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

Sarah Mayes
Mary Schartau
Secretary

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

ZONING BOARD OF APPEALS
Lars Olenius, Chairman
Mary Bodor, Vice Chair
Marianne Burdick
Michael Carinha
Stephanie Fox

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

TOWN OF PATTERSON
PLANNING & ZONING OFFICE

Planning Board
March 3, 2016 Meeting Minutes

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

Present were: Chairman Thomas E. McNulty, Board Member Ron Taylor, Board Member Edward J. Brady, Jr., Board Member Robert F. Ladau, Ron Gainer, Town Engineer, and Michael Liguori, Attorney with the Town Attorney's Office

Mary Schartau was the secretary for this meeting and transcribed the following minutes.

There were 11 audience members present.

Chairman McNulty called the meeting to order at 7:00 p.m.

1. Birch Hill Associates, LLC – Wetland/Watercourse Permit Application (Continued)
180 Birch Hill Road
Tax Map #4.-1-76

Curt Johnson from Zarecki & Associates, LLC was present to represent the application.
The Secretary read the following legal notice:

> **NOTICE IS HEREBY GIVEN** by the Town of Patterson Planning Board of a public hearing to be held on Thursday, March 3, 2016 at 7:00 p.m. or as soon thereafter as may be heard, at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider an application entitled **"Birch Hill Associates, LLC Wetland/Watercourse Permit Application" for the construction of a proposed landscape pond, approximately .33 acres in size, within the wetland and wetland buffer.** The property is located at 180 Birch Hill Road (R-4 Zoning District), Patterson, New York. All interested parties and citizens will be given an opportunity to be heard in respect to such application.

Curt Johnson explained that he has been working with Ted Kozlowski and Ron Gainer on the

application and gave details about the nature of the project: that the applicant wishes to create a roughly .33 acre pond on the property measuring about 250-300 feet long and 100 feet wide at its widest point and will be approximately 11 feet deep at its deepest point, which will require removing some trees and planting new trees. He stated that the applicant is working with United States Fish and Wildlife Service (USFWS) to create habitat for the Eastern Cottontail Rabbit. He also confirmed that work will be done outside of the 100 foot wetland buffer protecting Stephen's Brook, and that he would like for Ted Kozlowski to be present when work is done to assess the state of two apple trees on the site and confirm whether or not they can be saved.

James Utter from Friends of the Great Swamp was present and questioned the function of the pond. Curt Johnson stated that the pond will be utilizing an existing spring and will create habitat for the Eastern Cottontail Rabbit by creating some low brush land on the site. James Utter voiced his continued concern that the pond does not appear to create habitat for the Eastern Cottontail Rabbit, and questioned how the stream on the site would be protected. Curt Johnson confirmed that there is a silt fence in place along the stream, and that rip rap and filter fabric have been added to protect the spillway, in addition to raising the edge of the pond by approximately one foot, per a recommendation from Ron Gainer. James Utter stated that he does not yet have any objection to the application.

Edie Keasby was present and asked whether the land around the pond is brushy habitat for the Eastern Cottontail Rabbit. Curt Johnson confirmed that some of the land indeed is.

Chairman McNulty confirmed that the Planning Board will conduct one final review of the project.

- Chairman McNulty made a motion to close the public hearing. Board Member Brady seconded the motion. *Motion passed by a vote of 4 – 0.*

2. Angelo Zegarelli – Site Plan Waiver
176 Fairfield Drive
Tax Map #4.-1-76

Angelo Zegarelli, the property owner, and Robert Soto, the business owner (Triple B BBQ) were present to represent the application.

Chairman McNulty questioned the function of the trailer in relationship to the restaurant. Robert Soto stated that the trailer contains a fryer, oven, griddle, grill, and refrigeration unit, and that he drives the trailer to event sites and cooks the food on-site. Chairman McNulty stated that the trailer then has no function to the restaurant, because food is not being cooked in the trailer to be served at the restaurant. Robert Soto confirmed that he closes the restaurant through the winter because business is low and the building is too costly to heat. Chairman McNulty stated that the site appears to be used, therefore, as a catering operation rather than a restaurant operation, which is what the site plan had been approved for; he also informed the applicant that the Planning Board had been furnished with photos of the smoker being cleaned on-site. He stated that parking on the site is already limited, and the trailer takes up potential extra parking spaces.

Robert Soto stated that he has a catering license issued by the Board of Health; Chairman McNulty clarified that the Town Code is different that the Board of Health rules and stated that the trailer should not be stored, cleaned, or maintained on the site. He also stated that because it

abuts a residential area, there have already been complaints about smells and odors on the site, and clarified that catering should be a subordinate use of the premises.

Michael Liguori read the following excerpt from the Patterson Town Code:

> ***RESTAURANT*** *– a building or portion thereof where food is prepared in a kitchen on-site, and food and beverages are sold for consumption to customers seated within the building serviced by wait staff, and where more than 65% of the interior of the building is available and used for seating of customers… a restaurant may provide alcoholic beverages, take-out food, and catering as additional services as long as said services are subordinate and clearly incidental to the restaurant use…*

Chairman McNulty stated that because the restaurant is closed all winter and the trailer is being used during that time, the catering is no longer the subordinate use on the site. Robert Soto argued that from May until December the restaurant is the primary use on the site; Chairman McNulty stated that it must remain the primary use through the entire year. Angelo Zegarelli stated that the trailer will be removed from the site; Chairman McNulty clarified that the barrels with the oil from the fryer can remain on the site as long as they are being used for activities within the restaurant itself and meet the Putnam County Department of Health standards.

Michael Liguori clarified that even if the application for a site plan waiver is denied, the use itself is not denied. A full Site Plan application can still be submitted to permit the use to occur.

Dede Lifgren was present and voiced her concern that the trailer being removed from the site does not necessarily stop the business from continuing to do catering and questions whether cooking food off-site rather than cooking it on-site and transporting it to an event constitutes catering. Chairman McNulty responded that if there are complaints about the legality of the catering operation on the site, they must be directed to the Building Department.

Jeff Bode was present and asked if the denial of the site plan waiver restricts the business owner from having the trailer on the property to load and unload it. Chairman McNulty stated that the trailer can be loaded and unloaded on site, but cannot be parked there.

- Chairman made a motion to deny the application for Waiver of Site Plan. Board Member Ladau seconded the motion. *Motion passed by a vote of 4 – 0.*

3. White Birch Realty – Site Plan (Continued Review)
35-37 Commerce Drive
Tax Map #23.-2-10

Ralph Alfonzetti from Alfonzetti Engineering, P.C. and Pete and Christine Monteleone were present to represent the application.

Ralph Alfonzetti gave the Planning Board a memo with the calculations of the amount of stone to be removed from the site: approximately 22,000 cubic yards will be removed from the hillside, with 9,600 cubic yards being used on the site, 1,700 cubic yards on the Black Birch, LLC site, and 10,500 cubic yards will be removed from the site by trucks using approximately 500 truckloads over 3 months. He also confirmed that he had met with Ron Gainer to discuss the site plan and the SWPP. Ron Gainer confirmed that he met with Ralph Alfonzetti that morning

(March 3, 2016) to discuss the comments in both he and Supervisor Williams' memos, and stated that he is confident that Ralph Alfonzetti's next submission will address all of the concerns that had been raised thus far in relation to both the site plan and the SWPP.

Ralph Alfonzetti stated that he would prefer to only do one more plan revision, and, therefore, wants to wait after the 30-day period for comment following the circulation for lead agency before resubmitting plans to the Planning Board.

Board Member Taylor acknowledged that he had submitted comments about suggestions for moving forward on the project, and stated that he believes that, barring and negative comments, the Planning Board will be ready to issue a SEQR resolution and set a public hearing at the next meeting. Board Member Taylor expressed his concern about the general issues within Commerce Drive, including wetland buffers (and the provision of treatment to replace the function of wetland buffers when buildings are placed in the buffer), wetlands protection (requiring a physical barrier between the wetlands and the rest of the site), the view shed from Interstate-84 (there is no view of this site from the highway), and traffic.

Pete Monteleone presented the Planning Board with preliminary architectural drawings of the site and ideas for the planned architectural style of the building were discussed. Board Member Brady expressed his concern about the applicant obtaining Health Department approval to tie into the existing septic system; Ralph Alfonzetti stated that he has been in contact with the Putnam County Department of Health and does not anticipate a problem.

4. Black Birch, LLC – Site Plan (Continued Review)
56 Commerce Drive
Tax Map #34.-3-58

Ralph Alfonzetti from Alfonzetti Engineering, P.C. and Pete and Christine Monteleone were present to represent the application.

Chairman McNulty confirmed that the notice for lead agency had been circulated, but that the 30-day period for comment had not yet expired. Supervisor Williams also submitted comments to Ralph Alfonzetti, and Ralph Alfonzetti acknowledged that he had also received the Building Department memo with interior requirements of the structure. Ron Gainer stated that he would like formal response letters to be submitted to the Planning Department in response to the project reviews to make the evolution of the project easier to track and create a record of how comments affect the progression of the project.

Ralph Alfonzetti stated that he does not believe the DEP has to be involved in the approval of this application because the structure is not located within the wetland buffer, has a green roof (which would mitigate the amount of impervious surface coverage on the site), and is not disturbing more than 2 acres. Ron Gainer stated that Supervisor Williams will need to confirm this.

Ron Taylor confirmed that there would be no washing or servicing of vehicles on the site and that that the vehicles will be stored in impermeable containers to avoid any leakage or spills on site. He also stated that excess groundwater on the site will affect the status of the basement, but that will be addressed under the site plan review.

Chairman McNulty stated that the fees had been calculated for the application, but had not yet been paid; Pete Monteleone confirmed that the fees would be paid before the next Planning Board Meeting. Chairman McNulty directed Ralph Alfonzetti to address an e-mail to the Planning Department stating that he did not believe that the DEP would need to be involved in the approvals on the site and why.

5. Carino Holdings – Site Plan (Continued Review)
97 Commerce Drive
Tax Map #34.-3-51

Ralph Alfonzetti from Alfonzetti Engineering, P.C. and Anthony and Pasquale Carino were present to represent the application.

Ralph Alfonzetti stated that in the most recent set of plans, the building on the site had been rotated and pushed forward. There is no longer parking in front of the building in order to keep the garage doors accessible, and the site will no longer need any approvals from the Zoning Board of Appeals. He also stated that the SWPP would be forthcoming, and asked that the Planning Board declare themselves lead agency at tonight's meeting. He confirmed that there will be a rock cut on the site, and stated that there will be approximately 1,900 cubic yards of rock cut, with approximately 980 cubic yards of that rock to be used on-site.

Chairman McNulty confirmed that a solid barrier will be needed around the wetlands on the site, as it is intended to be used as a contractor's yard and office. The Planning Board agreed that a timber guard rail must be present along areas of the drive that abut the wetlands, with 6-foot-high chain-link fence around the other areas of wetlands on the site.

Chairman McNulty stated that the application would be submitted for circulation under SEQR; Ron Gainer stated that until the correct number of plans have been submitted to the Planning Department, circulation cannot be initiated. Chairman McNulty also instructed Ralph Alfonzetti to continue his work on the SWPP. Ron Gainer and Supervisor Williams will also be working on their respective reviews.

- Board Member Taylor made a motion to declare the Planning Board Lead Agency in the SEQR review of the project. Board Member Brady seconded the motion. *Motion passed by a vote of 4 -0.*

6. Camp RE: Lake Charles Dam – Wetland/Watercourse Permit Application
111 Ballyhack Road
Tax Map #: 35.-5-44

No one was present to represent the application.

Chairman McNulty confirmed that the application was approved at the last Planning Board meeting; the Secretary confirmed that the fees for the application had been paid.

7. Wayne Ryder – Wetland/Watercourse Permit Application (Continued Review)
40 Cushman Road
Tax Map #: 13.-2-68

Chairman McNulty stated that the applicants had been asked to stake the property for a site walk to be conducted. Board Member Taylor noted that Putnam County National Bank is listed as the property owner, which the application contradicts, and requested that the Secretary clarify the information with the applicants.

Board Member Taylor requested to make a presentation to the Planning Board regarding the primary question that exists about the site: whether or not the lot should be built on. Concerns discussed included whether a property owner is deprived of value if the lot cannot be built on.

Michael Liguori stated that even substandard lots are permitted to be built on if they can meet the bulk requirements according to the Code, even if the minimum acreage is not met. He also stated that if a lot meets all of the bulk requirements, but is severely retrained by wetland buffers, the lot only has value if the applicant is able to demonstrate to the ECI and Planning Board that the improvements would not violate the intent of the Code (Chapter 154-18); the applicant is then left to decide whether the mitigation measures to stay in compliance with the intent of the Code on the site cost so much that they offset the actual value of the lot. However, the Planning Board and the ECI can only determine the functionality of the wetlands, with the quality of the wetland being directly related to the value of the wetland buffer; if this test is applied equally, then every application will be treated equally, even though results may be drastically different. He also stated that it is legal for towns to require a physical barrier around the wetlands; the question is what are the wetlands being protected from? In residential districts, the public is allowed to enter the wetland, but the intention of the Code is to prevent destructive activities like filling and grading in wetlands. The conditions on a wetland/watercourse permit, therefore, must have a reasonable relationship with the thing that is sought to be protected, and this test must be consistently applied to applications that come before the Planning Board.

Board Member Taylor discussed nature's ability to restore the functionality of a wetland if the wetland is undisturbed, even if the wetland is currently deemed a low-functioning wetland. Additionally, he pointed to previous concerns about granting wetland/watercourse permits with stringent conditions that the Town ECI will then be charged with enforcing. Michael Liguori replied that if the Planning Board chooses to grant permits with specific requirements, then the Town must also be prepared to enforce all of these requirements. He clarified that if the proposed mitigation on a site becomes so complex that the Town is unable to enforce it, the Planning Board does have reasonable cause to deny a permit.

Chairman McNulty confirmed that the Planning Board will be conducting a site walk on the property. He also stated that Ted Kozlowski, Environmental Conservation Inspector, must still determine the functionality of the wetlands on the site.

8. Other Business

A. Guiding Eyes for the Blind: Bond Release Recommendation

- Chairman McNulty made a motion to make a recommendation to the Town Board to release the cash performance bond of $9,220.00 based on the memo received from Supervisor Williams. Board Member Brady seconded the motion. *Motion passed by a vote of 4 – 0.*

B. Hamlet Revitalization

Board Member Taylor reviewed previous comments that be had submitted to the members of the Planning Board. He discussed the importance of the General Business (GB) Zone in both the Hamlet and Putnam Lake in order to encourage growth in business districts town-wide, and suggested that the Planning Department provide the members of the Planning Board with the boundaries of the wetlands within the hamlet, in addition to other maps that may be helpful to the development of the GB Zone.

The Planning Board further discussed the application of Form-Based Code in the revitalization of the GB Zones within the Town. Board Member Ladau expressed his continued concern about Form-Based Code "scaring away" potential developers with their own visions; Board Member Taylor countered that the intention of Form-Based Code is to create a vision that will draw developers. Board Member Ladau discussed the draw of farmers' markets in the adjacent towns, and questioned whether this suggested that arts and farmers' markets will generate activity within Patterson, which will then attract developers who see that the Town now has foot traffic.

Chairman McNulty stated that the infrastructure must be in place before any activity can be supported within the GB Zone, including the expansion of public sewer and water lines. Board Member Taylor stated that in order to create a "downtown" area along the GB Zone corridor, the existing Code will have to change (setbacks, height limits, etc.) in the very near future and that, though these changes must be implemented by the Town Board, the vision and desires of the townspeople can be determined by the Planning Board. Board Member Ladau stated that developers should be included in that conversation; Chairman McNulty stated that realtors would also be a valuable resource. Board Member Taylor encouraged the Planning Board to determine an area of the Town of focus in on, such as the GB Zone, before any work to revitalize the Hamlet and other areas of the Town can begin.

C. Application Tracking Sheet

Chairman McNulty stated that he is going to make a couple of more changes to the tracking sheet, and then asked the Planning Department secretaries to fill out the heading and attach a tracking sheet to every new application.

9. Minutes

- Chairman McNulty made a motion to approve the minutes from the January 28, 2016 and February 4, 2016 Planning Board meetings. Board Member Taylor seconded the motion. *Motion passed by a vote of 4 – 0.*
- Chairman McNulty motioned to adjourn the meeting. Board Member Ladau seconded the motion. *Motion passed by a vote of 4 – 0.*

Meeting adjourned at 9:00 p.m.