it's the Board's general opinion that the payment of those fees should be referenced and tied to the approval of this lot line adjustment, am I saying that correctly...

Board Member Montesano stated yeah.

Board Member McNulty stated say it again.

Chairman Rogan stated say it again, I could ever say it again, it will never come out the same way...

Board Member McNulty stated come on.

Chairman Rogan stated that we tie the fee, the monies owed to the Town to the approval of this as a condition of approval of this lot line adjustment. So Rich in essence...

Mr. Liguori stated (inaudible) prior to the signing of the plat.

Rich Williams stated that would be, yeah they've got to meet all the conditions.

Mr. Liguori stated okay.

Chairman Rogan stated right.

Rich Williams stated two questions I have...

Chairman Rogan stated yes.

Rich Williams stated in that regard, if you could be a little more clear on the record about your intent, not just tie it to the resolution but what is the...

Chairman Rogan stated okay.

Rich Williams stated what is the trigger you're looking for where the condition would be met and then the other issue is the resolution typically has a limit of needing to meet the conditions within 62 days, I don't know the applicant will be able to do that in this instance.

Chairman Rogan stated no, I agree. Okay, so the intent with, as with any of the conditions of a resolution my inference on that is that the final signing, whether it's a final plat or the instrument that needs to be filed would not be signed by the Planning Board until all the conditions are met...

Rich Williams stated correct.

Chairman Rogan stated is that more clear.

Rich Williams stated that's correct.

Chairman Rogan stated and that would be the intent of the Board in this case.

Rich Williams stated but that would, with the condition you're saying, if I can just kind of phrase it so I'm clear when I write it in the resolution is that the outstanding fees would need to be paid in full...

Chairman Rogan stated correct.

Rich Williams stated prior to the plat being signed.

Chairman Rogan stated correct.

Rich Williams stated okay.

Chairman Rogan stated yeah and in having said that I think it would make sense for the Board to change the time frame, the 62 days to something more reasonable, giving the conditions, Rich do you have a recommendation on the time frame, can we do six months.

Rich Williams stated I would definitely give him six months.

Board Member McNulty stated that's what comes to mind for me, 180 days.

Chairman Rogan stated yeah, okay, everybody in agreement on the change to 180 days.

Board Member Montesano stated yeah.

Chairman Rogan stated okay, so having said all that, so that allows them to move forward with creating, getting, completing the conditions, we get everything done, it's been satisfactory, we can sign off and we file it and it effectuates the lot line adjustments.

Rich Williams stated conditions.

Chairman Rogan stated okay, somewhere along the line I lost that resolution, you have it, I need a motion on the resolution, do you remember your part.

Board Member McNulty stated SEQRA, I have to read through SEQRA on this...

Rich Williams stated no.

Chairman Rogan stated it's already in the resolution.

Board Member McNulty stated motion to introduce the resolution as outlined, as with the special conditions and previously stated, is that what you're looking for.

Chairman Rogan stated no.

Rich Williams stated it was close.

Chairman Rogan stated okay...

Board Member McNulty stated rookie.

Chairman Rogan stated okay, we have a motion, without objection I would like to introduce this resolution as if it were read, this resolution as written as if it were read into the minutes...

Board Member Taylor stated as amended.

Chairman Rogan stated as amended to include the two changes, one being the time frame to meet the conditions and the second payment of the outstanding fees owed to the Town.

Board Member Montesano seconded the motion.

Chairman Rogan asked for all in favor:

Board Member Taylor	-	aye
Board Member Montesano	-	aye
Board Member McNulty	-	aye
Chairman Rogan	-	aye

The motion carries by a vote of 4 to 0.

Chairman Rogan stated I didn't quite nail it either but we're close, it's a little different than what we've done in the past...

Board Member Montesano stated we'll have to get a script.

Chairman Rogan stated you just introduced a motion...

Board Member Taylor stated we need a new cheat sheet, the other one changed.

Board Member Montesano stated yeah we've got to get a new script.

Chairman Rogan stated that's all right, that's, Mike we were teasing earlier that in our past we did our resolutions a little differently and Rich seized the opportunity to say well if you're doing it really correct, he set us a little bit straight so, rather than us getting bad habits but okay so we have the resolution done for Boniello...

Mr. Liguori stated Rich will whip you into shape, don't worry, give it some time.

Chairman Rogan stated I know, okay...

Rich Williams stated not to easy.

## 7) OTHER BUSINESS

### a. Dunkin Donuts

Chairman Rogan stated and we have Dunkin Donuts, just know that we have a letter that was sent to the owner on this, everybody should have a copy that in essence notifies the owner that there was an issue brought to the Town about safe queuing of cars for the site and making them aware that there stipulations within the original approval that basically said that upon notification and upon awareness of an issue, that we have the right to go back and revisit those issues in essence and we're notifying him of that and also

letting him know that there might be the potential for some area to be opened up for additional site plan revisions of his septic area, should he hook into the Town sewer, which is what is being discussed at this point in time...

Rich Williams stated correct.

Chairman Rogan stated between the property owners of the, I guess property owner, actually is Benderson, correct.

Rich Williams stated yes.

Chairman Rogan stated okay, so that is something that we should be thinking about a little bit over the next couple of months, again we don't have a plan in front of us, short term I don't think there is a whole lot except enforcement, enforcement of not allowing cars to back out on to [Route] 22, the Sheriff's Department was notified about this if I remember correctly, copied on the complaint.

Rich Williams stated I don't recall.

Chairman Rogan stated I believe that was one of the things that was done, yeah, if not if you could check into if it wasn't I believe the original complain that was filed was copied to Don Smith.

Mr. Liguori stated that's a pretty tough one, report to Dunkin Donuts.

Chairman Rogan stated what's that, report to Dunkin Donuts, oh man.

Board Member Taylor stated station somebody there.

Chairman Rogan stated you would think you'd have plenty of...

Board Member McNulty stated I took a quick look at it...

Chairman Rogan stated okay, sure.

Board Member McNulty stated Rich any possibility you thought to reverse the direction around...

Chairman Rogan stated that was the way it was supposed to be originally.

Rich Williams stated if you had two ways, if you could provide for two way traffic on the other side, you could reverse it...

Board Member McNulty stated what if you changed the parking to be slanted so everybody came in from the same direction and if cars came in and pulled in on an angle so they'd have to back out and then continue back out, just, I was looking, I didn't measure anything or take a real close look but just looking at a plan they were to be able to come in, it makes an awkward entrance because you'd have to cross traffic of people exiting, so that was awkward but it looks like queuing was, continued to be a problem, it looked like it may be a short solution.

Chairman Rogan stated you know what I don't understand about that, about the direction is that it goes against everything that people know about going around it, I mean first of all, you order things, you pull up to your driver's side and that would make everything on your passenger's side...

Board Member McNulty stated yeah I guess that would be...

Chairman Rogan stated and it goes against the natural tendency of people, every time you pull around something you're always going...

The Secretary stated left.

Chairman Rogan stated you know, counter-clockwise...

Board Member McNulty stated should have put it here...

Board Member Montesano stated one easy thing would be no left-hand turns...

Chairman Rogan stated no...

Rich Williams stated I don't know that I agree with that...

Chairman Rogan stated no...

Rich Williams stated whether you're going...

Chairman Rogan stated I'm trying to think of...

Board Member Montesano stated going to the parking...

Rich Williams stated clockwise or counter-clockwise it really depends on where the driveway is on the site.

Chairman Rogan stated okay.

Rich Williams stated and that dictates which you're going to end up going.

Mr. Liguori stated but you know I was thinking, I'm not you know, I'm not a planner but it seems like having two lanes to queue in, having an extra board where you can order from, so you can double stack the cars and maybe move the order station around the corner you know and have two of them...

Chairman Rogan stated that's such a tight...

Mr. Liguori stated you'd have to work out where the, you know, the second car would come in to get the order because there's only one window, but...

Board Member McNulty stated or with the technology today, they put someone at the busy times out in the parking lot, taking the orders to move the cars along...

Chairman Rogan stated really.

Board Member McNulty stated they do that, I think I was at a Sonic...

Board Member Montesano stated there is no left hand turn coming off [Route] 22 so they've got to go into the parking lot, turn around and come out, it's inconvenient for the people but you'd have your traffic so it could flow...

Chairman Rogan stated that's not, no left hand turn isn't the issue, it's coming from, it coming south that they're queuing up, right...

Rich Williams stated yeah...

Andrew Fetherston stated yeah left turn into Dunkin Donuts you're saying Mike.

Board Member Montesano stated right.

Chairman Rogan stated oh, oh, I'm sorry...

Andrew Fetherston stated is what he's saying, once you're into the site.

Board Member Montesano stated yeah, once you're coming off of [Route] 22, you come down the ramp, you can't make that left, you've got to go straight...

Chairman Rogan stated let's just...

Board Member Montesano stated but there's got to be a way for it to be...

Rich Williams stated but then you've got everybody coming down, going through a bank of parked cars and all the way back up and around...

Chairman Rogan stated right.

Board Member Montesano stated nobody goes through the parked cars, they stay right on that nice open roadway that's there...

Rich Williams stated nobody is going to do that.

Board Member Montesano stated and you can turn around.

Rich Williams stated what nice open roadway.

Board Member Montesano stated there is a nice section in there...

Board Member Taylor stated the south end.

Board Member Montesano stated that's, you can turn, that you can come down and...

Rich Williams stated you know Mike and I...

Board Member Montesano stated hey let's put it this way, why look for an easy way, let's figure out some other...

Rich Williams stated but you know what you just said, no matter what you plan, no matter what do you design, no matter what you put in place, people are going to do what is easiest and most convenient for them, regardless and that's how you got the queuing in the first place.

Chairman Rogan stated right.

Board Member Montesano stated well let's put it this way, they're still banging into the balusters which had to be put up because the building is where it is.

Board Member McNulty stated the other question is, how big of an issue is the queuing, was it one time, over a month, is it every morning because I'm up that way a lot...

Board Member Montesano stated every morning.

Board Member McNulty stated in the morning, I don't see it backed up ever, I've never seen it...

Rich Williams stated it is, it is...

Board Member Montesano stated what time are you going past...

Rich Williams stated it is every morning.

Board Member McNulty stated between seven and ten.

Andrew Fetherston stated but they're, aren't they backing up, I'm looking at the aerial, I'm cheating I'm sorry but I mean aren't they backing up on to a right turn lane on [Route] 22, they're not back up onto the lane of [Route] 22...

Chairman Rogan stated that's what I was thinking.

Rich Williams stated no, they're backing up on the right turn lane...

Board Member Montesano stated on the right turn lane.

Andrew Fetherston stated I mean the real problem is that...

Rich Williams stated and that was the complaint.

Andrew Fetherston stated the, where you order and where you pick up are on the wrong side, you have to go all the way around the other side of the building, if you want to have queuing, let them queue around their own building...

Chairman Rogan stated right.

Andrew Fetherston stated it makes a traffic issue where people have to walk through to get into the door if they don't want to drive up but you can't queue on this site, the only way to queue is to queue, if the window is on the other side.

Board Member Montesano stated well that's because the building...

Chairman Rogan stated remember also that changing around where people queue might sound good from the outside but think about what it does to the inside of the facility...

Andrew Fetherston stated oh yeah, oh yeah...

Chairman Rogan stated I mean that's a complete renovation, that's not as easy as just saying or just change where they park, you know, it's a complete renovation, that's not as easy as just saying oh change where they park, it's a complete flip-flop.

Andrew Fetherston stated absolutely, I'm talking about putting the window where you collect your meal on the other side...

Chairman Rogan stated right, that's like now saying we're going to move the kitchen over there to queue people up...

Andrew Fetherston stated and, yeah, it's very difficult...

Board Member Montesano stated they could have them...

Ted Kozlowski stated you know god forbid they should just park their car and walk into the store and get their coffee.

Board Member McNulty stated well short term solution...

Ted Kozlowski stated I mean jeez.

Board Member McNulty stated they could place someone, an order taker in the parking lot in those busy times...

Andrew Fetherston stated that works, that works.

Board Member Montesano stated why don't we just have them move the building where it was supposed to be to begin with.

Chairman Rogan stated go back to what Tommy said though, remember we have one complainant, complainant saying that it's occurred multiple times, we don't have an outcry from the community saying what's going on out there...

Rich Williams stated no, they're too busy waiting in line.

Ted Kozlowski stated yeah.

Andrew Fetherston stated I mean when, sometimes at lunch when it gets backed up at any other place, somebody will come out and take your order and they'll say park here for five, I'll bring it out to you, you know because I gotta move.

Ted Kozlowski stated you know that's true, he's been in business for how many years, you have one complaint.

Chairman Rogan stated right.

Board Member McNulty stated and I've never seen it backed up, ever.

Ted Kozlowski stated and look how much time your spending on this thing, one complaint.

Board Member Montesano stated yeah but how many people have hit the baluster and the ceiling...

Rich Williams stated yeah but I want to jump in, if there are no complaints, if there is a safety issue it is still incumbent upon the Town to address it.

Chairman Rogan stated sure.

Ted Kozlowski stated right and if...

Rich Williams stated and yes it's only in the right hand turn lane so it's not as dangerous if it was out in the lane but you still have people coming down on [Route] 22 at a fairly good clip of speed and the potential for somebody to get rear ended there while they are sitting there.

Board Member Montesano stated let me take that point because if you're sitting on [Interstate] 84 going to the White Plains exit and you're in that right hand lane, how many accidents have been there in the last 2 years by trucks making that turn, by cars being in the wrong place when one of those trucks decides he's going to make that right hand turn.

Rich Williams stated 732.

Chairman Rogan stated it's as good a guess as any.

Ted Kozlowski stated sounded good.

Board Member Montesano stated well let's put it this way, my neighbor almost lost everything except her car but...

Board Member McNulty stated I'm not a fan of signs but in that right hand land you could put no standing, so if people are waiting, not for the traffic light but to get access...

Rich Williams stated yeah.

Board Member McNulty stated it's a no standing zone.

Rich Williams stated and I, it is worth thinking about but it all comes down then to enforcement, we can put the signs up, will it be enforced, the answer is probably not, I think the answer to this problem it a long

term permanent solution and the reality is that's not going to happen unless we get them tied and we can abandon that septic system where we can reconfigure that whole driveway out there.

Board Member McNulty stated well that's what I'm saying if we're looking for the Town to protect itself and a safety and to try and promote safety as much as possible, tell the other to get someone out there taking orders, no standing, do whatever's possible in the short term, so but let's see...

Rich Williams stated do you want me to say that.

Board Member McNulty stated let's see if it's an issue first because like I say, I've never seen the cars backed out on to [Route] 22...

Chairman Rogan stated what I think even would be a better thing was...

Board Member Montesano stated I'll tell you another thing, try coming, if you go right directly in front of the A&P and made a turn to line up with the entrance to Dunkin Donuts, you can't, I would say 60 to 70% of the time you can't go across because the traffic is coming down and you're supposed and there is no stop sign for you, they have one but nobody pays attention to that either, those are the people that are trying to exit.

Chairman Rogan stated Rich, we've sent a letter to Mr. DeBonis notifying of the situation, I would follow-up with it, you or I regardless to say now that you're on notice, do you have any thoughts since it's your, nobody is going to know his business better than him, if you have any thoughts on ways to correct in the interim without major site you know, and maybe he'll come up with something that says well you know if it's backing up, I can send out someone to start, whatever you know...

Board Member Montesano stated yeah.

Mr. Liguori stated before we start your money, maybe you want to spend it.

Chairman Rogan stated yeah right, that's right.

Board Member McNulty stated like you said, he knows his business better than we do.

Chairman Rogan stated right and you know and I had actually intended to give him a quick call just to let him know the letter was coming and then forgot about it and the letter was sent and I've sure he received it three days ago, so but no it certainly is incumbent upon being notified that the Town is considering an issue that impacts his business to take an active role in that, you know and say hey, I've got some ideas, yes I know it backs up certain times of that days...

**b. Patterson Garden Center**

Chairman Rogan stated okay, Patterson Garden Center we talked about ways of tying, there not being a completed site plan to, so that it would be picked up by people looking at the business. I'm not sure what headway was made in that regard.

Rich Williams stated what we essentially, to boil the memo down that I gave everybody, it looked at all the outstanding issues and it comes back to, to boil it all down it comes down to clean the site, get all the

garbage up, resubmit for site plan approval the existing plan that the Board had reviewed before, go through the process, get it approved and move your tenant in.

Chairman Rogan stated and how does this get, how would someone who was looking at that property, how would they know about this. You know if I decided I wanted to go look at renting the place...

Rich Williams stated I sent it to the property owner who has the ultimate obligation you know is going to be leasing the property, so she is the one who has to start this process.

Chairman Rogan stated Mike, you had mentioned that, maybe last meeting or something, how if you were looking to go into a business you would do your due diligence and look into the property and you could find out about these sorts of things.

Mr. Liguori stated if somebody was going to buy it, the title search would pick up a violation in the Building Department but that doesn't necessarily mean...

Chairman Rogan stated but not need to...

Mr. Liguori stated that somebody leasing the premises is going to go do a, you know violation search so unless there was something on the land records then and even then I can't tell you how many times, just as a matter of fact, just Monday when I came into work I had a message from a client saying that she signed a lease to rent a place and has been in operation and just found out that the use is not permitted, you know, because people don't always use counsel to do things...

Chairman Rogan stated sure.

Mr. Liguori stated and even then some people don't check, so those are really the two triggers but getting something on the record, the easiest way is the, is you know the Building Department otherwise you're left with trying to record something and without the consent of the land owner that's going to be difficult...

Chairman Rogan stated and a copy of this goes into the Building files on the property.

Board Member Taylor stated are there outstanding violations on this though.

Rich Williams stated they are not in compliance with our current rules and regulations, there are no standing violations.

Board Member Taylor stated so, should we recommend that the Enforcement Officers go up there and create up standing violations to get her to move along on this.

Rich Williams stated right now the property is not being used, it's essentially abandoned, she has been slowly cleaning it up, I would give her a little bit of time, you know if come the spring it's still a mess and nobody's moved in then absolutely.

Board Member Taylor stated can we revisit this in May or June...

Rich Williams stated sure.

Board Member Taylor stated can you make a note and put it on the agenda for then and we'll come back to it and in the mean time we'll continue our discussion about an overall strategy for dealing with these situations.

Chairman Rogan stated yeah I think that's important.

Ted Kozlowski stated Rich is she indicating that she wants to get an applicant in there, a business...

Rich Williams stated apparently she had somebody that wanted to sign a lease like right away.

Chairman Rogan stated and you know, that's the frustration, you have somebody who wants to sign a lease right away, they are going to come in and say we want to go in, we want to go in well yeah but you have these site plan issues and now it's going to be this, now all of a sudden we're the bad people that are holding them up from starting their business because the owner could be working on this right now, I'm going to use this new want to be do business in the Town of Patterson and now they'll be the wedge to say but all I want to do is do a garden center, I'm not going to hurt anybody, I'm good business person...

Ted Kozlowski stated no, we're gone down this road, this exact spot with that exact wording.

Chairman Rogan stated the owner could be taking a more proactive approach and cleaning this matter up and then handing over a completed site plan to a tenant...

Mr. Liguori stated so right now there is just no use, is that right.

Rich Williams stated in theory there is no use because there's no site plan.

Mr. Liguori stated well no, no, no, you could have a use and not have a site plan, are the premises being occupied.

Rich Williams stated there is no approved use and it is not occupied.

Mr. Liguori stated okay, that's what I mean, there is no occupancy of the premises.

Rich Williams stated there is no occupancy.

Chairman Rogan stated the previous occupant left and spilled a whole bunch of chemicals on the exit.

Mr. Liguori stated okay so we really just have an inactive site.

Chairman Rogan stated correct.

Mr. Liguori stated that's what we have.

Chairman Rogan stated an inactive, vacant site.

Board Member McNulty stated commercial site.

Ted Kozlowski stated although I did notice they're cleaning up, I stopped by there the other day...

Rich Williams stated yeah they are cleaning up slowly.

Ted Kozlowski stated somebody is doing something.

Mr. Liguori stated Suzie, Suzie, is that what this is.

Rich Williams stated no, same place yes.

Mr. Liguori stated same place in spirit.

**c. Reilly Zoning Change**

Chairman Rogan stated and the zoning change for Reilly, we, it sounds like it is certainly the Town Planner's opinion that this makes sense, this change, you've notified the other property owner, I saw the letter in there.

Rich Williams stated yes sir.

Chairman Rogan stated have we gotten anything back from them.

Rich Williams stated no sir.

Chairman Rogan stated no, so...

Board Member Taylor stated do we take an action.

Chairman Rogan stated I was just going to say, procedurally usually the Town Board would look for a recommendation from the Planning Board to say that this seems to make sense or it doesn't make sense, or move forward or don't move forward. Will the Town Board take an action without hearing from the neighboring property owner or will they wait to have some, I mean...

Rich Williams stated they certainly would prefer to hear from the neighboring property owner.

Board Member McNulty stated what is the neighbor doesn't want to revert his property.

Rich Williams stated we don't have to include, there is no, we don't have to...

Chairman Rogan stated well we can make a recommendation...

Rich Williams stated it doesn't make a lot of sense not to but we don't have to.

Board Member McNulty stated it's up to him...

Chairman Rogan stated at least at this point though we can make a recommendation on the Reilly property that you know...

Rich Williams stated yeah and I would couch it this way, you would make a recommendation on the property, Reilly property and separately you would possibly make a recommendation that the other property also looks like it should be changed as well.

Chairman Rogan stated yeah.

Board Member McNulty stated based on the owner's desire.

Chairman Rogan stated well on that one you don't have any input from the owner...

Rich Williams stated well...

Chairman Rogan stated oh in other words you're saying conditioned on...

Board Member McNulty stated pending the...

Rich Williams stated honestly we don't want to steamroll over any resident...

Chairman Rogan stated of course.

Rich Williams stated but when you're making a recommendation, a Planning call like this, you don't necessarily worry about the property owner's opinions about whether it's appropriate or not...

Board Member McNulty stated I don't know if I agree with that.

Board Member Montesano stated all we're doing it making a recommendation...

Chairman Rogan stated why don't we do just Reilly...

Board Member Montesano stated we're not ordering anybody to do it, so if they want to proceed with it, they can cut it down to one or the other, the idea is to put the two together which sounds more sensible rather than having one sword...

Board Member McNulty stated no I agree with you Mike...

Board Member Montesano stated but the idea is what are we going to, we're not going to do a thing, all we're going to do is say yeah we agree with what Richie has explained to us and that's all...

Chairman Rogan stated based on the existing use and based on the existing use of the property and...

Board Member Montesano stated they're going to make the decision, thank goodness.

Chairman Rogan stated the geometry of the property, were the two in essence, the two factors and I agree with that and I agree with Tommy that I wouldn't want to see the Town Board take an action on the second lot without having some notification, not notification, some correspondence or communication from the existing property.

Board Member McNulty stated logically I agree, it makes sense to convert them all with the layout...

Rich Williams stated and that's all I'm saying.

Chairman Rogan stated yeah.

Board Member McNulty stated but I want you to know that the Town Board shouldn't act on anything until they do hear from that property owner.

Rich Williams stated you know and again, we didn't do this under the cover of darkness...

Board Member McNulty stated no.

Rich Williams stated we sent a letter to the property owner saying we are considering this.

Chairman Rogan stated yeah, you need sufficient time for a response, you know, for all we know they could be contacting their counsel...

Board Member Montesano stated what is sufficient time, six months, a year.

Chairman Rogan stated to say hey, this is the letter I got, what do you think.

Board Member Taylor stated so our recommendation is that the two lots be converted if they want to convert them.

Chairman Rogan stated I think, why don't, why don't we do it this way, why don't we, in the matter of the Reilly property on Route 22 make a motion to recommend to the Town Board that the zoning change be granted subject to the applicants request on that particular one.

Board Member Montesano seconded the motion.

Chairman Rogan asked for all in favor:

Board Member Taylor	-	aye
Board Member Montesano	-	aye
Board Member McNulty	-	aye
Chairman Rogan	-	aye

The motion carries by a vote of 4 to 0.

Chairman Rogan stated okay and on the neighboring property we recommend to the Town Board because of similar site characteristics and use that the Town Board also considers a zoning change contingent upon positive communication and correspondence from the existing owner.

Board Member Montesano seconded the motion.

Chairman Rogan asked for all in favor:

Board Member Taylor	-	aye
Board Member Montesano	-	aye
Board Member McNulty	-	aye
Chairman Rogan	-	aye

The motion carries by a vote of 4 to 0.

Chairman Rogan stated and we have people that have been very patient here tonight that are behind us that deserve to be heard.

**d. M&S Iron Works**

Mr. & Mrs. Peter Monteleone and Mr. Spagnoli were present.

Rich Williams stated well I can update the Board really quick, a couple weeks ago we received two copies of an amended site plan and stormwater pollution prevention plan, I made the judgment call that you know, of course we need a minimum of three, we got the third copy in, Andrew has had the opportunity to review and he's issued a memo, I have not, I intend to get to it next week, I've talked to the engineer and he understand that if he's going to make a submission to this Board for everybody to look, there needs to be eleven copies of all the documents or at least of all the document the Board needs to see, not necessarily the technical documents. He was, he's waiting on our comments, he's going to revise the plans and resubmit for the next meeting and that's where we stand with M&S.

Chairman Rogan stated Andrew, since you issued a review memo on this, do you have anything relevant to that review memo that you want to discuss with the Board.

Andrew Fetherston stated did you read, did you get a chance to read it.

Rich Williams stated I did read it, normally I hate to read it but I didn't want to come in here cold.

Andrew Fetherston stated I just think that there's some issues that are persistent that are hanging on, we've gone through that site, I put on the memo, I think we went through it six times...

Chairman Rogan stated six times.

Andrew Fetherston stated yeah, you know...

Rich Williams stated we're still waiting for landscaping...

Andrew Fetherston stated yeah.

Chairman Rogan stated is it some cases that the engineer isn't, is just choosing to ignore the issue and this feeling he's going to do it at a later date or they haven't adequately addressed some of the concerns.

Andrew Fetherston stated I think there is a combination, I have no problem going through the comments with him on the phone or in person, you know whatever we had done that previously we can certainly do that again, in the interest of getting this done, getting this moved on...

Rich Williams stated sure.

Andrew Fetherston stated because it's, there are an excessive number of reviews in my opinion really for what it is, absolutely.

Board Member Taylor stated and we shouldn't have to look at these things over and over and over again.

Chairman Rogan stated well and it's a cost to the applicant...

Andrew Fetherston stated absolutely, absolutely.

Chairman Rogan stated every time that they review it, they're banging this guy for a set of plans a review and you know...

Andrew Fetherston stated right.

Chairman Rogan stated and it's certainly frustrating from our perspective when comments are sent out when you take the time to review them and this gentleman has to pay for them and then they are just not adequately addressed you know or breezed over or...

Andrew Fetherston stated the comments, yeah...

Chairman Rogan stated and I'm not saying that's the case here but it seems to be, it used to be a more of a theme when things were busier to get partial submissions.

Andrew Fetherston stated honestly it really is just so simple it's a checklist; it really is so simple, it's checklist items and if there is a disagreement or any discussion, I'm available and Richie's available...

Rich Williams stated simple issues like you know how he's going to handle the storm rates during construction, whether there should be a temporary sediment pond which we both flagged multiple times that he doesn't say yes, he doesn't say no, he just doesn't so, little things but we are making some progress.

Andrew Fetherston stated I mean we got one plan, we got a landscape plan which is illegible and when you submit something where you cannot read the text one iota...

Chairman Rogan stated you're wasting people's time.

Andrew Fetherston stated it looks like you didn't even look at it, when you sent it in and that's why I put on there, we're looking at it six times, there is a reason.

Chairman Rogan stated it sounds like we need to, it sounds like the, I'm glad the applicant's here because it sounds like we need to speak to the technical staff and say hey come on, I mean nobody is here to stop you from doing what you want to do, we want to get this for you but we have to make sure that everything is nailed down and maybe these gentlemen need to meet in person or speak on the phone and just say all right, let's nail this out and hit it out of the park...

Andrew Fetherston stated more than that.

Mr. Spagnoli stated if we need to, if we need to we can grab Dan and come up here, everything, just nail it down.

Chairman Rogan stated sure, yes, hi.

Mrs. Monteleone stated if I can say, Christine Monteleone for the record. Mr. Holt was told he would not be on the agenda for tonight...

Chairman Rogan stated yeah.

Mrs. Monteleone stated it was just a fluke that we realized that we were on the agenda that's why...

Chairman Rogan stated do we have a revised agenda, you're not on the agenda...

Andrew Fetherston stated no.

Rich Williams stated yes, no, Ron asked me to put them on the agenda.

Mrs. Monteleone stated well...

Chairman Rogan stated oh, oh, I'm sorry...

Rich Williams stated as well Commerce Drive.

Chairman Rogan stated okay I apologize, I have last week's agenda, I'm sorry.

Mrs. Monteleone stated okay, so just with that in mind I didn't want the Board to feel as though we're on the agenda and we're not here and we don't care.

Chairman Rogan stated no, I understand.

Rich Williams stated listen, I acknowledge I told Dan he didn't submit enough copies for the Board to review it, he's not on the agenda, Andrew and I will take it upon ourselves to review it and get him comments so we can get this maybe moved along for the next meeting.

Mrs. Monteleone stated I know the plan is to have all eleven sets of plans here prior to the 14<sup>th</sup> so we can be in the March 2<sup>nd</sup> or 1<sup>st</sup> meeting, I think if you look at the comments from Mr. Fetherston many of them say that they have been addressed, so we are making progress that way. I know Mr. Holt will be back the week of the 15<sup>th</sup>.

Chairman Rogan stated and you know sometimes we get sucked into this idea of we have to make the agenda, we have to be on the agenda, being on the agenda doesn't necessarily push the project along, what pushes the project along is these gentlemen saying you know what they've done everything, let's move forward with the process, no we're making steady progress, that's just being on an agenda, much of this stuff doesn't really, isn't really within our purview and there are items they say you guys need to make a decision on but you've sat through enough of these boring discussions to know that a lot of it comes down to, okay make the technical people happy, meet the rules and regulations and let's move forward with the project so sometimes the applicant's engineers can be doing a really good job but that doesn't mean it's necessary to be on an agenda because there's still a process here so sometimes people don't come back every month. You don't have to be on an agenda every month to be making progress so I think that's important also.

Board Member Taylor stated but I think it's good that you were tonight...

Chairman Rogan stated sure.

Board Member Taylor stated to hear the comments that it's like you engineer is costing you money...

Chairman Rogan stated yeah.

Board Member Taylor stated because he's not addressing these issues and we don't need a submission to us with a bunch of issues that haven't been addressed, it's of no value, it just wastes our time, we don't want to have to read these things over and over again too so I mean get your technical people to move on it. I asked for it to be put on the agenda for a different reason, there are some issues, we're coming up to SEQRA now as part of the process, we have to look at it and make a SEQRA review and make a determination and there are a few things I wanted to discuss with the Board, it will be information that you might be interested in but it would have been passed on to you anyway, some of this is procedural, some of it is just things we need to talk about the way we did with the Watchtower because we've got to make a decision, so that is why I had asked it be put on the agenda.

Mrs. Monteleone stated I think at the last meeting it was mentioned to Mr. Spagnoli to have his engineer address everything and put it on the plans and we were under the impression that he wanted to do that but he was told to wait until the comments came this one last time to finalize the plans.

Board Member McNulty stated okay well you have the engineer's comments now and Rich will follow up...

Rich Williams stated hey, yeah but he resubmitted with three sets after that, we had the meeting, we had comments, he then resubmitted to address those comments, we, Andrew's reviewed it now and most, you know, some, I don't know how many...

Mrs. Monteleone stated they've been put into the list, a good majority...

Rich Williams stated a bunch...

Andrew Fetherston stated a good number, yeah.

Rich Williams stated a bunch have been addressed, a few have not but we would have preferred to see everything addressed before the resubmission had come back in.

Board Member McNulty stated your best interest is to sit down with you engineer, with that memo and whatever Rich, you're going to be following with a memo too...

Rich Williams stated yeah, I'll have one done at the beginning of the week.

Board Member McNulty stated and go item by item and sit down with him and have him answer that or if it's a problem then you need to address it with somebody from the Planning office and have it worked out and then submit the plans, one time and hopefully we can...

Mr. Spagnoli stated yeah I mean by no means are we trying to waste anybody's time.

Chairman Rogan stated no, I understand that.

Board Member McNulty stated no, we don't want to do, we were hoping to push through.

Chairman Rogan stated I don't think you're trying to do that at all, believe I understand all of this is costing you money and you know what from your perspective and from our perspective, we say what's the big

deal, take the comments, make the changes this is what you guys are certified to do, do it I mean I know that's not fair to your engineer but that's the way I look at it as a layperson to say what's the big deal, buildings get built all the time, let's make these changes but I know it more complex than that, I'm not that you know, looking at it that simplistic but it would be nice if this process could move along much quicker, you know for everybody. Ron you noticed something about the EAF that you wanted to...

Board Member Taylor stated yeah, let me say a few things...

Mrs. Monteleone stated can I just ask one question...

Board Member Taylor stated yes sure before I get started here.

Mrs. Monteleone stated (inaudible – spoken over) do you think we'll have your comments back in enough time for Dan Holt to make the changes to the plans to have them in prior to the 14<sup>th</sup> deadline, today being the 2<sup>nd</sup>.

Rich Williams stated I would hope my answer would be yes because I hope when I go through the plans that I'm not going to find anything that's significant that's outstanding, you know basically it's done, it's done, it's done, that's what I'm hoping, if I go through the plans and find a big issue, you know but I'm hoping that's not the case, it shouldn't be.

Mr. Monteleone stated yes, like you said, after five or six already, thank you for your time.

Chairman Rogan stated thank you.

Board Member Taylor stated okay, I want to preface this with Rich was making a report on the progress of the plan last month and I heard something that it just triggered something in my head and I couldn't quite explain it and that's why I started and I forgot Ted was excused from this action, well I should step back even more, with the Thunder Ridge application what I learned was that and I think we all learned it, those of us that were here and not watching ball games, that Rich and Ted's views points are very different and they are both very valuable to the Board, Rich is more of a mechanical planning, he likes to call it, I call it an engineering view point and Ted's more of a biological or organic view point and I think they are both valuable. That is why I went down the line the way I did before I came to you Rich, there was no disrespect intended for you, I just understand the view point for you is different, that's all...

Rich Williams stated okay.

Board Member Taylor stated now what triggered in my head and I didn't know it at the time, it takes me awhile to process this stuff, I wake up in the middle of the night when it's finally processed is the vernal pool, when we were out on the site walk, it was everybody was, all the experts were saying how important it is for this vernal pool to dry out. Last month what I heard was that there is going to be significantly more water coming off the site and then, so the question is how is that going to affect the vernal pool, is it not going to dry out.

Rich Williams stated no, I would say it's still going to dry out, you know because rainfall is cyclical but you have generally a tendencies through the annual cycle for periods of heavier rain which is why you have wet springs, you know the areas fill up, all right and then you get to your summer periods where they dry out, well equally stormwater runoff, you're not going to have that stormwater runoff during those drier summer months and that's going to give the opportunity for the vernal pool to dry out.

Board Member Taylor stated all so I started thinking about it and it's what's important is and as part of the SEQRA process, we're supposed to be looking at potential significant negative environmental impacts, whether there are any, the vernal pool is one of those areas...

Rich Williams stated it's an area of concern.

Board Member Taylor stated could be, yes and the habitat around the vernal is also an area of concern and then we have to decide whether the impact is significant, the magnitude of the impact and whether it's been mitigated or not...

Rich Williams stated right.

Board Member Taylor stated well it sounded to me like this excess water running off is if anything making the situation worse, not better, so that we, yes...

Rich Williams stated let me throw something else out to you, when the water is running off, I'm going to kick this over to Andrew, all right, typically you're talking about 24 to 36 hour duration where you've got that increased volume of stormwater passing through your hydrolic system.

Andrew Fetherston stated you've got, you're going to get a greater volume of runoff because of the impervious areas, if there is going to be a greater volume, less of it is going to go into the ground than it had previously, conversely you have bio filtration that he designed, you have all of the subsurface stuff that's designed, which is going to, every time it rains the first water is going to go into those devices, it keeps on coming, you get a big storm, then it's going to be you know, come to its capacity and go out to the basin, so every time it's going to feed the ground water, is it going to dry up or adversely, it really dramatically changed that ephemeral pond, the water that it gets, I don't think so...

Board Member Taylor stated well that's...

Andrew Fetherston stated is he meeting the requirements of the state permit, yeah, that doesn't go over the volume of water, it's the rate, you know and I think you know, it pretty much is.

Board Member Taylor stated it just is a question I think we need to address on that basis...

Chairman Rogan stated but I think he meant generally though.

Board Member Taylor stated so...

Chairman Rogan stated just as in a general reference...

Ted Kozlowski stated I can say something about vernal ponds...

Chairman Rogan stated sure, of course you can.

Ted Kozlowski stated the key to a vernal pond is not to have fish in a vernal pond...

Chairman Rogan stated right.

Ted Kozlowski stated so a vernal pond can stay wet all year long as long as there are no fish in it...

Chairman Rogan stated got it.

Ted Kozlowski stated that's the key, fish are the predators of amphibians...

Chairman Rogan stated yeah.

Ted Kozlowski stated so if there are no fish in a vernal pond, it doesn't matter whether the pond is year round or not, you just have to make sure that no fish get into that pond, that's the key of any vernal pond, in any town, in the United State of America.

Board Member Taylor stated so that's kind of where I was going, the question was water quality that goes into the pool, is that changing, you're saying no because you're providing all these filtrations, that's fine, volume, it's because there are still periods in between, it may or may not dry out it's also, is there any way for fish to get in there, that's the other issue. The only other thing to look at is, are there any other drainages that come into that pool that if we change something on another lot, could it affect for fish to come into that pool if not, I mean...

Rich Williams stated no necessarily fish but certainly have other areas if they were developed, potentially could affect the hydrology of that vernal pool but you know when that occurs, we're going to have to be as cognoscente and watch those as well.

Board Member Taylor stated so why not just, again that is something that maybe what we should do is put on a plan somewhere that this is a problem that needs to be watched so it will trigger something in the future...

Rich Williams stated okay.

Board Member Taylor stated I'm just, what would the mitigations be, all right the next issue that comes out of this is protection of the forest around the pool where these things have to be, have their fun in the stream, they go off and they live and within a few, it's the upslope I guess is what...

Andrew Fetherston stated sure.

Board Member Taylor stated I'm still trying to remember we were down there, this always being explained to us and then I started to think about well when you and I were out there the first time I was out there we were at that other side where they had expanded their parking lot by dumping stones over, I don't remember which one it is but you know the one...

Chairman Rogan stated you mean on Commerce [Drive]...

Board Member Taylor stated yeah, on Commerce [Drive]...

Chairman Rogan stated it was the one on the right there.

Board Member Taylor stated they dumped stones down, they expanded the parking lot, they never put up their fence...

Rich Williams stated oh, Lea Rome.

Board Member McNulty stated Lea Rome...

Board Member Montesano stated Lea Rome...

Chairman Rogan stated yeah.

Board Member Taylor stated right, how do we keep that situation from happening here, how do we keep people from destroying that forest which is the other part of the habitat...

Board Member McNulty stated well the site plan will outline that, now that...

Board Member Taylor stated exactly...

Chairman Rogan stated it didn't on Lea Rome and it just was...

Board Member McNulty stated now that (inaudible – spoken over) the enforcement is another issue.

Board Member Taylor stated well the enforcement is another issue but that's what I'm saying, so I started looking at the site plan, is there a fence, are there boulders to keep them from dumping things down there...

Rich Williams stated no, there's a stormwater pond.

Andrew Fetherston stated and a septic system that he would not want to go on top of...

Rich Williams stated and combined with the difficulty of this vernal pool and the surrounding forested area are on somebody else's property.

Andrew Fetherston stated plus the buildings are really making, you really have the buildings that are making, creating a border or a barrier, the septic, the stormwater, it would be kind of difficult to get to that...

Board Member Taylor stated well that's what I want to know...

Andrew Fetherston stated yeah I think...

Board Member Taylor stated I'm just asking these questions...

Andrew Fetherston stated it would be difficult to get to.

Board Member Taylor stated so we may not need a fence then but they're not going to walk out of phase 5 steel building or open a window and throw stuff over the side, down a hill.

Rich Williams stated it would be very unlikely.

Andrew Fetherston stated it an enforcement issue, yeah.

Board Member Taylor stated well okay, but that's, I just think that need to discuss this question, which, so it may have no value to you guys but we've got to consider this and then I started to think well if these are the issues, then they should be on the EAF, that's something I learned with Thunder Ridge, EAF how important that is, so I went back to the EAF, I got nothing in part 2 of the EAF, it's blank, now is that just my copy or was it never filled out, there are no...

Rich Williams stated we haven't done SEQRA yet on this, no it hasn't been filled out.

Board Member Taylor stated okay so that's, we're moving towards SEQRA, we need to start filling this out.

Rich Williams stated yes.

Board Member McNulty stated well that gets resubmitted by the applicant, doesn't it.

Rich Williams stated well generally, having again learned from Thunder Ridge, in the past generally the applicant is going to fill it out, we're going to review it, and I'm going to issue a comment letter...

Board Member Taylor stated yeah.

Board Member McNulty stated that's my understanding.

Rich Williams stated right, I think with Thunder Ridge the Board is looking to take a harder look at all of this, so you have another application tonight, the EAF was done by the office, you know we're going to do Phase 2, we're going to do part 2 on this and if need be, we may address part 3, so that probably, I expect would be at the next meeting.

Board Member McNulty stated certain things trigger part 2 correct, it's not always completed.

Rich Williams stated no, part 2 is always completed...

Board Member McNulty stated part 3 is triggered.

Rich Williams stated part 3 is a trigger issue.

Board Member Taylor stated let's just again, it's we need to be thinking of what are these impacts, how are we going to rank them and so on, that's, that's all I'm bringing it up for, just discussion because I've kind of been out of the loop, I've been doing this writing for months now, I've been out of the loop and I'm just starting to get back into it and this is something I was noticing and that's why I did that sequence because something was bothering me and I realized what it was, it's the pool, protecting the pool, are we doing that, that's all I'm asking, you seem to be saying we are, that's fine, that's all we need to know, we can put that in that form and then when we get SEQRA, we can say okay, we covered these issues, everything's good, so that is all I wanted to say about that, that's good then. That makes me feel much better. So we're moving on this, now do you want me to, I don't know, I wasn't really involved in M&S, has somebody been more involved in M&S where we could actually go through with Rich and say these are what we see as potential impacts and fill in the blanks and then the rest of us could say yeah they've been met or haven't they not been met...

Rich Williams stated well do you want me to fill the form out, submit it to everybody, let them review it.

Board Member Taylor stated however, I don't know...

Board Member McNulty stated what is the property procedure, is it the applicant to fill it out or is it for the Board to complete...

Rich Williams stated the lead agency.

Chairman Rogan stated the responsibility is ours, it says, responsibility of the agency...

Board Member McNulty stated lead agency...

Board Member Taylor stated that's us, well how do you, do you want Rich to fill it out and then we can add to or go over it or...

Board Member McNulty stated fine with me, and then we can review it.

Board Member Montesano stated all right, one other...

Board Member Taylor stated or at least list the impacts and then we can sit down like you did with us and talk about whether they are important or not and moderate and minor and so on.

Board Member Montesano stated is the vernal pond on this piece of property.

Rich Williams stated no.

Board Member Montesano stated so we're going to the other property next to it...

Rich Williams stated we're not going anywhere, we're insuring that the hydrology...

Board Member Taylor stated no, we're not going anywhere.

Board Member Montesano stated can take it.

Board Member Taylor stated from this property.

Rich Williams stated the hydrology doesn't change to affect the vernal pool.

Board Member Montesano stated okay.

Board Member Taylor stated it's like traffic, the traffic generated on this site, could have an effect way down the road but it's for us to say whether we should allow that or not or whether they have to mitigate that effect, yeah so that's it for M&S. What else do I have, I have something else, and I'm sorry guys, I just...

Chairman Rogan stated that's okay, well...

Board Member Montesano stated hey, it's no problem.

Chairman Rogan stated since Mr. Monteleone is here, do you want to talk about Commerce Drive.

Board Member Taylor stated oh Commerce [Drive].

Board Member Montesano stated there's Commerce Drive.

Board Member Taylor stated that was the other thing.

Chairman Rogan stated right.

Board Member Montesano stated yeah, that's...

Board Member Taylor stated Commerce Drive and 450 Haviland [Drive], I've got some comments for 450 Haviland [Drive] too.

**e. Commerce Drive Discussion**

Mr. Peter Monteleone was present.

Chairman Rogan stated okay, well let's start with Commerce Drive, since Mr. Monteleone is here. Help me out along the way here because I sometimes forget what we said last meeting but what the Board was kind of discussing at the work session was you've been speaking to us over the last year or so about what can I do with these lots, what can I do with the wetlands and we've said, let's work towards like a master plan and we've kind of been, I think we were looking for you step up and you've probably been patient and waiting to see what we come up with, we kind of feel like we're at a point where we want to step up and start doing some of this, you may or may not benefit from it but we're going to try to come up with something to say hey if you owned for instance, all of the remaining parcels and you were able to control them and we could work and make some impacts here and fix the impacts somewhere else, what could we reasonably expect to do on the lot, that might be to say, well we think you could fit you know, 50,000 square foot of a building and parking around it whatever, what happens if you only have four, what if we treat them individually, if we say we don't have control over the place, we're just going to look at each lot, what would be potential, obviously isn't going to be much less, some of these lots like you've said are almost unusable or are unusable based on our Codes. To finally once and for all kind of say look, here is what we see as the potential, none of its set in stone, it's not a guarantee of any kind but it's a reasonable assessment of what the potential is, so that you might say to us well you're looking at a wetland lot that I don't know but in the context of the greater scope you might say yeah but seeing what the Board is looking at, maybe it's worthwhile, maybe that's the place to do the, you know, the repairs, the...

Board Member McNulty stated wetland diversion...

Chairman Rogan stated stormwater, the stormwater work, I don't know but we want to start progressively working towards that because it seems to be a tennis match we've been having where you'll come in say you know I have somebody who's interested in this and you know we're kind of back and forth and we all agree that Commerce Drive should be utilized but to what extent we balance what our current codes and what the wetlands are out there and you know this all a balance of things.

Mr. Monteleone stated okay but let me just say something to throw a curveball; I have a lot where I have no wetlands at all...

Chairman Rogan stated yeah, which lot is that.

Mr. Monteleone stated its M&S...

Board Member Taylor stated that's his.

Mr. Monteleone stated and you're having problems with the lot next door...

Chairman Rogan stated what lot next door.

Board Member McNulty stated the vernal pool.

Mr. Monteleone stated how, I have no way of knowing what you guys want me to do unless you come back and say on this we'll give you this, on this lot we'll give you that, I can't keep guessing...

Board Member Taylor stated that's what we're proposing to do and you're not having problems...

Mr. Monteleone stated and it's not, M&S...

Board Member Taylor stated you're not having, let me finish, you're not having problems with the lot next door, what we were just discussing is an issue that we have to address...

Mr. Monteleone stated right.

Board Member Taylor stated it's not a problem; it's not going to hold you up.

Mr. Monteleone stated I cannot read you mind about what you guys want to do...

Board Member Taylor stated right.

Mr. Monteleone stated because I have no way of knowing...

Board Member Taylor stated well that's what we're purposing to do...

Mr. Monteleone stated so unless you guys...

Board Member Taylor stated we're going to lay it out for you.

Mr. Monteleone stated or take the whole thing and say we're going to give you this here, nothing here, throw that lot away, give this back, I have no way. I mean I bought lot 3 something, the one next to Lea Rome, I came in and I asked, I said can I put a nice open building or a little warehouse instead of a construction yard, would you guys be okay with it, I bought the lot from Mrs. Perdue and now I can't do nothing with that lot, so why would I want to go buy another lot.

Chairman Rogan stated what did you have...

Board Member Taylor stated but what we're proposing to do is we'll give you a comprehensive plan of what can be done with all these lots, with options and then you can show us which options you want...

Mr. Monteleone stated until you do that, I can't do anything. Yeah, but until you do that, I cannot do nothing.

Board Member Taylor stated that's what we're saying, we are going to do that, that's all we're saying, we think it's in our court, we'll do it now, and we're going to include the landfill as part of that.

Mr. Monteleone stated like to do something if you guys come up with it.

Mrs. Monteleone stated for the record we had worked with...

Mr. Monteleone stated Paul Jaehnig.

Mrs. Monteleone stated Paul Jaehnig had done...

Chairman Rogan stated to do the delineations.

Mrs. Monteleone stated yeah...

Chairman Rogan stated yeah.

Mrs. Monteleone stated and he's worked on several lots in there.

Rich Williams stated yeah.

Mrs. Monteleone stated so it's not as though we haven't done anything.

Chairman Rogan stated no, we know that's not.

Rich Williams stated I've actually taken those delineations and superimposed them onto an overall site plan.

Mr. Monteleone stated right and what happened after that we really, none of the lots, all the lots that he worked on seems like almost nothing can be done unless you guys agree to do something.

Chairman Rogan stated as a cumulative...

Mr. Monteleone stated right.

Chairman Rogan stated yeah it's almost like you have to look as if the lot lines don't exist for a minute and you have to say where are the impacts, where can we kind of lose a little bit and gain a little bit.

Mr. Monteleone stated right.

Chairman Rogan stated you know but...

Mr. Monteleone stated but until you guys decide, I can do nothing.

Chairman Rogan stated yeah.

Board Member Taylor stated right and we agree and that is what we're going to do, that is what we're saying we're going to do.

Mr. Monteleone stated I mean I'm willing to do something if I know that you know that it's doable, I don't want to go out there and keep spending money on every lot...

Chairman Rogan stated of course, sure.

Mr. Monteleone stated and just, I mean I have no way...

Chairman Rogan stated but, but certainly appreciate by the flip side, we have certain rules that are in place now too that we can't just arbitrarily throw to the wind and say yeah you have these lots, we like, Pete is a nice guy and it's Commerce Drive and to hell with the wetlands, fill them all in, of course we can't do that, we have to balance this stuff, we have to certainly balance, right...

Mr. Monteleone stated that's why I'm really waiting for an answer, I mean once I get guidance from you, guidance that it's fixed and you say okay, do this and then after we sat down and maybe we're going to sit down and, I mean I'm having a problem getting an approved a lot that has no wetlands whatsoever, and it's just what's next door.

Chairman Rogan stated yeah well, you're not having a problem with it, we just told you that the problem is that the applicant's engineer isn't doing his job, if you want to be blunt...

Mr. Monteleone stated no, no, I understand but while we're still discussing this...

Chairman Rogan stated I mean really that's the, we want this guy to have his building last week...

Mr. Monteleone stated me too.

Chairman Rogan stated honestly...

Rich Williams stated last year.

Chairman Rogan stated or last year is what we were talking about, we said oh, six months and you know we hate to throw out time frames because the applicant's engineer's never do their job and that's the reality of it, it's not because thing get delayed you know, all the time because the Planning Board just wants to slow you down and in fairness you've done some wetlands delineation, I think if there is a fault in this process from the time you can and said you know, what can we do, in front of the Town Board, I'm willing to work with the Town, what can we do, I want, you know. It's that nobody knows, that we've, none of us, you nor us have gone through this process to come up with a comprehensive plan for a specific property...

Mr. Monteleone stated but I can't do that because I do not know what you guys want me to do.

Chairman Rogan stated no and but by the flip side if you had some architect or engineer that said hey, Mr. Monteleone owns these four lots, we're coming in with a plan to say we're going to impact here but we're going to make up for here and you've never done that either, so it's a balance for us too...

Mr. Monteleone stated I understand but I'm (inaudible)...

Chairman Rogan stated and as a general tax payer I can see someone saying hey why are you helping design this guy's property, well because we see the benefit, it's Commerce Drive, it's something that I think would benefit the tax base, so it's a little bit a balancing game here.

Mr. Monteleone stated if I could make comment, I understand total, I would like to know what your feeling is on...

Chairman Rogan stated sure.

Mr. Monteleone stated I mean if you tell me to throw away two lots and let you build on one, I'm ready to do that, give it back to the Town, don't pay taxes on it but I wouldn't unless something can't be done on it...

Chairman Rogan stated I understand.

Mr. Monteleone stated I mean I'm expected to you know...

Chairman Rogan stated you clearly have at least one lot that is very challenged with the amount of wetlands on it, you know obviously that's going to be, if that's the natural drainage area, that might be on the areas that we look to improve, so maybe out of four lots you might get good use out of three and use one as a mitigation, I don't know...

Mr. Monteleone stated before I purchased that one, I did ask if it was buildable and I was told that maybe and I asked Rich, I came in, I said what about this lot, he said yeah, there were three applications in before, everybody was going to put a construction yard, I wanted to put a warehouse, a warehouse/office, I did ask you before I purchased it and the price went from here to here and I said you know what, how can they do that, if it had less impact, I have the lot across the street but now I'm told, I'm hearing that the lot is not buildable pretty much is challenged...

Chairman Rogan stated which lot is this.

Board Member McNulty stated before Lea Rome.

Mr. Monteleone stated the first one next to Lea Rome.

Rich Williams stated Black Birch, Black Birch.

Board Member McNulty stated the DEC wetland comes up to...

Rich Williams stated the DEC wetland comes up on into the site so what he wanted to do out there would be limited in scope, he wants to do more, the wetland probably isn't going to let him do it but that's because in this last, I'm not even going to go there but you know essentially it's then DEC wetland, as flagged by his consultant, you know extends very close to, if not on the lot.

Chairman Rogan stated okay.

Board Member McNulty stated Rich, where are we in the process of looking at the whole site, the last thing I have is this chart that you did up that shows all the...

Rich Williams stated sure, for the next work session the feeling that I got was I was going to pull out the plans that Mr. Monteleone has done previously for all the lots, I have the overall site which I was going to see if I could get copied with the wetlands and existing development on it, so you know we could have scrap copies that maybe we can mark up, you know, give the Board some design specifications as per our Code, you know, give me some crayons.

Chairman Rogan stated is there any kind of, well is there any kind of a loose formula that would say that for every, I'm making this up, for every 10,000 square foot of commercial space, whether it's office, whatever, you have a ratio of impervious area to support that, that in essence would say okay...

Rich Williams stated absolutely, zoning.

Chairman Rogan stated so we know we're going to identify a box and within that box you have so many thousand square feet...

Rich Williams stated well with zoning but for planning purposes for talking about like for every parking space that you need, you're talking about 300 square feet.

Andrew Fetherston stated I'm just, I am really confused...

Chairman Rogan stated sure.

Andrew Fetherston stated I do this, we look at parcels due diligence studies...

Mr. Liguori stated right.

Andrew Fetherston stated we do them many times per month, somebody will come in, is this, what is the value of this parcel...

Chairman Rogan stated what did you call those studies.

Andrew Fetherston stated due diligence studies.

Chairman Rogan stated oh due diligence study.

Andrew Fetherston stated and we're going to look at legal considerations, easements, encroachments, property line setback zoning, we're going to look at environmental, we're going to look at ecological, we're going to look at soils, slopes, rocks, what are the things on this site inherent with this one site that prohibit the full utilization of the property.

Chairman Rogan stated okay.

Andrew Fetherston stated at the end of it what can I get, that's what everybody's looking for...

Chairman Rogan stated sure.

Andrew Fetherston stated what can I get, I've never had a Planning Board do that for me and I am perplexed at why the Planning Board is doing that...

Board Member Taylor stated let me explain why we're doing it.

Andrew Fetherston stated yeah, it just sounds odd.

Board Member Taylor stated first of all what's driving this at least for me is the fact that it's the industrial park, it was laid out for the Town for industries to be developed and in my mind they should have done a better job of laying this out back in the beginning because some of these sites the way they are divided are unbuildable essentially.

Andrew Fetherston stated and things change.

Board Member Taylor stated and things also change...

Board Member McNulty stated Code change.

Andrew Fetherston stated right.

Board Member Taylor stated but we're saying if we look at it as a whole, instead of individual parcels, if look at it as a whole, can something be done to make these sites better, we're not talking about putting the level of analysis you're talking about into this...

Mr. Liguori stated well I think what Andrew's saying is...

Andrew Fetherston stated well then what's the value.

Mr. Liguori stated you can't do that without having the due diligence, you're wasting your time, just mark it off the grail.

Andrew Fetherston stated what is the value of what you're doing then. If you're not going to do it, here's what you can get, no, I don't see the value that you're providing and I think that you're being very dangerous as a Board, I just think that you're saying here's what we're saying you can get, is that guarantee...

Board Member McNulty stated no, I think what we're looking to do is make a recommendation to the property owner's there...

Andrew Fetherston stated I mean I don't know, I just, and I'm confused as to why the Board is doing this.

Board Member McNulty stated to say this the direction that you can go.

Rich Williams stated but I guess the question is and we're all confused on this side about how much direction and I echo Andrew's sentiments entirely but where this really started off was an acknowledgement that it is the industrial park that most of the sites out there have wetlands on it, in order to have any sort of reasonable development you're going to eliminate those wetlands and if you're going to do that, you can't just fill the wetlands in and say they never existed but how are you going to mitigate it. Now if we're talking about a level of analysis which says if you're going to eliminate wetlands on the site, here's how we think the ecological and hydrologic resources would benefit from recreating them in a different area that would be fine...

Board Member Taylor stated that's all...

Rich Williams stated if we're going to be looking at each individual site...

Andrew Fetherston stated okay, I misunderstood.

Rich Williams stated no, you, because if you did, I did as well, look at each individual site and say you're going to get 30,000 square foot here, you're going to get 50,000 square foot there and this is how you're going to lay it out.

Andrew Fetherston stated yeah I think that if you're saying...

Chairman Rogan stated yeah that's beyond our scope.

Andrew Fetherston stated if you're saying look this is not as valuable as wetlands, these two areas, this one is the pristine one, fill these add to these and then you figure out what you can get and where you want to put the lot lines.

Board Member McNulty stated I think that's a good idea.

Board Member Taylor stated that's...

Chairman Rogan stated you've defined a usable area and from that it sounds like a very simple derivative.

Andrew Fetherston stated you've gotten, you've advanced it so that at least the applicant says all right, at least I have that out of my hair.

Board Member Taylor stated that's all we're saying, is we have this one lot where there's a wetland...

Chairman Rogan stated because the wetlands are the big issue.

Board Member Taylor stated right in the middle of that lot, if we were able to take that wetland out of the lot and put it somewhere else, that then opens up the lot, period, whatever, however they do with it.

Chairman Rogan stated balanced it...

Andrew Fetherston stated on many pieces of property that would be true, I've been on Commerce Drive, I haven't built it but I've been on it and I know that road, there is a hell of a lot of rock out there, you don't want to say get rid of these wetlands, keep this one, this is pristine oh but what I got left is difficult to say the least, so I just...

Board Member Taylor stated yeah they're difficult but...

Andrew Fetherston stated yeah.

Board Member Taylor stated the big difficulty we're having is with the wetlands.

Chairman Rogan stated right.

Board Member Taylor stated so if we can...

Rich Williams stated well that's only because we haven't talked about the rock.

Andrew Fetherston stated that's true, I think that's true.

Board Member Taylor stated but we have no control over the rock, we can control the wetlands.

Andrew Fetherston stated well said.

Board Member Taylor stated I mean the rock on that site, they are demolishing the rock and reusing it, it's not an issue for them, they are happy to have the rock, right you want the rock because you're filling with the rock.

Mr. Spagnoli stated saved thousands of dollars...

Board Member Taylor stated and they don't have to pay to bring it in from somewhere else, yeah they're saving money with the rock, so...

Andrew Fetherston stated I question why the Board, why the Board doesn't and why the person who is going to benefit doesn't do it because that's how I've always seen it, I've never seen a Board go to this extent and I question why, yeah.

Mr. Monteleone stated this lot, this subdivision is 30 years old...

Andrew Fetherston stated right.

Mr. Monteleone stated and it's been 3 owners on each one and they all spent thousands and thousands of dollars and everybody seems to give up. Levine Iron Works give up on this lot 20 years ago, there's 3 owners, Levine owned it, I just, 30 years ago I did the pits for the septic on this lot and he gave up because nothing ever happened...

Board Member Montesano stated Levine.

Rich Williams stated it was a project in the mid-eighties.

Mr. Monteleone stated Peckham bought it, I don't know what they were going to, they gave up, I bought it and I want to do something nice, I give up...

Andrew Fetherston stated yeah.

Mr. Monteleone stated there's a guy coming in and he might give up next. So, there's nothing ever happened on Commerce Drive, it's a 15 lot subdivision, in 20 years, in 30 years since 1984, there are only four, five buildings, so at some point do you actually want to build a common drive or are you guys to just let (inaudible)...

Board Member Montesano stated let's start from the time that I got here, when that project came in, the gentleman that owned it, since I don't like to talk ill of the dead but if he would have kept his mouth shut

and not walk into a room and tell you what you said and then tell her what she said and then said this what you said and everybody's looking at the man like why don't you leave now...

Mr. Monteleone stated now, okay...

Board Member Montesano stated and believe me, I know personally I threw him out on more than one occasion...

Mr. Monteleone stated right.

Board Member Taylor stated Mike is this relevant, is this relevant to the present discussion.

Board Member Montesano stated is it relevant to this...

Board Member Taylor stated yeah.

Board Member Montesano stated it is in the sense that we're trying to, I'm going say why did things not move ahead on this project because laws were changed, things that were not involved at the beginning such as wetlands or any other laws suddenly came into being so the people that owned it, who thought they were going to come in and put it right here because if you looked in Westchester they filled in every wetlands there, now we have rules and regulations you can't do that unless you do it this way or that way and that's why so many of these people got up and walked out because they thought they were going to come in, dump fifty dollars, put a building up and then sell it off and then walk away and then that's enough of that.

Mr. Monteleone stated and now...

Chairman Rogan stated Andrew I think my feeling on this was if we take every lot at face value with the existing laws and saw the wetland codes are what they are, most of these lots don't have much usable area on them is the reality and so I think what the direction this Board is trying to say is that we're all trying to conceded certain impacts within the wetland areas, where would the best use of that be, in other words, where can we improve, where is the wetland going to get the most function out of an improvement...

Andrew Fetherston stated sure.

Chairman Rogan stated and will, can we maybe have a certain impact on one lot that we can counter, not that we're going to recreate that wetland but that we can now improve the stormwater or the wetlands or the functionality in another area and actually that's all the extent of what I and when I was talking about square footage, what I was loosely saying was we already know what usable area exists that is pretty easy to define, now if we say there are wetland areas within a lot that we deem to be low functioning and able to be impacted, that creates a new square footage of area that exists, usable area, what you propose within that seems pretty easy to, as you said pretty easy to identify, you have so much square footage, X, you know it's easy to say look, this area is so many thousand square feet which typically would support a 50,000 square foot building and the associated parking, that's all I meant by that, I certainly don't mean to be drawing buildings on plans but to be defining usable areas would be key...

Andrew Fetherston stated yeah.

Chairman Rogan stated and it's only from the standpoint of what is the Board going to allow as impacts that normally would not be allowed, if this was a Commerce Drive that we're looking at for the first time, I

don't think we'd be having this discussion, so that is really the, what we're trying to figure out and we've never taken that hard look at the...

Mr. Monteleone stated how do we (inaudible – too far from microphone).

Chairman Rogan stated you have some wetland delineations we don't, what we need to do is look at like functional analysis of, and I mean simplistically and what we deem to be the higher sensitive areas and the lower sensitive areas and to just kind of assess what the Board would willing to work with, so that is really it, yeah...

Andrew Fetherston stated completely understand, so I guess why doesn't the Town just do that.

Chairman Rogan stated how you can assist us, how can you assist us to achieve that goal.

Andrew Fetherston stated why doesn't the Town do just what it's saying, just say these two wetlands could be obliterated for the benefit of this one...

Board Member McNulty stated I think that's what we plan to do.

Andrew Fetherston stated you're out your lots but you're out for the betterment of all parties involved, all of the multiple parties, companies...

Chairman Rogan stated because that's all we're really looking for...

Andrew Fetherston stated you guys figure out what's best.

Chairman Rogan stated is hey what's the usable area on these lots.

Board Member Taylor stated that's all we're going to do, that's all we're proposing to do...

Chairman Rogan stated yeah.

Board Member Taylor stated that's it.

Chairman Rogan stated no but I...

Board Member Montesano stated no, we're trying to get...

Rich Williams stated no it sounded like they were just going to look...

Andrew Fetherston stated it sounded a lot more than that...

Board Member Montesano stated we're going to get an education on this particular piece of property on what to do and that's what, I think we're trying to grasp and understand.

Rich Williams stated because I think you've already done, I did take the subdivision plat...

Chairman Rogan stated right.

Rich Williams stated I did throw the wetlands on it...

Chairman Rogan stated right.

Rich Williams stated you know we did look at that plan...

Andrew Fetherston stated did an analysis.

Rich Williams stated and we basically said this is the way it's all going to work.

Board Member Taylor stated but I don't think we ever codified that.

Board Member McNulty stated no, we loosely looked at it and...

Board Member Taylor stated and that's all I want, I just want one more meeting might do it, where we say okay ,we can do this, we can do this and that's it.

Rich Williams stated so then all I really need to come to work with is that one plan.

Chairman Rogan stated what you already have.

Board Member Taylor stated bring your drawing so we can...

Board Member Montesano stated yeah, in all honesty if we had a special meeting where we can sit and discuss this particular...

Rich Williams stated yeah, appreciate that.

Board Member Montesano stated aspect of what we're doing.

Chairman Rogan stated go get the plan.

Board Member McNulty stated really, we're here now.

Board Member Montesano stated hey that's fine, the idea is...

Rich Williams stated oh Michelle kill you.

Board Member Montesano stated we're trying to get an education...

Chairman Rogan stated we don't have to have to verbatim minutes and obviously Mike will support on this, there is no rule or requirement for verbatim minutes, just that we have an account of what we discussed.

Rich Williams stated I understand but we've always had a policy for doing verbatim minutes, it's easier for the girls, I you know, if we're going to have a work session where we're just going to be sitting around the table looking at plan, single project you know that's one thing...

Chairman Rogan stated right.

Rich Williams stated but for meetings like this, it's always been that we've tried to keep verbatim minutes and its served us well lawsuit after lawsuit.

Mr. Liguori stated oh yeah.

Chairman Rogan stated all right so that we're all clear on the direction that we're trying to achieve here and so Mr. Monteleone hears it, to be able to determine what the usable areas of these lots might be and there are differences, we might say if you're using them in a certain configuration, what do we have, 4 lots to contend with, 5 lots...

Mr. Liguori stated are they contiguous.

Board Member Taylor stated 5.

Chairman Rogan stated some of them, but not all.

Rich Williams stated 3 are contiguous, 2 are not.

Chairman Rogan stated yeah and one, the only other remaining lot out there is not owned by Mr. Monteleone, so you own all but one lot out, of the remaining lots.

Rich Williams stated no.

Board Member Taylor stated no.

Mr. Monteleone stated yes.

Rich Williams stated you don't own...

Board Member Taylor stated does he own the landfill.

Rich Williams stated you don't own the landfill.

Chairman Rogan stated okay but...

Mr. Monteleone stated oh no I only got a contract on that, I didn't close on it.

Board Member Taylor stated so he doesn't own it, so.

Chairman Rogan stated all right, so...

Board Member McNulty stated he's the closest thing to an owner.

Chairman Rogan stated he has interest in all but one lot.

Board Member Taylor stated right.

Mr. Liguori stated so all the stake holders will be involved.

Chairman Rogan stated except one.

Mr. Liguori stated is that going to throw it all off.

Chairman Rogan stated well that one lot...

Mr. Liguori sated I'm just asking.

Chairman Rogan stated is the worst wetland lot of the bunch but it might be the best for improvements, I don't know, is it the down gradient lot...

Mr. Liguori stated just don't want to, you know.

Chairman Rogan stated yeah.

Rich Williams stated it's really an unbuildable lot.

Chairman Rogan stated yeah, somebody owns that.

Board Member Taylor stated and this is just a concept plan, we're not committing...

Mr. Liguori stated no, no, I'm, ideally I mean I know what Andrew and Rich are saying, you know...

Chairman Rogan stated yeah.

Mr. Liguori stated I mean if every experience we've had has been you show us, that's what it is you know.

Board Member Taylor but what we've seen though is that when they come in to show us, what we get is an individual lot...

Mr. Liguori stated right.

Board Member Taylor stated and it's not buildable, some of them are simply not buildable, so we were trying to say as a concept because it is the industrial park, is there some way that we can make this buildable and we've not talking about in depth here, we just...

Mr. Liguori stated no, I get it, I get it.

Board Member Taylor stated and that's it.

Chairman Rogan stated just wholistically I think because this piecemeal looking at one lot for what's within the boundary doesn't work or if it works, it's not worth doing is the essence, yeah.

Mr. Liguori stated no I get it, I get it, you know, I think what Andrew was saying is that generally the applicant would come in and say all right look, here is the global plan for my four lots.

Chairman Rogan stated yeah well I think in fairness we asked for that but I don't know that we asked in a clear way because that's in essence what we were originally saying was hey let's throw together something.

Mr. Liguori stated because you know when I think of, when you think of government and business, right...

Chairman Rogan stated yeah.

Mr. Liguori stated you're not going to be able to tell what the best investment potential is for the property, it's going to be the landowner.

Chairman Rogan stated of course not.

Board Member Taylor stated yes, we're not trying to do that.

Mr. Liguori stated you know, so what you would expect to have happen is the landowner come in and say all right, I have these, these are the parcels I have, this is the highest and best use, put the zoning code aside for a second, okay, this is the highest and best use of the property, this, we can engineer this and make it work, could we get a recommendation from you guys to go to the Town Board and make this happen. That's what we would...

Chairman Rogan stated that's the normal way.

Mr. Liguori stated that's what we would have happen to us if we were in that situation, we would say all right look we merged these three lot lines, we removed these two, make one parcel, develop this, mitigate that, phase the plan so we can build one building at one time, one at the next and one at the other that's what you would expect to have happen in a typical situation, so but I you know, if you guys are, I think you, you know touched on what you want to do, so that's all right, we just don't want to see you do that, not that we have anything against the applicant, it's just not in your jurisdiction to do it.

Chairman Rogan stated right.

Board Member Montesano stated no, I took my hand out because I gave up my little Napoleon hat but I think it's more of an educational process that we're trying to clarify because the more we understand the better job we can do up here.

Mr. Liguori stated no I get it, I'm not trying to stop...

Board Member McNulty stated no I understand.

Mr. Liguori stated what you guys want to go do, I...

Chairman Rogan stated and I think this is a somewhat of a unique situation in that the recognition that this project has been approved for a long time, it's again, we wouldn't be having this conversation if this was a new, if someone was coming in and said I want to create a commercial park, we'd probably say pick another piece of property, this doesn't fit and I am not opposed to the applicant coming in with his own staff and saying hey we've looked at it, we've got 5 lots, this is what we think we can do, if we fill in over here and we improve over here, I would be thrilled to see a wholisitic concept plan because that's what we've been talking about for the last year. I'll be honest, for a long time I thought you were doing that, I kept saying well Pete hasn't been in six months and then next time he came in, I honestly did but it was poor communication I think of clarifying these issues.

Mr. Monteleone stated what I...

Mrs. Monteleone stated (inaudible – too far from microphone).

Board Member Montesano stated well this is what we're trying to do.

Chairman Rogan stated so maybe by next work session, when we meet we can roll these plans out and really take a look and just see if we can quantify some of this. The part that I don't know that we can do Rich and this help me with, part of determining whether or not you can lose a wetland area is the functionality of that wetland, we don't have functional, we would be relying on in essence what we know of the site, the characteristics, you know.

Rich Williams stated we have wetland reports on all of the wetlands out there...

Chairman Rogan stated oh okay.

Rich Williams stated with a functional analysis of every one.

Chairman Rogan stated oh okay, so we can, you can help us to assess or give an assigned value to an area to say hey this is a real high functioning area.

Board Member Montesano stated when we did, Richie when we did the A&P because of the condition of the wetlands...

Chairman Rogan stated okay.

Board Member Montesano stated we tried to mitigate something out of there.

Rich Williams stated well the original wetland, plan for the wetlands at the A&P was don't touch, do nothing and we had a small stormwater pond adjacent to it and then they decided that it would be in their best interest to see the wetlands altered so we allowed them to alter the wetlands.

Board Member Taylor stated to make them more functional.

Board Member Montesano stated make them functional.

Rich Williams stated yeah, they weren't happy that they had to alter it at the end of the day because it cost them a hell of a lot of money and it cost them a hell of a lot of money for one tree.

Board Member Montesano stated but it, and it worked out in a way, at least it's functional but they never did put the salamander ramps in.

Board Member Taylor stated all right, I think we talked to this enough, I just have one quick thing on Haviland Drive, going back and looking at its because of what Harry Nichols said about the, we have two wetlands out there...

Chairman Rogan stated you want Teddy in here for this.

Board Member Taylor stated yeah, Teddy needs to be in here.

Board Member McNulty stated do you have anything else because I think we're done covering your property.

Mrs. Monteleone stated if you this is something that maybe you'll tackle at the next work session...

Board Member Taylor stated yes.

Mrs. Monteleone stated is that something where we can invite Paul Jehnig to come and be there as well.

Chairman Rogan stated I think that would be a great idea, first of all its an open meeting and if it's Paul, that's the other property owner.

Mrs. Monteleone stated no, Paul Jehnig is the one who did the wetland flagging and report for us and he gave them to Rich.

Chairman Rogan stated oh, I'm sorry, Rich you see any benefit to having the wetlands gentleman Paul...

Mr. Monteleone stated Paul Jehnig.

Chairman Rogan stated come to the work session or do we have the information and...

Rich Williams stated maybe not the work session but the regular meeting, why don't you go through, talk about what you want to do because you like doing that informally, you know, get your thoughts about what you want to do and then bring Paul in and see what he thinks about your plan.

Board Member Taylor stated okay, that sounds good.

Board Member McNulty stated that makes sense.

Rich Williams stated how about that.

Chairman Rogan stated it would be nice at this time next month if you have some direction and then it's back on what you want to do with the property and come up with it.

Mrs. Monteleone stated I'm just wondering if it would save time on your end too, if we had Paul there at the work session because...

Chairman Rogan stated yeah because then it's not reactionary.

Mrs. Monteleone stated a lot of it could be a matter of interpretation.

Chairman Rogan stated you know I mean I'm comfortable with this, I don't know this gentleman but I'm comfortable with someone sitting in the room and if we want...

Rich Williams stated that's fine.

Board Member Montesano stated yeah but...

Chairman Rogan stated information and he can, send, have him, give him the option of coming into the work session.

Board Member Montesano stated all right but if we want to discuss something...

Chairman Rogan stated yeah.

Board Member Montesano stated and with all due respect to the gentleman he's got, we're not going to be able to speak because he may interject something and either correct you try to change what you're trying to do, if we're doing it this way...

Chairman Rogan stated well we can tell him it's an open, it's a public meeting, it's not an open meeting and then I mean base it on that.

Board Member McNulty stated that's what we want is his input.

Board Member Taylor stated I think...

Board Member Montesano stated but they're paying for this guy to be there and he doesn't have to be.

Board Member Taylor stated you need to understand we're not talking about your properties, we're talking about the whole industrial park...

Mrs. Monteleone stated no, no, I realize that...

Board Member Taylor stated okay.

Mrs. Monteleone stated the whole park in general.

Board Member Taylor stated and we don't want him representing your position, we would want his input as an understanding, we're trying to develop an ecological balance here between moving wetlands and so on and it's, so we don't want an advocate for a particular property owner at the meeting, we want to look at it holistically without regard to who owns the property, so if you want to pay him to come and do that, I would agree, I would welcome him.

Mr. Monteleone stated at least we have an opinion...

Rich Williams stated that's what we talked about.

Mrs. Monteleone stated he's been out here in the last six months.

Mr. Monteleone stated he's been...

Chairman Rogan stated there won't be any reason for him to come to the meeting then because he'll have been there and heard the discussion so it will be, it will be six in one, half dozen of the other. That's fine, you know, I'm fine with that, I think, again if it starts to disrupt the flow of the conversation we can politely ask him to just hang, hold back a little bit, you know and go from there, that's fine.

Mr. Monteleone stated well at least you have answers to some of the questions that you have.

Board Member McNulty stated yeah I think his input could be helpful.

Chairman Rogan stated yeah.

Board Member Taylor stated all right, yeah.

Chairman Rogan stated okay.

#### **450 Haviland Drive Subdivision Discussion**

Board Member Taylor stated all right on Haviland Drive, Harry had said we have that little wetland, south of the road of the present road, not the proposed road but the present road and he said well we can take care of that by a couple truckloads of dirt...

Ted Kozlowski stated that was Harry, being Harry.

Board Member Taylor stated that's Harry.

Chairman Rogan stated that was tongue in cheek.

Board Member Taylor stated but then I got to thinking about it and he's right in a way, it's not really functional the way it is, they are taking the road out...

Chairman Rogan stated you mean the driveway.

Board Member Taylor stated the driveway, the driveway now.

Chairman Rogan stated the driveway to the existing residence.

Board Member Taylor stated right, can't something be done with that little stretch of driveway so that those two are reconnected and it restores as a functional wetland.

Ted Kozlowski stated sure, just rip it up or just...

Chairman Rogan stated back down to grade.

Ted Kozlowski stated back down to grade and that's a good mitigation for making the other drive a little closer.

Andrew Fetherston stated yeah, maybe...

Rich Williams stated we would have made him do that anyway.

Andrew Fetherston stated maybe usable as fill on the other, yeah.

Ted Kozlowski stated right.

Andrew Fetherston stated right.

Ted Kozlowski stated yeah that's fine.

Board Member Taylor stated that's all, I just so, that's something we should get on here as part of...

Chairman Rogan stated yeah, removal of that.

Board Member Taylor stated but removal with the idea that they're going to restore those two pieces as functioning wetlands and they are function right, that connect to the wetlands.

Chairman Rogan stated right.

Ted Kozlowski stated right, I didn't think you had to move the road 75 feet, I think 50 feet would have cleared that house and given plenty of...

Rich Williams stated he's got it staked.

Ted Kozlowski stated he does, he didn't when I went out there.

Board Member Taylor stated all right, so that was all, that was the only question I really had on that, so that's it for me for tonight, sorry.

Chairman Rogan stated why are you sorry.

Board Member McNulty stated why are you sorry, don't be sorry.

Board Member Montesano stated don't be sorry, education is (inaudible).

Chairman Rogan stated if it leads to us getting some decisions, it's always good.

Board Member McNulty stated I had a quick question on the Agricultural Districts, did the Town Board decide anything...

Board Member Montesano stated before you do that, can we approve the minutes from the [December] 29<sup>th</sup> and the [January] 5<sup>th</sup>.

Chairman Rogan stated are you saying in the form of a motion.

Board Member Montesano stated yes, I want to make a motion to approve the minutes of the [December] 29<sup>th</sup> and the [January] 5<sup>th</sup>.

Chairman Rogan stated a second.

Board Member McNulty stated I wasn't here for those.

Board Member Montesano stated he wasn't there.

Chairman Rogan stated oh that's right.

Board Member Taylor stated I'll second it then.

Chairman Rogan asked for all in favor:

Board Member Taylor	-	aye
Board Member Montesano	-	aye
Board Member McNulty	-	abstain
Chairman Rogan	-	aye

The motion carries by a vote of 3 to 0.

Chairman Rogan stated any opposed, any abstained.

Board Member McNulty stated abstain.

Chairman Rogan stated okay, all right, Ag District.

Board Member Montesano stated thank you, now you can.

Board Member McNulty stated just wanted to get feedback Rich.

Rich Williams stated the Town Board was not in favor of the parcels that were recommended by the County going in the Ag District for very specific and I think very good and legitimate reasons and the County who again doesn't have a clear understand of what the Ag District and Ag District Law allows, has written a memo back basically saying you're wrong, we're right, they're going in.

Board Member McNulty stated but who (inaudible) okay.

Rich Williams stated the public hearing is next week I think at the County, it hasn't been approved yet.

Board Member Montesano stated she does everything he wants.

Ted Kozlowski stated you know, I know how you are, that's not Ag.

Rich Williams stated no and Ag, we're done.

Chairman Rogan stated waiting to see if there is anything else anyone wants to discuss, Teddy.

Ted Kozlowski stated no.

Chairman Rogan stated Michelle.

The Secretary stated no.

Mr. Liguori stated just the drive home.

Chairman Rogan stated no, okay, motion to adjourn.

Mr. Monteleone stated good night.

Board Member McNulty seconded the motion

Chairman Rogan asked for all in favor:

Board Member Taylor	-	aye
Board Member Montesano	-	aye
Board Member McNulty	-	aye
Chairman Rogan	-	aye

The motion carries by a vote of 4 to 0.

The meeting adjourned at 9:14 p.m.