

TOWN OF PATTERSON
PLANNING BOARD MEETING
March 5, 2015

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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

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Thomas E. McNulty, Chairman
Ron Taylor, Vice Chair
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**Planning Board
March 5, 2015 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 Ladau, Rich Williams, Town Planner, Ted Kozlowski, Environmental Conservation Inspector, Ron Gainer, Town Engineer and Michael Liguori, Town Attorney.

Chairman McNulty called the meeting to order.

The meeting began at 7:00 p.m.

Sarah Mayes was the Secretary and transcribed the following minutes.

There were approximately 9 members of the audience.

Chairman McNulty led the salute to the flag.

1) RP DEVELOPMENT CORP. – W/W Permit Application

Mr. Joe Reilly was present.

Chairman McNulty: Okay, welcome everyone. March 5th Planning Board meeting. First on the agenda is RP Development Corp. Is anybody here from them?

Mr. Joe Reilly: Yup.

Chairman McNulty: Yup. How you doing? Joe, right?

Mr. Reilly: Yeah.

Chairman McNulty: Yeah, how are you?

Mr. Reilly: Good.

Chairman McNulty: Alright, we did look at this at the work session. It looks like a tight fit.

Mr. Reilly: Yeah. Very tight fit.

Chairman McNulty: You want to give us a little overview of what you have here.

Mr. Reilly: Sure. So, I bought this property about 10 years ago. At the time when I bought the property, we did have a Board of Health approval. DEP approval. When I came to go for a building permit, there was, I guess, reflagging of the wetlands.

Chairman McNulty: How long was that after you purchased it, the...

Mr. Reilly: Pretty much right after. When I purchased it, I made sure there was DEP and Health Department. So when I was getting ready to go for building permit after I purchased it, then the wetland line has been changed throughout the year. I guess it changes or it gets reflagged periodically.

Chairman McNulty: As the wetland changes, itself.

Mr. Reilly: Right.

Chairman McNulty: It evolves. Okay.

Mr. Reilly: Right. So that being said, we're just coming back and bringing it back in front of the Board to, you know, put a house in there. It's 3.8 acres. There is watercourse as you can see, that runs straight through the middle of it. There's not a lot of room for the septic and the house. The house would be in the buffer and the septic we're trying to keep all of it out of the buffer. We've been working on this project off and on, I guess, for the last about 7, 8 years. And we tabled it in 2011 and bring it back in front of the Board now.

Chairman McNulty: Okay, as you said, most of it is in the buffer which presents a, you know, challenge.

Mr. Reilly: Right.

Chairman McNulty: We talked on the meeting about the placement of the house so far back.

Mr. Reilly: Mhmm.

Chairman McNulty: But after I looked at the topo I guess I kind of see why you did that. It looked like a crest. We haven't walked the property so that's...

Mr. Reilly: Understood.

Chairman McNulty: something we're going to have to do after the snow melts.

Mr. Reilly: Yup.

Chairman McNulty: But it looks like the house is placed somewhat on a little crest on that property. Is that right?

Mr. Reilly: Yeah. It might be able to be pulled forward. I don't know off the top of my head what the setback is from the street.

Board Member Taylor: Forty feet.

Mr. Reilly: So, if we could pull it back...pull it forward, keep it away from the wetlands a little bit, we're going to look to do that.

Chairman McNulty: Yeah. Now with this wetlands in the buffer, Rich can you elaborate on some more of challenges we might have with this size a house.

Rich Williams: With this size of the house or the wetlands and the buffer?

Chairman McNulty: Well, with the house in the buffer. I mean, you're going to need DEP approval on this, correct?

Rich Williams: Well, certainly you're going to need DEP approval on this and Joe knows that; he's started the...

Mr. Reilly: Right.

Rich Williams: process a while ago. And he's going to need DEC approval because it's also in a DEC regulated wetland. So, those are the two other agencies along with Putnam County Highway for the driveway that...

Chairman McNulty: And then...

Rich Williams: he's going to be dealing with.

Chairman McNulty: Health Department.

Rich Williams: And he knows that process. He started a long time ago.

Mr. Reilly: Right. So we know that...We've been...We just started, like I said, we just picked it up; started with the DEP and DEC permits. Everybody together. So it's going to be one of these projects where, you know, where we're asking for the permits all at the same time.

Chairman McNulty: Okay, so...

Board Member Taylor: Does the Health Department...What are they going to say about having part of the septic in the wet...the buffer? Or do they not care about the buffer?

Rich Williams: No, they do care. They're going to require sign-off by the Town, but whether they approve it or not is going to be based on whether it can be designed and meet their specifications.

Mr. Reilly: The part that is out of the buffer is the expansion area.

Chairman McNulty: So the working area is within the buffer.

Mr. Reilly: Yes. And...

Chairman McNulty: And where does the DEP weigh in on that? DEC? As far as the...

Rich Williams: Well, the DEC is going to weigh in on any disturbance that goes on with the buffer and any loss in that buffer. DEP likewise, because they have concurrent jurisdiction over DEC regulated wetlands. They're going to weigh-in on issues of impervious coverage, lot disturbance and the septic.

Chairman McNulty: Okay. Rich, we have the microphone to pass around. Teddy wants to say something.

Ted Kozlowski: I think we got a correction there. I believe the wet...the septic is outside the buffer, the expansion is in the buffer.

Mr. Reilly: Yes.

Ted Kozlowski: Okay.

Chairman McNulty: Oh, okay.

Ted Kozlowski: So there's a big difference there.

Chairman McNulty: Yeah.

Ted Kozlowski: Okay. So...

Chairman McNulty: So the expansion's in the buffer.

Ted Kozlowski: The expansion would be in the buffer.

Chairman McNulty: And the working septic...

Ted Kozlowski: I believe they designed it so the entire septic...

Mr. Reilly: Right.

Ted Kozlowski: is outside the buffer.

Mr. Reilly: Yeah. And it's just part of the expansion. It's not 100% of the expansion that's in the buffer.

Board Member Taylor: If this were a two-bedroom house, how much would that reduce the septic?

Mr. Reilly: I couldn't answer that. I'm not sure. The septic has been reduced since we've had it in front of the Board; the Health Department has changed their regulations. So we were able to restrict the...led to the fields.

Board Member Taylor: Okay.

Mr. Reilly: We shrunk the septic already.

Chairman McNulty: Okay. I think what we really need to do is a site walk so we can all get familiar with the property.

Mr. Reilly: Okay.

Rich Williams: As soon as the snow goes away we'll contact Mr. Reilly. We'll schedule something.

Mr. Reilly: Okay.

Chairman McNulty: You can stake off the approximate corners of the house.

Mr. Reilly: Yup.

Chairman McNulty: Per the plan. Driveway; center of driveway.

Mr. Reilly: Okay.

Chairman McNulty: You know what we're looking for, right?

Mr. Reilly: Yeah. Yup.

Chairman McNulty: And then we'll take it from there.

Mr. Reilly: Okay.

Chairman McNulty: I don't know, does anybody else have any questions?

Board Member Brady: Nope. But we need to walk it.

Td Kozlowski: Can I just reiterate? I had a conversation with Joe...

Mr. Reilly: A couple days ago.

Ted Kozlowski: Yesterday.

Mr. Reilly: Yeah.

Ted Kozlowski: A few days ago. I would recommend to Joe, the Applicant, that you don't go through the whole permit process with all these other agencies unless you're absolutely sure you want the house in that location. I think other agencies would look favorably, as well as my recommendation to you is to move that house off the wetland line where you have it. I really think that will be a problem in the future. I'm sure you have all good intentions in what you're doing in this project but the future homeowner is going to have challenges there. I really think it's better that we pull that house closer to Farm to Market Road, to the south and west just from a logistical standpoint and a more manageable standpoint for the future homeowner to have a backyard.

Chairman McNulty: Yeah. You want to limit the disturbance into the...

Ted Kozlowski: Right.

Chairman McNulty: actual wetland.

Ted Kozlowski: Right.

Chairman McNulty: Like we've seen in the past before, so you know, you'll build a house and...

Mr. Reilly: Yeah, after people move in.

Chairman McNulty: and then people move or the second owner comes in...

Mr. Reilly: Mmhmm.

Chairman McNulty: and they think wow, we got all this land we can clear.

Mr. Reilly: Right.

Chairman McNulty: Then we're in trouble.

Ted Kozlowski: I mean, they might want a vegetable garden or something and...where that house is located now it's just going to impact the wetlands so...I think he's got room to skew it closer to the road and I think that would be better for everybody.

Mr. Reilly: Okay. So...Well, I'll talk to the engineer about what we can do and our options as far as how close we can move it to the septic by moving it forward. And then we'll walk the property...

Chairman McNulty: Okay.

Mr. Reilly: And come back in front of the Board.

Chairman McNulty: Alright. That's what we're going to have to do. Rich, you didn't do a review on this at all, did you?

Rich Williams: No.

Chairman McNulty: I didn't see anything. Okay.

Rich Williams: No. I mean, there's really nothing to review.

Chairman McNulty: So...

Mr. Reilly: Okay.

Chairman McNulty: Alright.

Mr. Reilly: Alright. So thank you.

Chairman McNulty: We've got a good, early start. The snow melts we'll set up a site walk.

Board Member Ladau: It's never going to.

Chairman McNulty: It's going to melt. It's going to melt.

2) DG FLOWERS – Sign Application

Mr. Gordon Newbould was present.

Chairman McNulty: Alright, we have DG Flowers next on the agenda. Hi.

Mr. Gordon Newbould: How are you guys doing?

Chairman McNulty: Good. Are you Mr. Newbould?

Mr. Newbould: Yes.

Chairman McNulty: Alright, so you want to... You're sign application here.

Mr. Newbould: Yup.

Chairman McNulty: Looks like it's 2'x2' by 4 square feet.

Mr. Newbould: Mhmm.

Chairman McNulty: The letters, the colors look fine. The question we had, it looks like it's just going to hang on the front of the building.

Mr. Newbould: It's going... So this is the face of the building, it's facing the street this way. It will be right there by front door, sticking out. Attached to the wall.

Chairman McNulty: 2'x2'; its height is not a... Well, okay. I see how the entry is.

Mr. Newbould: Mhmm.

Chairman McNulty: So nobody's going to walk into it like that.

Mr. Newbould: No. It's going to be off to the side. Yeah.

Chairman McNulty: Yeah. I didn't see the rail, so. Rich, you have any comments? I didn't get a chance to look over your review. Anything major?

Rich Williams: No. It was pretty straight forward. It meets our Code requirements. The colors are very neutral. So, there really is no issue with this.

Chairman McNulty: Okay. Anybody have any questions.

Board Member Taylor: You ready to go.

Chairman McNulty: Yeah.

Board Member Taylor: You want me to just do it?

Chairman McNulty: Yeah.

Board Member Taylor: In the matter of DG Flowers...

Chairman McNulty: We got to do SEQRA first.

Board Member Taylor: 191 Fairfield Drive, negative determination of SEQRA.

Chairman McNulty: Second.

Board Member Taylor: We don't want to roll them together.

Chairman McNulty: No. Do one.

Board Member Taylor: Okay.

Chairman McNulty: I'll second that. All in favor? *Motion carried by a vote of 4 to 0.*

Board Member Taylor: Okay, in the matter of DG Flowers, 191 Fairfield Drive, sign application, we find no problems with the sign. It's consistent with the Code. And we approve it.

Chairman McNulty: Second. All in favor? *Motion carried by a vote of 4 to 0.*

Mr. Newbould: Thank you very much.

Chairman McNulty: You're good to go. Good luck.

Mr. Newbould: Thanks guys.

Chairman McNulty: Get the spring flowers going. Melt the snow.

Board Member Taylor: That's what we need.

Chairman McNulty: Yeah. Okay.

3) WILKINS MOTORSPORTS

No one was present to represent the application.

Chairman McNulty: Next, we have Wilkins Motorsports. Okay. Rich, I know there was some discussion and I had questions for Mike on this. At the public hearing, it came up about the location of this, I guess, automotive repair. Motorcycle repair, adjacent to another motorcycle repair. And there were some questions whether they met the 1,000 foot setback or if it was a pre-existing nonconforming condition that continued through. You were going to get back to us on that.

Mike Liguori: Yeah, I had a chance to talk to Rich and then also look at the Wilkins Motorsports; the file for, I guess, Russo who's the current owner. There's nothing in the file to indicate that there has been a cessation of use for longer than a year. As a matter of fact, the only testimony we have is the statement from the neighbor that it's, you know, not been used for the year. In [20]05 it looks like they had a letter confirming that the: number one, that the motorcycle use for the sales and service aspect was a legitimate use of the property. There's been a continuing issue off and on with auto sales that that's definitely not permitted. But I guess it comes and goes. And when it comes, they get a violation letter. When it goes, you know, it goes away. And then it, you know, comes back. But that seems to be under control. But that's what I've gone through and what I've seen so far is, you know... We don't have anything in particular that... where the Building Department has anything to indicate that that one year has passed or that the owner's taken some step to affirmatively, you know, remove the use. One of the things that Rich and I look at a lot when you're dealing with this pre-existing, nonconforming uses is in addition to our Code provision, you know, what does the case law say on the determination of the use. It's a pretty severe acting section of the Code, so it's been interpreted a lot via case law. Case law requires, basically, a two-step process: The expiration of the time and a little bit, you know, basically a step more which is some physical act to evidence the intent determining that use. Even though we don't have the intent section of our Code. It's not in there.

Chairman McNulty: Okay.

Mike Liguori: But anyway, that's what our Building Department file indicates: That there isn't anything in that file that says, you know, this confirms that this use has been terminated. So that's what we have to go on.

Chairman McNulty: So for us to look at it, it is a pre-existing, nonconforming use. Well, it's not even nonconforming. It's within the C-1, correct. Or nonconforming...

Rich Williams: True. It's pre-existing, nonconforming in the sense that it doesn't have a special use permit...

Mike Liguori: Right.

Rich Williams: Which is now the requirement.

Mike Liguori: Right.

Chairman McNulty: Okay.

Mike Liguori: Right.

Chairman McNulty: Alright.

Mike Liguori: There was a Planning Board approval, it appears. But for, I guess the... At one point they were going to build a four car garage it looked like, or a service garage...

Rich Williams: Well, they...

Mike Liguori: in addition.

- Rich Williams: came in. They actually pulled that application.
- Mike Liguori: Okay.
- Rich Williams: But prior to that they had gotten something from the Planning Board tacit to an approval for a display area for automotive sales which then turned into the motorcycle shop and motorcycle display area.
- Chairman McNulty: Okay. And I guess the other issue we had at that point was...
- Mike Liguori: The plans.
- Chairman McNulty: The plan itself being on a piece of a survey.
- Mike Liguori: Right.
- Chairman McNulty: Because what we're looking at here is...The whole purpose of this was to get a record to maybe answer these questions in the future and establish a site plan with...or at least the minimum requirements on it. And can we do that on this overlay of a survey or marked up survey that we have.
- Mike Liguori: Rich and I went...I pulled the relevant section of the Education Law and we read through it with Rich. It's 72-09 of the Education Law. And that's the law that says that you can't alter a stamped plan. A plan that's stamped by an engineer or a surveyor. What you have is...I didn't look at any case law as far as if this has ever been litigated. But it...What I think you have in front of you is, you know, part of a survey that's...it's not stamped. It doesn't meet the requirements of an actual survey because it doesn't have the stamp and signature to go along with it.
- Rich Williams: There's no representation made that it is actually drawn by a surveyor or an engineer.
- Mike Liguori: Right. So for instance, if Ron stamps and signs a plan and I take it and I mark it up and I hand it to you, I've violated the...because it's stamped by Ron. And I'm sure there's always a little give and take like Ron, if I buy, you know, work from you and you hand me...
- Ron Gainer: Right.
- Mike Liguori: you know, is it mine or is it ours if I bought it.
- Ron Gainer: Yeah, you can get authorization from the design professional to use the plan.
- Chairman McNulty: So to modify a plan, to cut a section off of it and all of that professional information is not on the plan...
- Mike Liguori: It's not with a certified seal.
- Chairman McNulty: It's not an official survey.
- Mike Liguori: No.

Chairman McNulty: It's not certified.

Mike Liguori: No. It, you know, it doesn't sound great but, you know, it isn't. It doesn't meet the requirements. It certainly establishes a record for the Planning Board because it is a document that you guys can look at and you have the ability to waive the formal requirements of a site plan.

Chairman McNulty: Mmhhh.

Mike Liguori: And if you're willing to do it then it's okay. You know, if someone's going to come in and build something significant, do drainage improvements, do things that you're going to need those plans, you know, the building inspector's going to need them and rely on them then someone's going to give a certification thereafter, then...

Board Member Taylor: So...

Mike Liguori: you know, we want to have all the formalities in place, but...

Board Member Taylor: So the concern of the Education Law is whether it's certified, not whether it's copyrighted, in a sense.

Mike Liguori: That's right. That's a different...

Board Member Taylor: Okay. So that's fine.

Mike Liguori: Yeah, exactly.

Board Member Taylor: Alright.

Chairman McNulty: Okay.

Rich Williams: Now, just to be clear, Mike did touch on something else. We're always very diligent to make sure that whatever drawings we take, if they are not from an engineer or architect, are not work that would otherwise require an engineer or an architect to complete. I mean, drawing a square on a piece of paper to represent the general location of the shed is entirely different than drawing a stormwater system.

Chairman McNulty: I agree.

Rich Williams: So...

Chairman McNulty: Yeah.

Mike Liguori: I actually did the same thing myself today. I had to submit a sign application for a client down in Southeast and we had just gone through whole site plan process with an architect and he had drawn the signage that exist, and we wanted to add one projecting sign. And, you know, I called him up and said, hey look, I'm going to hand mark your plan and hand it in. Is that alright? And he sent me a one sentence email it's okay to use my plan.

Chairman McNulty: Yeah.

- Mike Liguori: But in theory, I could have just, you know, cut off all the architect stuff and...
- Chairman McNulty: Yup.
- Mike Liguori: and just put a little clip of the elevation...
- Chairman McNulty: Put a supplement plan.
- Mike Liguori: with a little, you know, star “sign to go here”.
[Laughter].
- Chairman McNulty: Okay. Alright. Ron, you have some comments or...
- Board Member Taylor: No. I just...The...What have to waive. I’ve got a list of the items that we have to waive.
- Chairman McNulty: Can we do that during the resolution? Are you going to introduce the...
- Board Member Taylor: Well, I guess I could.
- Chairman McNulty: Want to do SEQRA?
- Board Member Taylor: Yeah. (Inaudible – too distant).
- Chairman McNulty: You need this?
- Board Member Taylor: I need the cheat sheet. We’re doing...Alright. In the matter of Adam Wilkins, the Wilkins Motorsports site plan 2237 Route 22, the Planning Board of the Town of Patterson finds the proposed action being an unlisted action will not have a significant impact on the environment and hereby issues a negative declaration of significance.
- Chairman McNulty: Second. All in favor? *Motion carried by a vote of 4 to 0.*
- Board Member Taylor: Alright.
- Chairman McNulty: And we have the resolution for a final site plan.
- Board Member Taylor: Adoption of a resolution. I’m just checking if it’s actually covered here. So we’ll just...Alright, in the matter of Wilkins Motorsports Site Plan, 2237 Route 22, we are going to waive the requirements of 154-86 A, which has to do with what information is needed on a site plan. We’re going to waive a key, boundaries and designations of all the zoning districts, water supply, sanitary waste, fire protection, soil types, owner’s signature block, P.C. Health signature block, table of zoning, zoning variances, E911, street address, topography referenced to benchmark and renderings of buildings. The other conditions are met.
- Chairman McNulty: I’ve got these general conditions.

Board Member Taylor: And then we're going to have to go to the generals. Submission of...We've got four general conditions with no special conditions. That's it.

Chairman McNulty: Second. I second. All in favor? *Motion carried by a vote of 4 to 0.*

Chairman McNulty: Okay. Nicely done, Ron.

Board Member Taylor: Okay.

Chairman McNulty: Okay. So we'll get in touch with Mr. Wilkins, I guess, and let him know where we're at and he'll be happy he can move on with the shed. And we have a site plan now.

Rich Williams: Once he gets rid of the snow.

Chairman McNulty: Yeah, well, he's in the boat with everyone else.

Board Member Ladau: It's never going to melt.

Board Member Brady: August.

4) MANCINI SUBDIVISION – Final Site Plan Approval

No one was present to represent the application.

Chairman McNulty: Okay, next we have Mancini Subdivision. I guess we have a final site plan approval resolution.

Rich Williams: Correct.

Chairman McNulty: Now, we did the plat plan already, correct.

Rich Williams: We did the subdivision.

Chairman McNulty: We did the subdivision.

Rich Williams: Our Code also requires for new subdivisions there be a site plan approved. We do have a site plan.

Chairman McNulty: Yup. We have it. We reviewed it.

Rich Williams: Yup.

Chairman McNulty: SEQRA's already been done on this as well, correct?

Rich Williams: Correct. Yup.

Chairman McNulty: Alright, I make a motion in the final site plan approval application approval for Robert S. Mancini to approve the site plan as reviewed on the plans and the six general conditions outlined in the resolution. I need a second.

Board Member Brady: I second it.

Chairman McNulty: All in favor? Motion carried by a vote of 4 to 0.

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

Mr. Curt Johnson, Zarecki & Associates, was present.

Chairman McNulty: Okay next we have Fox Run Adult Residential.

Rich Williams: You ain't going nowhere.

Chairman McNulty: Hello, Curt.

Mr. Curt Johnson: Hello again.

Chairman McNulty: How are you?

Mr. Johnson: Very good. Thanks.

Chairman McNulty: Anything new for us this...

Mr. Johnson: I don't think so. I think we've...

Chairman McNulty: Okay.

Mr. Johnson: got everything covered, hopefully, at this point. And...

Chairman McNulty: Yup.

Mr. Johnson: if the Board is so inclined to do a SEQRA determination, we can get into the nitty gritty of the project and...

Chairman McNulty: Yup. I think we're there.

Mr. Johnson: move forward.

Chairman McNulty: We've had a lot of discussion over the last couple months. We talked about over the work session. The last meeting was positive with the covenant for...

Mr. Johnson: Yes.

Chairman McNulty: Nineteen and older.

Board Member Taylor: Under.

Chairman McNulty: Not allowed in. Nineteen and older can live there. That's where I was going.
[Laughter].

Chairman McNulty: And, yeah, we're prepared to do SEQRA tonight. So...

Mr. Johnson: Great.

Chairman McNulty: With that, I'm going to pass it off to Ron.

Board Member Taylor: Okay. Alright, you see how much gets done when you miss a meeting?

Mr. Johnson: I see. This could have happened a long time ago, right?
[Laughter].

Board Member Taylor: Cheat sheet.

Chairman McNulty: Here you go.

Board Member Taylor: I just want to say one thing before we go in to the actual thing. From the beginning, the Planning Board has sought to establish what are the aspects of this particular project that might prevent it from having significant adverse impacts on community character. The preventive measures or mitigations are mitigations and most localized community impacts are those to be found in the letter of intent between RC Enterprises and Fox Run Homeowner's Association wherein they agree to reconstruct it and improve portions of Bullet Hole entrance and Fox Lane. Reconstruction and approving of existing pool and associated amenities including an additional parking and construction of a clubhouse. Landscaping to shield a new construction and repair, where necessary, the existing to be shared sewer lines. Some features of the project will be designed to have long-term appeal to aging residents such as wheelchair accessibility to and within the residential units. Master bedrooms on the first floors and other similar ADA (inaudible) amenities. A large portion of residents being retirees will mitigate against communitywide impacts from residents who might be 55 or older, but still commuters. The largest single factor in impacts in community character from residential development is increasing the number of children in public schools because of the extremely high shared community costs. This impact will be avoided because primary residency in this project will be prohibited to anyone under 19. So I think, at the end of this long process, we came up with all the conditions that will avoid impacts; negative impacts. We hope it will have some very positive impacts...

Mr. Johnson: We hope so.

Board Member Taylor: In the community.

Chairman McNulty: One thing that I wanted to follow with that as well, Mike, you had done some research for us on the covenants.

Mike Liguori: Mmhmm.

Chairman McNulty: And they're pretty much enforceable from what...

Mike Liguori: Yes.

Chairman McNulty: you've determined.

Mike Liguori: Yeah.

Chairman McNulty: Within New York State.

Mike Liguori: Yup.

Chairman McNulty: Okay.

Mike Liguori: Yeah, I looked at... There's... There aren't... It's not a very heavily litigated topic, so that there aren't that many cases that are out there. The cases that are out there are... generally deal with discrimination and relate to co-ops, which are more prone to litigation. For instance, there are many co-ops in New York City, and sometimes the boards, so that those co-ops may have some fairly strict requirements or regimes for financing. Having, you know, meeting income requirements. Making enough money to qualify to buy in the co-op so you have various types of age discrimination. Income discrimination. Racial discrimination. But there are, you know, one or two cases on the age requirement. And the way that those cases are interpreted is that if the requirement is reasonably related to the goal that is sought to be achieved. So here we have HOPA, which is Housing for Older Persons. That's the federal law that provides that you can discriminate against people that are under 55 if you meet the following requirements: at least one person is 55 or older, you have at least 80% occupancy. Those are the criteria that I... I originally set forth in the correspondence to the Board when we looked at the question. Well, if everyone is, let's say, 55 or older, you're even stronger. So to eliminate, you know... You have the ability to eliminate under a particular age group. It's perfectly legal and it's enforceable in New York.

Chairman McNulty: Great.

Mike Liguori: Yup.

Chairman McNulty: Okay. We'll touch on Ron's comments. I know we've been working with you and the Applicant to... You know, you moved the building off the ridgeline. And I know Ted had addressed the trees and now we can, you know, hopefully keep going forward. Work through some of these things.

Mr. Johnson: I think we've, you know, working through the process, we've gotten to a better point...

Chairman McNulty: Yeah.

Mr. Johnson: in the design of everything. So I think it's been a good process.

Chairman McNulty: Okay, good. Alright, Ron.

Board Member Taylor: Well then, I would propose a resolution that we... How do we word this? That we...

Chairman McNulty: Reviewed the EAF; Full EAF.

Board Member Taylor: Determination... We're making a determination...

Rich Williams: Would you like me to paraphrase something for you.

Board Member Taylor: Yes. Please paraphrase it.

Rich Williams: That you are accepting the Part 2 and Part 3 EAF as prepared by the Planning Board and you are finding determination of nonsignificance, i.e., a negative SEQRA determination.

Board Member Taylor: So moved.

[Laughter]

Board Member Brady: I second it.

Board Member Ladau: Second.

Chairman McNulty: All in favor? *Motion carried by a vote of 4 to 0.*

Chairman McNulty: So negative determination.

Mr. Johnson: Great. Thank you very much.

Chairman McNulty: Okay.

Board Member Brady: That was easy for you to say, Ron.

Chairman McNulty: Alright, well we look forward to working with you on this.

Mr. Johnson: Good. We'll...

Chairman McNulty: Hoping it will be positive for the community and, you know, we had some stumbling blocks there we seemed to work through. Hopefully we can create a quality project.

Mr. Johnson: I'm sure we will. Thank you very much.

Chairman McNulty: You're welcome. Okay. We can get this stack of papers out of here.

Mike Liguori: There should be an impact statement on the impact of the amount of paper that gets generated.

Chairman McNulty: SEQRA.

Board Member Brady: Weren't the computers supposed to make it less paper.

Chairman McNulty: Neg determine.

6) BILL HENRY TREE SERVICE, INC – Initial Site Plan

Mr. John Watson, Insite Engineering, and Mr. Bill Henry were both present.

Chairman McNulty: We have Bill Henry next on the agenda. How you doing, John? It's been some time since you've been here.

Mr. John Watson: It has. I missed...How are you, Ron? It has. Yeah, I don't realize how long it's been until I'm actually back. Hope you've all been well.

Chairman McNulty: Good.

Mr. Watson: John Watson from Insite Engineering here with Bill Henry and his wife Kim. Bill Henry Tree Service.

Chairman McNulty: Hello, Bill. Hi, Kim.

Mr. Watson: For those of you who are not familiar with Bill, he owns a local, very reputable, tree service company. And he's been looking for a place to yield his own shop, office, yard. And he actually purchased this property over 10 years ago. It's on Route 22, just north of Haviland Hollow Road. It's between the old Nolletti Bakery site and the DEW/Macal subdivision, little cluster of contractor office, commercial buildings. And Bill bought this...It's a 2-acre piece of property, purchased it over 10 years ago and started the site plan process at which time this area was zoned Industrial. And with the change of economy, he decided to put the project on hold. Fast forward to about 2 years ago, he rents a place right now with a couple other contractors. So he is looking for his own property. His own building. We have looked at...I've looked at several properties with him. We've done, like, full legitimate feasibility studies on several properties and for one reason or another, none of them have been able to prove out to be...to work for him. Be it zoning. Be it the site does not support the magnitude of developmental needs. So we sort of just coming back to this property. And we've taken a look at this. I know the Board did have some concerns. And we're hoping to come up with a plan that will address your concerns and allow Mr. Henry to run his business out of the property. So as I mentioned, it's on Route 22. It's a 2-acre piece of property, rectangular in shape. One of the changes from the previous application is instead of having the driveway entrance off of New York State Route 22, Mr. Henry's been speaking to the neighbors. Right now there exists a common driveway entrance. It has three existing buildings off of it. And what this current plan shows is to come off of the back of this common driveway easement. You come into the property from the back. That will do a couple of things: It will limit a new driveway curb cut on Route 22, so all the traffic will channelize through its existing common driveway entrance, which is a wider, flatter entrance than you would have over a single driveway. And it also preserves a lot of the trees in front. You're not going to have to cut the trees down to get a driveway in. And the biggest, in my mind, the biggest positive...Well, not the biggest, but another big positive is, we're able to keep this project now under 1-acre of total site disturbance. So we don't need to do DEC post construction stormwater management practices. So, in doing that, we were...that cuts down on a lot of project disturbance which means all of the trees in the front now can remain. If we were just over that 1-acre threshold, we had to do the DEC post construction stormwater. We'd have to do, by the time you do pre-treatment treatment, and size it for the DEC criteria, you're going to end up with losing most of the trees in the whole front of the property. So by keeping it under that 1-acre threshold, we're able to preserve all the trees here, push the building back a little further. Have the driveway entrance in the back. And I think those are all positives.

Chairman McNulty: Sure.

Mr. Watson: I know they're also just visual impacts from Route 22 and I didn't have time to prepare for his initial submission, but we are going to prepare a couple of sightline analysis from Route 22. And what it's going to show is the building is so far back...The property's moderately, gently sloped going uphill the whole way. By the time you put the building up, center it on the property and cut the storage area/parking area in the back, it's lower...It's behind the building far enough away that the screening in the front is going to effect a lot, but everything in the back. We've also set this up for...As I mentioned, it's a tree service company so he's going to have trucks, equipment. And there will be outdoor storage of wood and wood products. And visuals on that is very important to protect community, the neighbors and himself. He'd like to have privacy himself. So the beauty here is with all of that behind the building, it's blocked by nature of the building here. By leaving all of these trees, adds additional screening. We've also supplemented this with additional evergreen screening along the sides. There's already trees there. It's a second growth, hard wood...Ted can do much better at...

Chairman McNulty: I'm somewhat familiar with layout.

Mr. Watson: What?

Chairman McNulty: I'm somewhat familiar with the layout.

Mr. Watson: Okay.

Board Member Taylor: We were out there.

Mr. Watson: If we supplement in between there with some evergreens, I do think you're going to be able to get a good screening. I will provide a couple sightlines just to show that, you know, topography wise, vegetation wise, we're going to have some pretty good screening provided. We're looking to have an office in the building, so there will be a well and septic on the property. And even though I mentioned we're staying under that 1-acre threshold, even though there is not...Even though we technically don't need stormwater...post construction stormwater management for Town of Patterson, DEP or DEC, we are providing a...some infiltration in the front of the property. We just thought it's nice...

Chairman McNulty: Better safe than sorry.

Mr. Watson: Yeah. Better safe than sorry. We have to collect the water and do something with it anyway. We're going to bring it...Instead of just bringing it down and dumping it in a roadside swale, they're going to take this area up, throw in some infiltrators. We will site them to minimize tree removal. So, even though they're...You know, they can be in long strips. We could set that in down here. Get some stormwater treatment, even though we're not required. Give....So we're not making too much of an impact even though it's a small project. Overflow to grade down to the DOT swale. I think that covers the nuts and bolts. I know there's a zoning issue. When...As I mentioned before, when the initial application was here ten years ago, it was in the Industrial Zone. Property has been rezoned a C-1 Zone. So, I have spoken to Rich about that and how we can look at ways to either modify the zoning amendment or do a zoning change. You know, what could we do in order to legally allow this property?

Chairman McNulty: Yup. I know we talked about it at the work session, possibly through special use permits in the C-1. Before I get into my comments I wanted to...Rich did a review and I just got it tonight. Didn't give a chance to look at it. Rich, you want to give a synopsis of your review.

Rich Williams: And the battery's going dead. No, that's fine. Check. One. Two. No, the battery is dead.

Chairman McNulty: Alright, talk louder.

Rich Williams: Check. One. Two.

Chairman McNulty: There you go.

Rich Williams: There we go. The review's fairly straight forward. The plan is a concept plan; it's fairly complete. Generally the way Insite does things.

Chairman McNulty: Yup.

Rich Williams: So, it's a fairly straight forward site. There's not a lot to it. I did make a recommendation on the sign location. They're currently proposing the sign right out in front of the property which they certainly can do but that's not going to help anybody find the property. So, I would like them to take a look at that.

Chairman McNulty: Okay.

Rich Williams: They're proposing to use a common driveway where there's an easement. I...John, if you have or Bill has the actual easement agreement that you believe gives you the right to use that...

Mr. Watson: We don't have the right, right now. Bill has discussed with both owners and they are amenable to...

Rich Williams: Okay, then I...

Mr. Watson: modifying that.

Rich Williams: I will provide you the easement that I have which I think gives you the right to do it.

Mr. Watson: On...Already?

Rich Williams: Already. And I'll give it to Mike so that they can take a look and...

Mr. Watson: Fantastic.

Rich Williams: confirm that I've got that.

Mr. Watson: Did you know that, Bill?

Ted Kozlowski: Big smile.

Mr. Watson: Did you know that?

Mr. Bill Henry: No, I didn't.

Mr. Watson: Okay. Wow.

Chairman McNulty: So you think there's an easement already in place.

Rich Williams: Yeah. There is an easement agreement that Bill was a party to which gives him certain rights. As I read it right now, the easement allows him to access his property until such time as he puts a driveway in on Route 22, in which case, the easement would be extinguished to his benefit. But, you know, I'll let the attorneys tell me whether we can use that as a long term access to this property. So...

Chairman McNulty: Okay.

Rich Williams: Other than that, the biggest issue that I saw was the issue with the zoning. And if everybody is, you know, viewing developing this site favorably the way they're doing it then, you know, how are we going to craft that zoning to allow this to move forward?

Chairman McNulty: Okay.

Rich Williams: So...

Chairman McNulty: Well, I have a comment on the zoning. And Mike, tell me if I'm wrong. Or Rich. Just...I'm just looking at the discussion we're having is it's a C-1 Zone and what we're trying to eliminate are contractor yards along [Route] 22. We don't want to have equipment out there. We don't want to look like an industrial zone...

Rich Williams: Correct.

Chairman McNulty: coming up and down 22. We keep the beauty. And what Bill has provided here, and John, is something that maintains that. But I looked up contractor's yard in our definitions and I'll just read a...: "A lot, or portion thereof, used for the storage of equipment or materials, either of which are not offered for retail or wholesale sales at the site, but which are principally used for a construction-related activity at a location other than the lot on which the contractor's yard is located. Contractor's yard shall also include any buildings located on the lot and any accessory office space used by the contractor whose business is located on the lot". My question to Mike is when it says there, but which are principally used for construction. Is Mr. Henry's business is the construction realm? I know you have your own theory, Rich. But...

Rich Williams: Well, unfortunately for you I don't have my own theory.

Chairman McNulty: Well...

[Laughter]

Rich Williams: You don't get to make this call, I do.

Chairman McNulty: I don't know about that.

Rich Williams: No, I do. And you can challenge it with the Zoning Board of Appeals if you so choose, but in my opinion, Mr. Henry's business is a contractor's business. Hence, a contractor's yard.

- Chairman McNulty: Per our definition, though, does that hold up in court?
- Rich Williams: Even in our... Yes. Under our definition. Now Mike, you want to weigh in on it.
- Chairman McNulty: Yeah, I'd like to hear what Mike says.
- Board Member Taylor: Put him on the spot.
- Mike Liguori: Talk about putting me on the spot.
- Board Member Brady: Yeah.
- Mike Liguori: It's the building inspector that's going to make the initial interpretation, just so everybody's clear.
- Rich Williams: Well, just so everybody's clear, I wrote myself into the Code, too.
[Laughter]
- Chairman McNulty: Yeah.
- Mike Liguori: Sorry, forgot about that.
- Chairman McNulty: No, I'm just looking to see if there's a way to, you know, if we do special use permits and we don't have to go crazy with rewriting zoning. I'm just looking at it the way it's written in front of me as a layman.
- Rich Williams: I know. And you and I have these debates all the time.
- Chairman McNulty: Alright.
- Rich Williams: And some day you may get me.
- Chairman McNulty: Well, I'm working on it.
- Rich Williams: Yeah, I know.
- Mr. Watson: Not today?
- Rich Williams: Not today.
- Chairman McNulty: But Mike, what's your comment. You want to read this?
- Mike Liguori: No, I have the definition in front of me. I'd rather, I don't know, I'd prefer not to offer an opinion on the spot.
- Chairman McNulty: Okay.
- Mike Liguori: You know, but...

Chairman McNulty: Your guidance.

Mike Liguori: Well, but my guidance is that.

[Laughter]

Board Member Ladau: His guidance is he doesn't want to offer an opinion.

Mike Liguori: Exactly. I really don't want to do. But really, I don't disagree with Rich. And I get your point. The point is that Bill doesn't build anything. He's not using his contractor's equipment to...for construction.

Chairman McNulty: As far as I know. I was going to ask him; that was one of my questions.

Mike Liguori: That's not what Bill's business is. Bill's business is tree service and things that relate to tree service. But I think that, you know, the intent of this section is squarely, you know, the...Even though, maybe, the business isn't exactly construction, this is exactly what the Code is trying to protect. So if you have, you know, the next step is, is, you know, if you guys want to make a recommendation somewhere, then we do it provided, you know, all the things you need to see for protection is in place on the site plan. Then we'll figure out a way to skin the cat, you know.

Chairman McNulty: Yeah, that's our concern is, you know, how we do...If can do this now and how do we prevent a future changeover to a bunch of bulldozers and cranes sitting out there.

Rich Williams: Well, that's what we have to work on. And, you know, just to finish up this conversation about what it is, you know, understand any business that comes into Town comes into myself and Bob and we usually kick around, you know, what the issues might be. But every business that comes in we've got to classify at some place where we've got to say, hey jeez it just doesn't fit any class at all therefore it's not permitted. Because we have a permissive code. And if we can't classify it in one of the categories we have, then it can't go in period. So regardless, if you want to say jeez, this isn't a contractor's yard, well, then what is it? It's not...

Chairman McNulty: Well, it's...I'm reading as a layman.

Rich Williams: It's not going to be fish nor fowl, which means it can't go in at all. We're still in the same place and the best way to do this is if everybody finds this proposal favorably, and I certainly do...

Chairman McNulty: Yeah.

Rich Williams: that let's craft some zoning amendment to make it a reality and move it forward. And do it properly so that we have, you know, controls in because, you know, I love Bill but Bill's not going to be in the tree business forever. And whoever he passes that business...

Mr. Watson: Yes he is.

Rich Williams: to may not have his ethics and the way he runs his business, so...

Chairman McNulty: No, I understand.

Rich Williams: You know, we need to protect the Town as well.

Chairman McNulty: So, without...The only way (inaudible) see to do this is with a zoning amendment...

Rich Williams: Correct.

Chairman McNulty: and not through special use permits. The special use permit...

Rich Williams: Well, the zoning amendment may say that we're going to do this by special use permit. But right now there's no special use permit prevision that he could apply for that would allow him to do this. And frankly, no, I'm not looking at doing this under a special use permit. You know...

Chairman McNulty: If it...If a special use permit...

Rich Williams: if we're going to do this, why...

Chairman McNulty: was issued, is that only...does that stay with the property then?

Rich Williams: Yes.

Chairman McNulty: It does?

Rich Williams: It runs with the land.

Chairman McNulty: It runs with the land. That's what I thought.

Mike Liguori: Yeah, and we're out of the use variance realm. You know, it's not even worth it to go there.

Chairman McNulty: Okay.

Mike Liguori: It's just not because to meet the criteria for a use variance...You wouldn't be able to meet the criteria. You'd have to show that you couldn't generate any reasonable return for the use of the property, so my preference would be let's craft something that's going to work, you know, instead of having, you know, Bill go to the Zoning Board and plead his case and potentially get rejected. When we can control it, let's control it and...

Rich Williams: Yeah.

Mike Liguori: You know?

Chairman McNulty: Okay. You have comments, Ron?

Board Member Taylor: Yeah, I was just...I thought about it, we had this discussion at work session about the problem with the zoning and it seemed that the concern, and it seems clear tonight, the concern is appearance. So, I was thinking maybe we should look at this from a little bit different perspective. That maybe we should apply some of the concepts of form-based zoning, since form-based zoning is concerned

with appearance. Now I'm not suggesting we revise the whole Code into a form-based code, but that we take certain concepts, which we already apply like size of signs and appearance of signs.

Mike Liguori: Mmhhh.

Board Member Taylor: Architectural styles: There's a list of approved architectural styles. Very loosely, but it's there. And even in the Hamlet we've got color schemes for signs. And then try to apply that to all of [Route] 22 and the businesses along 22; the commercial businesses. Setup appearance requirements that all bulk materials must be stored in appropriate containers and bins out of public view and all vehicles and equipment and tools must be housed in garages or behind suitable barriers, out of public view. Then we run up against the problem of things being purposely put out in public view because they're trying to sell them, like the cars and the motorcycles that show up or the random bulldozer that occasionally rumbles down the hill with a big sign for sale on it. Or trees at nurseries or...But if we look at it that way, maybe we can craft something that will serve the purpose and it won't just be contractor's we're dealing with, but the whole appearance of 22, and it might be more suitable. I mean, the plans certainly...You speak to that. That's what you very strongly spoke to tonight and that's, I think, what appeals to us about this. But I don't think we can craft something specifically for contractor's yards or for Bill Henry, although I love the man; he's taken trees down at my place, too. Um...

Chairman McNulty: Can form-based code be that zoning amendment?

Rich Williams: Well, here's where I'm having a little difficulty: Most of your businesses along Route 22 are going to be...want to be very visible and very close to the road because most of them are going to be selling something or trying to get people to come in. This particular type of use, you want to push it away from 22. You want to hide it. You want to screen it. So, can I craft something to do this? Yeah, absolutely. But, I can't do it so it's going to be applicable to all the other businesses who want just the complete opposite. They want to be up close. They want to be visible.

Board Member Taylor: But can we make a distinction between the things that are allowed to be visible and things we don't want to be visible?

Rich Williams: Yeah, absolutely.

Board Member Taylor: And run it that way.

Rich Williams: Absolutely. But if, you know, if we're going to do this here, I don't envision that we're going to want to do it up and down Route 22. I can probably do something here and keep it within the context of what the Master Plan wanted us to do for Route 22. But if I try to do this the length of Route 22, we wouldn't end up where, I think, we want to be. You know, in the future with our vision for Route 22 when it's developed.

Board Member Taylor: Well, then that poses a problem of whether this isn't arbitrary for this one site. And how do we get over that?

Chairman McNulty: Mike?

Mike Liguori: Well, we have to look at...

Mr. Watson: It's also very keeping with the neighborhood, you know, that local area.

Chairman McNulty: That...

Mr. Watson: It's very appropriate...

Rich Williams: Yeah.

Chairman McNulty: Yes.

Mr. Watson: for that spot.

Rich Williams: I was going to say...Yeah. I mean...

Chairman McNulty: You have a nursery to one side.

Rich Williams: it's...

Chairman McNulty: You have...

Rich Williams: It comes down to how talented I am...

[Laughter]

Rich Williams: in crafting this. If I can do it.

Mike Liguori: Yeah, look. I mean, the concern is...I don't know if this is working or not but [referring to the microphone]. Thank, John. The...Obviously the concern is spot zoning. That's...And, you know, spot zoning is really a misnomer. It doesn't have to relate to just one spot. It's any zoning that's not in conformance with your master plan could be considered spot zoning. That's the definition. It comes up a lot because it's usually one person who's asking for it. But what the job is, is to...for us to look at those areas where maybe this is appropriate and it may be in this, you know, particular area. It may be on pieces of property that achieve a certain elevation. Because, again, we're looking to...we're looking to hide something on a major road. That's the goal...

Chairman McNulty: Mhmm.

Mike Liguori: is to, you know, to keep it away. And maybe there's only a few pieces of property that that's possible. So, the job with, you know, any rezoning from a legal perspective, is to make sure that all of that stuff is identified, analyzed and then you guys, you know, then the Town Board essentially would make its decision. But if you guys generated a referral and that referral said, you know, we've looked at Route 22 from the top to the bottom and we've identified, you now, those certain areas that we could achieve the goals of keeping a use like this not visible, and that's limited to x, y and z properties. But ultimately, if you determine that it's only one property that, you know, the Town wants to take that action on, as long as it's elaborated on why it's zoned, you know, what it did or why it's going to do what it wants to, then you're going to...that's the way that you protect yourself from a claim for spot zoning, even if you end up with only one parcel that gets rezoned. So, that's the job and, you know, the art is is not only just in the drafting but it's, you know...

Rich Williams: It's substantiating it all.

Mike Liguori: Yeah, substantiating that, you know. And there's ways you could do it that, you know...I've been involved in a number of re-zonings that...Contractor's yard rezoning down in North Salem off Hardscrabble Road. You know, no contractor's yard should be more than 1,000 feet from, you know, a high...an exit. You know, there's ways to do it. So...

Chairman McNulty: Okay.

Mike Liguori: We could figure that part out.

Chairman McNulty: Rich, you have a comment?

Rich Williams: No.

Chairman McNulty: Oh. Alright, well, I've never walked the property. Have you guys?

Board Member Brady: No. I've never walked it, no.

Chairman McNulty: So I think we'd have to setup a site walk.

Board Member Taylor: We've walked the property.

Chairman McNulty: But I've never walked the property.

Board Member Taylor: I walked the property. We were out there. We looked at it.

Chairman McNulty: That might have been when you were on the Historical...in the audience. I...

Rich Williams: I've walked the property.

Chairman McNulty: I've never walked the property.

Rich Williams: I don't recall walking it with anybody on this Board.

Chairman McNulty: No, I've never been on it. I know where it is; I have a good idea of it.

Board Member Brady: Yeah, I know where it is, too.

Board Member Taylor: Okay.

Chairman McNulty: These guys...

Board Member Taylor: I remember walking the property. I just...

Rich Williams: In 2011?

Board Member Taylor: I don't know when. I don't...

Chairman McNulty: I don't know.

Rich Williams: I don't know.

Board Member Taylor: So, alright.

Chairman McNulty: He's a good guy. You don't have to worry about him trespassing. He wouldn't cause any harm.

[Laughter]

Board Member Taylor: Alright, so...

Board Member Brady: I walked the property. I walked it (inaudible).

[Laughter]

Chairman McNulty: So we'd like to do a site walk.

Mr. Watson: Sure.

Chairman McNulty: And then the concept that you...It's all fine with us. We'd love to see a good quality business there. It's a matter of can we pull off the zoning and make it work.

Mr. Watson: Great.

Chairman McNulty: So...

Board Member Brady: Creative Writing 101.

[Laughter]

Chairman McNulty: So...

Mr. Watson: One thing I didn't mention and I want to make clear...

Board Member Brady: Yeah.

Mr. Watson: We're actually proposing two buildings. The building in the front we have is a 60' deep, 120' wide and that's going to be a...some type of...I hate you use the term butler building, but some type of metal building with some nice looking façade. You know, interesting roofline, something. But a, you know, prettied up building for, you know, contractor's office/contractor's storage. That's what it is. And then in the back what we're looking to do it an outdoor storage...a covered outdoor storage building. Because a lot of the work that Bill does is bringing trees back to the site...

Chairman McNulty: Mhmmm.

Mr. Watson: and just storing them, splitting them and he would like to do that inside and like keep some of his equipment inside.

Chairman McNulty: Is that four walls or are they opened walls?

Mr. Watson: This...What this is proposing and Bill's done a bunch of research on different ways to do it, what this is is a cloth, like the DOT cloth buildings. So it's a metal structure with a cloth roof on it. We called it temporary. Rich, in his comment letter, said he'd prefer not to call it temporary because it's going to be there for a while. We have no problem with that. But...And this is a metal structure/cloth storage building. And what they do is they set them on storage boxes. And what happens is the storage boxes give you, like, foundation structure for the building but they also give you places to put stuff inside...So it's...Instead of having all your equipment outside, you could put stuff inside. So...

Chairman McNulty: Are they concrete? Are they filled...

Mr. Watson: It's like a metal sea box. Like a storage container.

Chairman McNulty: Okay. Well, we have to look. A lot of our Code...Doesn't our Code have issues with metal buildings; butler type buildings?

Rich Williams: Has issues where you haven't approved them on commercial sites.

Chairman McNulty: Say that again.

Mr. Watson: Say it again.

Board Member Taylor: You have to approve...

Rich Williams: You can't do it on a residential property.

Chairman McNulty: Oh.

Rich Williams: You can do it on a commercial...

Chairman McNulty: Okay.

Rich Williams: if the Planning Board has approved...

Chairman McNulty: The style.

Rich Williams: that box from being there.

Chairman McNulty: Yeah.

Rich Williams: And you have in the past. So, again, this goes to the whole appearance of the site. You're going to need to take a look at that. I have seen it. I have reviewed it with the Building Department. They're okay with it from a Building Code point of view.

Chairman McNulty: Okay.

Mr. Watson: Yeah, we will provide you with some type of renderings and color samples and all of that. I just want to...I didn't mention that before.

Board Member Brady: What size is that?

Chairman McNulty: It's 60' by...

Mr. Watson: Right now it's 40' by 60'. Bill just let me know that based on his research he can get something a little bigger at the same price. So we might make that building a little bigger. That will show up on our next revision. As well as, when I do the sightline analysis, I will have the correct height and order of magnitudes so you can get an idea of what it will look like, if at all, from the road.

Chairman McNulty: Okay.

Board Member Brady: Is there going to be a buffer between the neighbor behind you and the temporary building or the...

Mr. Watson: Right now, there's a 50' rear yard setback, building setback. We're showing the grading to be 60 to 70 feet from that rear yard. Bill said he might want to put some storage back there. We have to just look at our total limit of disturbance and what the elevations are. This was a concept plan/initial plan. Right now we're showing some trees to remain there, yes.

Chairman McNulty: Okay. Well, the initial concept looks right. And the...

Board Member Brady: Yeah.

Chairman McNulty: The intent is there, so...

Mr. Watson: Good.

Chairman McNulty: Bill, you have anything that you want to say?

Mr. Bill Henry: No.

[Laughter]

Chairman McNulty: Okay.

Mr. Watson: Alright, so I'll coordinate with you and as far as...

Chairman McNulty: So...

Mr. Watson: Sorry.

Chairman McNulty: So we'll need the, you know, when this snow melt off to some degree, you know, get the corners of the buildings, center the driveway, and we'll setup for a site walk.

Mr. Watson: Okay. Do you drive the zoning amendment or do we drive that?

Rich Williams: What I'm going to do is I'm going to try to craft something and bring it back to the Planning Board.

Mr. Watson: Okay.

Rich Williams: And then, you know, rather than make the initial submission to the Town Board, I'll just let the Planning Board refer it over.

Chairman McNulty: Quick question. I don't know if...Do you plan to sell fire wood out of there or is it just...

Mr. Henry: Yeah.

Chairman McNulty: Okay. So that's something we're going to have to address, too.

Mr. Watson: That's a yes if you didn't hear.

Chairman McNulty: Okay.

Mr. Watson: Okay.

Chairman McNulty: Alright.

Mr. Watson: Thank you very much.

Chairman McNulty: You're welcome, John. Good luck.

Mr. Watson: Yup.

Chairman McNulty: We'll be talking.

7) FRONT STREET PATTERSON REALTY, LLC – Initial Application for Site Plan

Mr. Curt Johnson, Zarecki & Associates, was present.

Chairman McNulty: Okay, we have Front Street Patterson Realty. Curt is back.

Mr. Curt Johnson: Back again. Twice in one night.

Board Member Brady: Was wondering why you were waiting.

[Laughter]

Mr. Johnson: I love being here. Alright. What you have before you is the start of a project that I think could be very exciting for the Town of Patterson and the historic center of the Town. And I just want to make clear, what you have before you is two lots on Front Street: 25 and 31, on either side of Lumber Street, here [referring to plans]. They're about a quarter acre each. The one on the south side's a little larger. And since this has come to you, the owner of these two properties has actually been able to secure getting ownership of the 5 Front Street, which is Putnam County National Bank owns that now.

Rich Williams: Really.

- Mr. Johnson: So, that site as well as...
- Board Member Taylor: Oh, they did get it.
- Mr. Johnson: the house lot on Lumber [Street].
- Board Member Brady: Oh, you got the one in the back, too. We were talking about that the other day. That's good.
- Mr. Johnson: So...
- Chairman McNulty: He wants to develop the entire Town.
- Mr. Johnson: We should have control of those four sites when we have a formal submission to you and...So, we're before you now to kind of give you a conceptual idea of where we're going with this thing. We want to provide two or three buildings, which would be retail on the first floor and then two stories above that of a mix of residential uses being studio, one-bedroom, two-bedroom apartments.
- Board Member Taylor: I have fourth floor dormers. That's just decoration?
- Mr. Johnson: Yes. That's not fourth floor occupancy.
- Board Member Taylor: Okay.
- Mr. Johnson: We're talking about three-story buildings right now. And I think that gives general character along...and we had some...I don't...I'm sure probably you've seen these, but old postcards that we found along Main Street which...Okay, you have them there [referring to pictures that Board Member Taylor brought in]. Which show, kind of, historically that that Front Street had a lot more buildings on it that have gone away through the past, yeah. So, these...
- Board Member Taylor: You can pick it up. Pick it up and hold it up. Just be careful.
- Mr. Johnson: This property here which is 5 Front Street, these three buildings were in there and then those have been torn down. So that's vacant now. We have this building here. Obviously existing. We have new Town Hall over here which is a general scale. This building had been modified so there's a shorter building in there now.
- Board Member Taylor: You know, that building was torn down. Yes.
- Mr. Johnson: Yeah. So there's a shorter building in there now. This building we see here is actually still there and...
- Board Member Taylor: Yes.
- Mr. Johnson: adjacent to our site. So we're just beyond that with the other two lots down in here. So hopefully with this project, we'd be able to kind of recreate main street of the Town of Patterson.
- Mike Liguori: You going to rip out the pavement?

Mr. Johnson: [Laughter]

Chairman McNulty: You're going to what?

Mr. Johnson: Well, I don't know if we'll go that far.

Mike Liguori: Rip out the pavement.

Chairman McNulty: Oh.

[Laughter]

Board Member Taylor: That's not a good (inaudible – too many talking)...

Mike Liguori: We're going backwards.

Board Member Taylor: but that's a...

Chairman McNulty: And a hitching post.

Mr. Johnson: Yeah, I can see all of this.

Board Member Taylor: That gives you the chance to run...

Board Member Ladau: Yeah, I remember the hitching post.

Board Member Taylor: a line around (inaudible)...

Mr. Johnson: Right.

Board Member Taylor: To see that the rope lines are...

Mr. Johnson: Yeah.

Board Member Taylor: So that's...

Board Member Brady: Now are those apartments going to be nineteen and...

[Laughter]

Mr. Johnson: No. We're not going to...But, I will attest to...I've worked with this owner on several other projects, and he built a quality project. His intent is to create something here that people will possibly use. You may not need one or two vehicles per apartment, let's say. Because these people might be commuters and want to go right across the street, zip down to the City or point south, or whatever, come back into these buildings, live there. Go downstairs, go to a restaurant. Pick up, you know, go to a bookstore. Whatever it might be that's down there, and liven this whole area. So, I think though, with the current zoning, the way it's kind of written, we're going to need to work with the Planning Board and probably the Zoning Board at some point to make this all fit. And it's a very unique situation that I think we need to...

Rich Williams: Yeah, that was the question. One of the questions I raised. For each site, they're going to require, I believe, about eight variances under our current zoning. That's a lot.

Chairman McNulty: What kind? Just height, I know was one of them.

Rich Williams: Height.

Chairman McNulty: Setback.

Rich Williams: Setbacks.

Board Member Taylor: Parking.

Mr. Johnson: Number of apartments probably.

Ron Gainer: Coverage.

Board Member Taylor: Three stories.

Rich Williams: Coverage. Yeah, coverage. The fact that it's three-story.

Board Member Taylor: Parking.

Rich Williams: And the percentage of residential versus commercial. So...

Chairman McNulty: Again, we come back to that form-based. Is this an area we can apply it? Does it work for us? Does it make it easier?

Board Member Taylor: No, this is different.

Rich Williams: I don't know that it makes it easier. You know, I go back to, you know, the form-based zoning really is about appearance along the streetscape, you know. And absolutely, within that, that you talk about your setbacks and things. We already have, you know, what the appearance is going to be. We don't need to design that. So we can, again, knowing what we know about zoning, we can, you know, we can either go through the variance process or, you know, we can look at crafting some different zoning that is still Euclidian based, but gets us to where we need to be, because we already have the appearance set.

Mr. Johnson: And just as an example, I think, you know, front yard setback out there. We have a street line that's established along there which we'd like keep to really reinforce that, so that brings your building basically to the front property line.

Rich Williams: Right.

Mike Liguori: Right to the front.

Mr. Johnson: So, things like that, but...There was talk...And I just kind of getting a feeling from the Board, talk about doing a building here, a building here and use this all for parking. I think there's

pluses and minuses for that. It provides maybe more parking spaces, but it still leaves a hole in the streetscape as we go down there, but...

Rich Williams: I don't disagree but, you know, looking at this I can say, you know, you're going to have to deal with water. We've got to count on water being, you know, available. We're going to have some issues with DEP. I'm not sure you're aware of that as far as stormwater runoff.

Mr. Johnson: Mhmm.

Rich Williams: But everything...everything we can pretty much overcome. The one thing I don't know that we can overcome is the parking. And I understand what Curt's saying about, yeah, that people are going to live in the apartment. They're going to hop on the train. They're going to be walkable. Unfortunately in this area, everybody needs a car to get some place.

Chairman McNulty: Yeah.

Rich Williams: So even though I think people are going to populate these buildings, they're going to have a tendency to want to jump on the train to go to work in the City. When they come back home at night, they're going to be looking for their car to go to the restaurant. To go to the, you know, to the A&P or the Costco. So I think there's still going to be a significant demand there for vehicles. And in doing this, and know I see there's three buildings proposed...

Mr. Johnson: Possibly. Yeah.

Rich Williams: Yeah. And I'm not opposed to the three buildings. We just have to figure out how we're going to provide that much parking in that area.

Mr. Johnson: Mhmm.

Chairman McNulty: Even with the...

Board Member Ladau: Because you're going to need that parking to support the commercial activities. The restaurants, whatever.

Rich Williams: Yeah. Yeah, absolutely.

Board Member Ladau: So it's an all day long rather than...

Rich Williams: Well, worse. If we're talking about people that are going to be jumping on the train to go to work and they're going to have a car, they're going to leave the car there. So that ties the parking space up.

Board Member Ladau: Yeah.

Chairman McNulty: Rich, even with the parking proposed underneath, they're still well short.

Rich Williams: Oh god, yes.

Mr. Johnson: Yeah, it's...Well, for a two-bedroom apartment, I think, we need 2.25 parking spaces for a two-bedroom apartment.

- Rich Williams: Even if we shrink that down to one...
- Mr. Johnson: Right.
- Rich Williams: you know...
- Mr. Johnson: I mean, if we get... Say if we get 30 apartments net out of this thing, and then the commercial space in there, so.
- Chairman McNulty: The parking underneath, is that an open air design or is that, in your head, a separate, individual garage bays. Because...
- Mr. Johnson: I think what we were thinking with that, that'd be underneath the building, so it would have two stories above that and then you'd have on the first floor you'd be able to park underneath the building.
- Chairman McNulty: But a garage door to go in or just an open parking.
- Mr. Johnson: Could be either way.
- Chairman McNulty: Alright.
- Mr. Johnson: I think the depth of it is, you know, that it might an open like, open bay that you just park your car in.
- Chairman McNulty: That's the way I pictured it.
- Board Member Ladau: Yeah.
- Mr. Johnson: Yeah.
- Chairman McNulty: Just a...
- Board Member Brady: What are the chances of going to... probably slim to none, going to the MTA and purchasing parking spots to be cordoned off or whatever for that?
- Rich Williams: I was one of the two people, Craig Baumgartner was the other who negotiated out the 20 spaces down on the south end and the parking lot with MTA. So I can sit here with some authority and say...
- Board Member Brady: We have 20 spots.
- Rich Williams: Slim to none.
- Board Member Brady: Yeah. And that's it.
- Rich Williams: Yeah.
- Board Member Ladau: And that's optimistic.

Rich Williams: Yeah. They want what they have. They don't want to share. I mean, it was a fight. We've got use of 30 spaces down at the municipal parking lot that's always vacant.

Board Member Brady: Right.

Rich Williams: It's always empty. But you know, again, that was a hell of a negotiation. And the only reason that I was so successful is, not I, but people I knew had the ability to tie up some of their funding at the State level.

Chairman McNulty: It still didn't work, huh?

[Laughter].

Rich Williams: Well, it got us a hell of a lot farther than we ever would have.

Board Member Brady: You got 20 spots.

Mike Liguori: What about the Cartwright parking lot? I mean, they have the least amount of parking...

Chairman McNulty: It's the railroad crossing that's the issue.

Board Member Brady: Yeah.

Mike Liguori: You know? No, I know you still have to cross but it's walkable.

Chairman McNulty: Oh yeah.

Board Member Brady: Yeah, but that means you've got to cross that, you know, train tracks.

Mike Liguori: Yeah.

Chairman McNulty: You're looking at the lot...

Board Member Brady: That gives (inaudible) shortcut right across.

Chairman McNulty: What is that, Lumber Street?

Mr. Johnson: Yes.

Chairman McNulty: And there's a lot there where there's a house now.

Mr. Johnson: Correct. Right there.

Board Member Brady: That's the one that you said you...

Mr. Johnson: Yes.

Chairman McNulty: How much parking can you get? I guess...

Mr. Johnson: Well, we...

Chairman McNulty: it goes back to you.

Mr. Johnson: We looked at getting...using this entire...these two parcels for just parking. We can get about 27 parking spaces...

Chairman McNulty: Oh.

Mr. Johnson: if there's no building there. There...You might be able to get eight underneath parking here. Here would be nice not to have any parking around this building. I don't know. It would be nice to just kind of hold that line there instead of trying to get in the back; you're not gaining a whole lot parking space if you get in the back of that one. But...

Rich Williams: You're still going to have to get in the back because you're going to have things like trash.

Mr. Johnson: Well...

Rich Williams: Now...

Mr. Johnson: Yeah, I was looking at that. I was wondering if there was a way we could come into some kind of agreement with here because they have a dumpster back there where...

Rich Williams: And that's it exactly. That's what you need to do.

Mr. Johnson: And come through here...

Rich Williams: Yes.

Mr. Johnson: to get your dumpster. Share that location so someone can load that and get out of there.

Rich Williams: Yes.

Mr. Johnson: So...

Rich Williams: That would be the ideal scenario.

Mr. Johnson: Right. And not have those big, wide holes going back along the streetscape.

Rich Williams: Mhmm.

Mr. Johnson: So.

Chairman McNulty: Parking and water. I know we touched on it. The Health Department has certain setbacks they're going to require for wells from the neighboring...

Rich Williams: Right.

Chairman McNulty: Sewage systems.

Mr. Johnson: Mmhhh.

Chairman McNulty: Have you looked at that closely to see...

Mr. Johnson: We really haven't gotten to that point to figure out...Because I know we have sewer availability along here, but it's just a matter of where wells might be able to go along there. So, we'll have to look at that.

Board Member Brady: One of the things you might look into is tying those buildings in...their sewers into the Town's system from those houses. No.

Rich Williams: You can't.

Board Member Brady: No.

Rich Williams: No.

Board Member Brady: Because that would eliminate that...

Rich Williams: Well, it's...

Board Member Brady: that 100 foot...

Rich Williams: It's a matter of the DEP. They have functioning septic systems and DEP won't let them tie in with functioning septic systems. It's...They're another agency that's just very difficult.

Board Member Brady: What a shame. You'd think they'd want to tie everything in and get it into there.

Rich Williams: We originally...I mean, Ron and I started back in 1990 with a 3,000 gallon per day wastewater treatment plant to treat the whole Hamlet. I mean, you've got the properties back here. They're on postage stamp lots. And South Street, we know there's high groundwater and questionable septic systems.

Chairman McNulty: Now...

Rich Williams: And how we couldn't...And we've scaled it back. We ended up going from 300 to, you know, a hundred and a half down to where we are today at 80,000.

Chairman McNulty: Now there is other lots on [Route] 311 where the old Burdick lot was.

Board Member Taylor: Yeah.

Chairman McNulty: Garrett's building, currently the bar uses...

Mr. Johnson: Mmhhh.

Chairman McNulty: Walsh's uses for parking. Are those lots approachable for a municipal style or private parking that would...

Rich Williams: Well...

Chairman McNulty: be suitable? Is there a code?

Rich Williams: I'm sure they are but they are a stretch of the legs to these buildings.

Board Member Ladau: Yeah.

Board Member Taylor: Yeah.

Chairman McNulty: If you commute to New York City, that's nothing.

[Laughter]

Board Member Ladau: Yeah, but it won't support the retail require.

Board Member Brady: No.

Chairman McNulty: No, it won't support retail but it may support...

Board Member Taylor: Yeah.

Chairman McNulty: Apartments.

Rich Williams: No, we've got to...

Chairman McNulty: Especially if somebody's parking their car.

Rich Williams: We've got to look at something close to these buildings.

Board Member Taylor: The Cartwright would be better than those.

Chairman McNulty: Yeah.

Board Member Brady: Right.

Board Member Taylor: because of closeness. The other thing you might look at it is behind your southern building there...

Mr. Johnson: Mhmm.

Board Member Taylor: It used to be two lots that have been merged into the house...

Mr. Johnson: Correct. Yes.

Board Member Taylor: on South Street. You might see if they would give you an easement for something.

Mr. Johnson: Yeah.

Board Member Taylor: Stick your stormwater under that lawn or something.

Mr. Johnson: Yeah, because that was something we kind of did look at. That you have that piece of land there that's been connected to the house lot. So...But basically, we're here before you to kind of get...gauge your interest in this and...

Chairman McNulty: Our interest is here.

Board Member Ladau: Oh yeah.

Chairman McNulty: We'd love to see Front Street developed.

Mr. Johnson: I assumed so.

Chairman McNulty: And the proposed, you know, elevations you have here are well within what we'd love to see.

Board Member Brady: Finally.

Board Member Taylor: And another thing to think about, on the one on the north...

Mr. Johnson: Mmhmm.

Board Member Taylor: You said you didn't want to break it for access to the back. But if you could put in something like an old fashion entryway, a portico kind of thing, where you could drive through...

Mr. Johnson: Mmhmm.

Board Member Taylor: It would keep your streetscape...

Mr. Johnson: Correct.

Board Member Taylor: But would give it a...still access around.

Mr. Johnson: That's correct. Yes.

Board Member Taylor: And you could pick up a few parking that way.

Mr. Johnson: Yeah. So there's an option there possibly.

Board Member Taylor: So...And then I had also... You can take these if you want, as long as you return them [referring to pictures that Board Member Taylor brought in].

Mr. Johnson: Thanks.

- Board Member Taylor: The design you submitted...
- Mr. Johnson: Mmhmm.
- Board Member Taylor: You seem to have taken it off the Judd building pretty much and...
- Mr. Johnson: Yeah. That was a, kind of, a starting point there.
- Board Member Taylor: Yeah, I'm wondering if that's not too much for that street. There were other tall buildings on Main Street. I've got some pictures here of them with a little bit different style.
- Mr. Johnson: Yeah. And I think where we started with this thing is we developed an elevation here and then we just kind of duplicated that. But I think that they're certainly warranted, even this far away, maybe pick up some cues in the building next door and things like that. But just conceptually, this is where we'd like to go with this.
- Board Member Taylor: What I'm trying to say is that maybe you shouldn't be picking up cues from the building next door in terms of architectural style.
- Mr. Johnson: Mmhmm.
- Board Member Brady: Designs in there [inaudible – too distant]
- Board Member Taylor: That maybe you should be going for a different style...
- Mr. Johnson: Yeah, I understand.
- Board Member Taylor: so it becomes...And then that's why I was showing you these. These are a very different style.
- Mr. Johnson: Right.
- Board Member Taylor: But they were in Town.
- Mr. Johnson: Correct. Okay, I got what you mean.
- Board Member Taylor: About 1900.
- Board Member Brady: We've gotten so far away from that.
- Mr. Johnson: Just so it's a little more organic the way it grew down through the street and kind of fills in so it doesn't look like it was made yesterday.
- Board Member Taylor: Yes. Yeah, one of the problems that I see in modern architecture, post-modern architecture, is they're borrowing styles...
- Mr. Johnson: Mmhmm.
- Board Member Taylor: without the sense of history that really went...

Mr. Johnson: Sure.

Board Member Taylor: with them. So you end up with these long expanses of things that don't quite work because it's something...And one of the things is they're too uniform.

Mr. Johnson: Got you. Mhmm.

Board Member Taylor: So that was...That's just a suggestion. And as I say, you can take these as long as you return them.

Mr. Johnson: No, that's great.

Board Member Taylor: When you're done with them. You want to see these? [Referring to the pictures he brought in].

Board Member Ladau: Yeah.

Chairman McNulty: Rich, you touched on water. You touched on parking. Height. What are the other big issues at hand here? You know, setbacks from front.

Rich Williams: Well, yeah. I mean...

Chairman McNulty: I mean the big zoning items that could...

Board Member Brady: That's so cool, huh? [Referring to Board Member Taylor's pictures]

Chairman McNulty: be difficult.

Rich Williams: With zoning?

Chairman McNulty: DEP. Well, that's not zoning, that's...

Board Member Ladau: Where are we? [Referring to Board Member Taylor's pictures].

Rich Williams: No.

Chairman McNulty: regulation.

Rich Williams: No. Again, you know, the zoning is on our control. If we can come up with a project that we really do favorably we can, you know, probably work something out with the zoning. The question is, you know, getting all the amenities to support the building. Parking is one. Stormwater is one. You know, way back when in 1997, we were negotiating. The County was negotiating on our behalf the Memorandum of Agreement. And as part of that, the County and DEP came to towns and said, you know, we want to encourage continuous...or continue development of your main street areas rather than the outlining area. Designate your main street areas and we'll allow, you know, future development there. So, we did. We designated our main street areas and the Town of Patterson picked Front Street all the way through. When the smoke cleared what they had done is they then regulated those main street areas even though those main street areas didn't trigger any other DEP permit. They're not within 100 feet of a wetland. They don't meet the area requirements...the disturbance requirements where they would need to develop a stormwater pollution prevention plan. But Curt's going to have to go to DEP and get a

stormwater pollution prevention plan meeting their criteria approved, simply because it's a designated main street area and for no other reason. That's going to be a very difficult challenge.

Mike Liguori: I always...

Chairman McNulty: Everything's made difficult.

Mike Liguori: I always wondered why that was there. I could appreciate the designated main street area; I've had this issue in other towns. But you're still subject to the regs. I could never figure out why they...that is kind of like a backdoor.

Rich Williams: This discussion was, you know, the main street areas and future development along the main street areas and DEP's regulations that would prohibit them to be developed because, say, we were proposing impervious coverage within 100' of a regulated wetland area.

Mike Liguori: Right, right.

Rich Williams: Right?

Mike Liguori: Mmhmm.

Rich Williams: So, again, we were under the assumption we were going to designate these main street areas...

Mike Liguori: Right. Because you (inaudible – too many talking).

Rich Williams: and if there was any trigger, you know, we'd still be allowed to develop.

Mike Liguori: Right. Right.

Rich Williams: That's not the way DEP played it.

Chairman McNulty: Uh.

Board Member Taylor: The other thing I think you should look at and maybe you should, I mean, look at...see how South Street's going to react to this.

Mr. Johnson: Mmhmm.

Board Member Taylor: I mean, historically, they have opposed certain plans.

Mr. Johnson: Mmhmm.

Board Member Taylor: I mean, you're talking about putting up a, what, a 40 or 45 foot wall essentially across their eastern...

Mr. Johnson: Right.

Board Member Taylor: border.

Mr. Johnson: Mmhhh.

Board Member Taylor: Whether they will react to that or whether they will see the advantages of having these things there.

Mr. Johnson: Mmhhh.

Board Member Taylor: I think going forward, it would certainly be a lot easier. You've got enough problems dealing with DEP without dealing with some outraged citizens from South Street.

Mr. Johnson: Mmhhh.

Chairman McNulty: As a South Street resident I'll put it on the record that I'm in favor of it.

Mr. Johnson: Okay, good.

Chairman McNulty: But I live on the other end of the street.
[Laughter]

Rich Williams: Ron, just so you know, I've asked Curt to get permission so that I can take the drawings and post them and get them out to the community so that...

Board Member Taylor: Right.

Rich Williams: the community can know that this is going on.

Board Member Taylor: Good.

Mr. Johnson: I mean, the Applicant is all for that, too.

Rich Williams: So...

Chairman McNulty: And I will pass the word around, too.

Mr. Johnson: Okay.

Chairman McNulty: Umm...

Mr. Johnson: And I think we're going to have to really kind of work again with the Board here and kind of get to a happy place where we have a good project and then kind of figure out where we need to go from there.

Chairman McNulty: These tall buildings are going to require sprinklers.

Mr. Johnson: Mmhhh.

Chairman McNulty: which, I guess, is going to require a reservoir or some sort. Or water supply. Has that been thought about and how...

Mr. Johnson: Yeah. We've got to...There's a lot of detailing that needs to kind of go into this.

Chairman McNulty: Yeah. Because that's...I don't know if a dry hydrant system works or if it has to be a wet system.

Board Member Brady: You still have to have the water to back it up.

Chairman McNulty: Yeah. So, it's a concern.

Board Member Taylor: So I think...

Chairman McNulty: Water's a big concern.

Board Member Taylor: What we all say is we're...we like this.

Mr. Johnson: Okay. That's a...

Board Member Taylor: We like the concept.

Mr. Johnson: That's good. Okay.

Board Member Taylor: But it's not an application.

Mr. Johnson: Right.

Board Member Taylor: And you've got a lot of details to work out.

Mr. Johnson: Yeah. And I...Yeah. And I didn't think the Board would react that way, but it's just come before you to say no we don't like this thing. Okay, we got to come back to the drawing board. So, I think we can move this thing forward and just work out details as we go.

Chairman McNulty: Rich, the zoning for Front Street, what is it? General Business?

Rich Williams: Correct.

Chairman McNulty: And that allows for mixed use with the residential.

Rich Williams: There's a special use permit provision within our Code that allows residential over commercial.

Chairman McNulty: In a GB?

Rich Williams: In a GB Zoning District in the Hamlet.

Chairman McNulty: Commercial as well? Commercial District. Or just GB?

Rich Williams: GB.

Chairman McNulty: Okay. Alright. So that works in favor.

Board Member Brady: My ten year old wants an ice cream place.

Mr. Johnson: Ice...Okay. So we should put that on the...

Board Member Brady: So make sure there's an ice cream place there.

The Secretary: Me, too.

Mr. Johnson: sign somewhere along on these (inaudible). Okay.

Board Member Brady: Yeah. That will be in whatever approvals you get.

Mr. Johnson: Okay. Very good.

Board Member Ladau: And my wife wants a place with yogurt.

Mr. Johnson: I say we can make that...There's a yogurt in ever village. Come on.

Chairman McNulty: Safe to say this initial concept is well received and...

Mr. Johnson: Good. Okay.

Chairman McNulty: I guess we can...

Board Member Brady: Yeah. Absolutely.

Chairman McNulty: work on it from there.

Mr. Johnson: Okay. We'll go through your letter here and figure out what we need to do. We've got work, but it's just positive I think, so.

Chairman McNulty: Okay.

Mr. Johnson: Excellent.

Board Member Brady: Good luck.

Mr. Johnson: Thank you.

Chairman McNulty: Good luck, Curt.

Mr. Johnson: So you're stuck with me for a while again.

Chairman McNulty: Alright. You know where we are.

Mr. Johnson: Thanks.

8) OTHER BUSINESS

a) Zoning Code – Restaurants

- Chairman McNulty: Okay. Other Business. We have Zoning Code for restaurants. I know Mike was crafting some information for us.
- Mike Liguori: I just have a really...I just need to find my paper. You guys, you've gone through...
- Mr. Johnson: Can I borrow these? [Referring to the pictures Board Member Taylor brought in]
- Board Member Taylor: Yes. And if you want more pictures and things, just let me know.
- Mr. Johnson: Okay. Very good.
- Board Member Taylor: We've got all kinds of them.
- Mr. Johnson: Thanks. Appreciate it.
- Chairman McNulty: Thanks for that, too, Ron.
- Board Member Taylor: Yeah.
- Chairman McNulty: It's a bonus having you here.
- Mr. Joe Zarecki: Thank you.
- Mike Liguori: The...
- Chairman McNulty: Good night, Joe.
- Mike Liguori: The only technical comment I have for discussion with the Board is in the proposed revision...
- Chairman McNulty: Microphone, Mike.
- Mike Liguori: In the proposed revision to 154-77, just wasn't sure if we should add a reference to possibly reviewing the change in the tendencies. Because we have the change in use, right. So the definition says...I'll read what's in the Code and then obviously the proposed new language. So it reads: "The owner of any building or site is required to notify the Code Enforcement Officer and the Planning Department of any proposed change of use in said building, or any change in the site plan or improvement shown thereon." And then we have the additional language: "Or any change in the type of business or any substantial change in the hours of operation or any change in the potential for emissions, odors or noise from the proposed business. The two comments I have is when we reference the change in the type of business, the issue that came up was well it went from a restaurant to a restaurant and that's

what made us look at the definition of restaurant. And I agree with Rich; I don't think there's a problem with the definition of restaurants. The problem is that we have different types of restaurant. This one is super unique because of the fact that this guy is smoking, you know, meat and the offsite impacts that are caused by it is unique to any other restaurant, I think, that's out there. So, you might want to just contemplate, you know, that change in tenancy, you know, it's kind of strict but it, I think, it's maybe that step that might be needed to facilitate, you know, the analysis of, alright I'm going to go from, you know, Zegarelli's Pizza to, you know, Smoky Joe's Barbeque. You're going to stop at Rich and make sure that that, hey now I know that's got the potential for emissions. We may need to look at this.

Chairman McNulty: And if we change this, it applies to any business in Town, correct?

Mike Liguori: Yeah. Yeah.

Board Member Taylor: Mmhhh.

Mike Liguori: Yeah.

Chairman McNulty: Yeah, so that's tightening it up pretty good.

Rich Williams: I was reluctant to go that far.

Mike Liguori: I know. I know.

Chairman McNulty: Yeah.

Board Member Brady: Yeah. No, I agree.

Mike Liguori: You know, I think, yeah. It's a big deal.

Board Member Brady: Yeah. It sure is.

Mike Liguori: It really is. And...

Board Member Brady: It's going to create a hardship in a lot of ways.

Mike Liguori: Right. Right, I mean that's... That's...

Rich Williams: Now, just to be clear, I mean, the hardship is they're going to have to come in and see Bob and I...

Mike Liguori: Mmhhh.

Rich Williams: And they're going to have to review what they're proposing to do.

Mike Liguori: Right.

Rich Williams: I mean, that's the hardship. It doesn't bring it back to you.

Mike Liguori: Right. It just means they're going to have to come with a pretty detailed statement of use.

Rich Williams: Right.

Chairman McNulty: You're going to have to know to come. That's the other thing.

Mike Liguori: Well...

Rich Williams: Right.

Mike Liguori: Yeah.

Rich Williams: And we're probably going to catch a lot of them after the fact.

Mike Liguori: Right. Right, exactly. Yeah.

Chairman McNulty: Which then what happens? It comes back to us at that point, doesn't it?

Rich Williams: No.

Mike Liguori: No.

Rich Williams: No.

Chairman McNulty: It goes to Code Enforcement?

Rich Williams: Then we do our normal review. But they...Even though they have at that point expended considerable amount of money, you know, buying restaurant equipment or...

Mike Liguori: Yeah.

Rich Williams: for whatever they're doing, they still may not be permitted to go in there.

Mike Liguori: You know what happens is, you know, I see this all the time. You, you know, you order your title search. There's a municipal search. It come back with a CO for a restaurant. Hey, that's exactly what I'm going to do. I'm going to operate a restaurant. (Inaudible) on my property and I come in, make my sign application and...

Rich Williams: Well...

Mike Liguori: oh, you know...

Rich Williams: No. You get your liquor license going.

Mike Liguori: Right.

Rich Williams: You buy all your equipment.

Mike Liguori: Equipment. Yup. Yup.

Rich Williams: You start setting up your menu and then you come in for your sign application because you're opening in two weeks.

Mike Liguori: Right.

[Laughter]

Rich Williams: It's true.

Chairman McNulty: Yeah. Definitely true.

Mike Liguori: Yeah. Do we do inspections in...whenever there's a municipal search?

Board Member Brady: You know the sad part is, most guys used...

Rich Williams: No, we don't.

Ron Gainer: Yeah, see I...Yeah.

Mike Liguori: That's...

Board Member Brady: and solve the problem and the biggest part of the headache's gone away.

Chairman McNulty: That's what I...

Board Member Brady: And now we've been forewarned for future.

Mike Liguori: This is a, you know, probably not a topic conversation for the Planning Board but more for the, you know, the Town Board and the Building Department and Planning, which is a lot of municipalities have moved to when a CO search comes in on a commercial, they will not release...and it happens in Southeast and Carmel, they won't release your municipals until the building inspector goes out there and does an inspection. And it's great for the buyer. It's difficult for the seller.

Board Member Brady: Yeah. It probably costs them a lot of money.

Mike Liguori: Yeah, yeah. I think it's \$150 in Southeast.

Board Member Brady: No, what I mean the violations they find.

[Laughter].

Board Member Brady: That's what I'm talking about.

Rich Williams: Well, yeah. The municipal searches are a lot more money and...

Board Member Brady: Yeah.

Rich Williams: and you're right. And there's a lot of clean up usually.

Board Member Brady: Yeah.

- Mike Liguori: Yeah.
- Board Member Brady: Oh, absolutely.
- Mike Liguori: You know. Yeah, I mean, look, it's a double edged sword. You know, the problems are going to come in one way or the other. You're either going to get, you know...
- Board Member Brady: I think before or after.
- Mike Liguori: Yeah, before or after. I mean...But, I think, you know, if you're a buyer before is always better.
- Board Member Brady: Right.
- Mike Liguori: You know, it may not be convenient. You know, and it may not be...You're going to get news you might not want to hear but you're going to get it before you close.
- Board Member Brady: Yeah.
- Chairman McNulty: Okay, well, I'm not in favor of making it more stringent than it already is. But I know the Town Board's looking for something from us. And I've reviewed again what Rich has written. Kind of outlines some sort of trigger to get it...to prevent this from happening in the future. So, does anybody have any other comment on it or ready to make a referral to the Town Board?
- Mike Liguori: Can I...I just have one more, quick.
- Chairman McNulty: Sure. I'm sorry.
- Mike Liguori: Just a question for Rich. We have any change in the potential for emissions, odors and noise. Obviously, that's head on because we've been dealing with the barbeque business. Do we want to make any references to changes in consumption of water or generation of wastewater? Do we want to go that far?
- Rich Williams: I don't have a problem going that far, but that is usually all handled by the Board of Health. Not us.
- Mike Liguori: Okay.
- Chairman McNulty: The only thing I...
- Board Member Brady: That's for the...I'm sorry. Yeah.
- Chairman McNulty: How do you baseline that to know, you know, how much was being used versus...It goes back to like the garage earlier. Was it...
- Mike Liguori: Yeah.
- Chairman McNulty: vacant for a year? We...

Mike Liguori: Yeah, we don't...

Chairman McNulty: don't really know.

Mike Liguori: I picked that up from some of the other Codes that I looked at that had kind of catch-all provisions. You know, the ones you never want to see. But they're worthy of discussion. That's all. It would be very difficult if someone doesn't have a water meter to tell you what they used in water, you know?

Board Member Brady: Right.

Chairman McNulty: Yeah.

Mike Liguori: It's the reality. But, I just want to put it out there.

Rich Williams: Yeah, and I'll talk to you after about another one that we're currently wrestling with. It's going to be a problem I think for you.

Mike Liguori: Okay.

Chairman McNulty: The other question I have...

Mike Liguori: I love problems.

Rich Williams: Huh? Oh, that was good.

Board Member Brady: You got the hair dresser, too. You should have brought that up...

Rich Williams: Huh?

Board Member Brady: That hair salon.

Rich Williams: Well, that's the one.

Board Member Brady: Yeah.

Chairman McNulty: Yeah. The other question I have is hours of operation. You know, a change in hours of operation.

Mike Liguori: That's in here.

Chairman McNulty: I understand. And are hours of operation defined by different zoning codes? I mean, are they limited?

Rich Williams: Well, we're going to define that in here. It's one of the things that has come up and we're going to define hours of operation to, you know, basically the use of the building. Not necessarily the times that the building is open for the public.

Chairman McNulty: When you mean define it, how define it? In...

Board Member Taylor: In the definitions.

Rich Williams: Well, I haven't crafted it yet so I'm not sure...

Chairman McNulty: Okay.

Rich Williams: how it's going to work. But, you know, one of the issues that came up was, you know, is hours of operation the time that it's open to the general public for seating at a restaurant, say, or the time they're actually in there processing food?

Mike Liguori: Let me give you an example. Here's the perfect one: Rothchi's Restaurant on [Route] 6...

Chairman McNulty: Sure. I know it.

Mike Liguori: in Brewster. It's open for dinner. But that's not the only time there's people in the building. The chef's in the building. You know, he gets there around 12 o'clock because, you know, they're prepping for dinner and it's, you know, a couple of hours at least in order to get that work done: the cooking, the baking, the whatever else.

Chairman McNulty: No, I understand. That's my question is if it's a Rothci's and they're open for diner verse a breakfast place where the guy comes in at 3:30 in the morning, or a bakery, I mean, how do we...Do we look at that on an individual basis every time? Or is it going to be clearly defined by type of business?

Rich Williams: No, we're going to...

Mike Liguori: No...

Rich Williams: look at that on a case by case basis based on the criteria in the Code and we're going to define hours of operation as the time the chef is in there preparing as well as...

Board Member Brady: But...

Mike Liguori: The key here...

Board Member Brady: the barbeque joint barbeques all night long when nobody's there they were talking...they were saying.

Mike Liguori: Yeah, but see what...But the point is, is we don't have to define hours of operation.

Chairman McNulty: Okay.

Mike Liguori: The point is, is to create a trigger to say this might need to be looked at by our Planning Board so, you know, we may some general idea of what's gone on before and if any neighbors had ever come out and complained, you know. Some idea that, you know, have we ever been put on notice of an issue to something that could be a drastic change. Maybe this needs to be in front of the Board. That's what this provision's supposed to do. It's not supposed to say you can't operate from...

Chairman McNulty: Okay.

Mike Liguori: You can't operate 24 hours a day.

Chairman McNulty: That's what I'm getting at.

Mike Liguori: Yeah.

Chairman McNulty: I didn't know where we were with hours...

Mike Liguori: No...

Chairman McNulty: and how we were defining it. So it's clearly just a trigger to review the type of business of where it's at.

Mike Liguori: Right.

Chairman McNulty: And that's what I want to be...

Mike Liguori: You know, it's the guy that...

Chairman McNulty: clear about.

Mike Liguori: comes in with the bar. Let's say a bar is permitted. I'm not saying it is, but let...

Chairman McNulty: Okay.

Mike Liguori: you know, hypothetically, a bar is permitted to go into where the barbeque place is, just for example. And that person plans to be open till 4 a.m., okay. That's needs to be in front of you guys because, you know, that's 6 more hours of operation than anywhere else into the middle of the night and possibly having music and...That's the classic...And it may not be...You guys may not say 4 p.m. is too late. You may say, hey 4 p.m. is perfect as long as the building's sound proof.

[Laughter]

Mike Liguori: You know? But that's the point.

Board Member Brady: Right.

Mike Liguori: It's an exaggeration.

Board Member Brady: To trigger something.

Mike Liguori: It's the point.

Chairman McNulty: Okay.

Board Member Taylor: Let me clarify this. I thought you were going to redefine or rewrite the definition of what hours of operation is. You're not going to limit what those hours are, but you're going to

extend the present definition of hours of operation to include not just when they're open to the public, but when they're actually operating in some manor there. Is that correct?

Mike Liguori: Well, we don't have anything that says hours of operation is defined as x, y, and z. We...I don't think we need to do that.

Rich Williams: We don't. I don't necessarily agree with Mike in that...That was a discussion that came out with the ZBA that, yes, defining the hours of operation, you know, is important within the context of the Code, specific to the barbeque because the barbeques hours of operation are not just when they're open for business that people can go in there. But it should include the time that they're in there processing food.

Mike Liguori: I had always read it as that. I never read it as, you know, when you open the door to let your customers in.

Rich Williams: Right. But that's your interpretation of it.

Mike Liguori: Okay.

Rich Williams: Bob's may be different.

Mike Liguori: Okay.

Rich Williams: Mine may be different. So we're going to clarify.

Mike Liguori: Alright. I got you.

Board Member Taylor: So you are going to clarify that.

Rich Williams: We are going to clarify that.

Board Member Taylor: But you're not going to delineate what hours are permitted.

Rich Williams: No.

Board Member Taylor: Right. Okay.

Chairman McNulty: Yeah.

Board Member Taylor: That's what...

Chairman McNulty: Yeah.

Board Member Taylor: your concern was.

Chairman McNulty: Okay.

Board Member Taylor: Okay.

Chairman McNulty: Also, there was talk about the definition of a caterer because it's not in our Code. Is restaurant...definition of restaurant and fast food going to be changed to address that? Or is it something the Town Board...

Rich Williams: I can't...

Chairman McNulty: is looking for us to enhance or comment on?

Rich Williams: Certainly if you feel that the definition of a restaurant needs to be changed to account for typical standard operating practices such as, you know, catering and to what level. Or, you know, takeout food.

Board Member Taylor: What...I think...

Rich Williams: You know, it's certainly within your realm of what you're supposed to be doing.

Chairman McNulty: I think...

Board Member Taylor: The concern was when catering becomes the principal business as opposed to the restaurant.

Rich Williams: Right.

Board Member Taylor: Or any of these uses. When the subsidiary use becomes the predominate use, then it's a change of use is...And it needs to be somehow in there so that that's a trigger, too.

Rich Williams: Well, that's in there. That's in our Code. It defines, you know, principal uses versus accessory uses that are incidental to the operation of the principal business.

Board Member Taylor: And catering is one of them? No?

Rich Williams: In general.

Chairman McNulty: In general.

Rich Williams: You know...

Chairman McNulty: Catering's not truly...

Rich Williams: Any activity that rises to the level of the predominate activity on the site is no longer an accessory use to the...

Board Member Taylor: Okay.

Rich Williams: Alright. But, you know, the question is, and this came up, it's a restaurant. It's not a catering hall so they shouldn't be doing any catering out of there. Or, you know, they should be allowing takeout food and...

Chairman McNulty: But the question came up that we don't define catering, so to speak. It's kind of just generally generalized that it's part of a restaurant's use or...

Rich Williams: Correct.

Chairman McNulty: activity. So, I don't know if the Town Board wants to look at that to...

Rich Williams: Well...

Chairman McNulty: include it into a restaurant's...

Rich Williams: The question that came up was within our definition of restaurant, there's nothing in there that says they're allowed to do catering or takeout food, and do we need to amend our definition of restaurant to recognize that, you know, catering and doing takeout food are normal activities of a restaurant?

Chairman McNulty: Which often are. So...

Rich Williams: Listen, I go up and get takeout from Abruzzi's all the time.

Ron Gainer: That's right.

Chairman McNulty: Yeah.

Rich Williams: You know. I mean...

Mike Liguori: The pizza with...

Rich Williams: if I was all the sudden to say, jeez Abruzzi's you can't do takeout anymore.

Chairman McNulty: No. That's not what we want to do.

Rich Williams: Yeah.

Chairman McNulty: So.

Rich Williams: So.

Chairman McNulty: Um, well is everybody comfortable with what Rich has crafted here and we make a recommendation to the Town Board to...?

Board Member Taylor: I mean, all this stuff is difficult.

Chairman McNulty: It is.

Board Member Taylor: I think this is certainly an improvement. The fact that there are some triggers now I think will help. I mean, the problem is getting people to know that they've got to deal with the triggers. So...

Chairman McNulty: Okay.

Board Member Taylor: Yeah, I would say...

Chairman McNulty: I'm going to make a recommendation on behalf of the Planning Board to the Town Board that the Town Board considers the wording that Rich has made to revise Zoning 154-77: Conditions of which approval is required. And also to consider looking at the definitions of restaurant, fast food and catering, as well as hours of operation to make this all work but not become more restrictive to our Code to such a degree it limits development or future business. And we'll let the Town Board see what they can do with that. Does that make sense?

Rich Williams: Yeah, that's fine.

Chairman McNulty: Anybody have a comment?

Board Member Taylor: Let them do some work for a change.

[Laughter]

Rich Williams: You want that in there, too?

[Laughter]

Board Member Taylor: Yes. Put it in there, too.

[Laughter]

Board Member Taylor: Tell Shawn it's about time he...

Board Member Brady: Is that a motion?

Board Member Taylor: Yes. He picked up some work here. He thinks he's been on vacation.

Chairman McNulty: If you have any questions about that, Rich, later give me a call. But that's the general idea we wanted.

Board Member Taylor: Second.

Chairman McNulty: All in favor? *Motion carried by a vote of 4 to 0.*

Chairman McNulty: It's off our desk.

b) Frog Hill Site Plan – Request of Extension

Chairman McNulty: Next we have Frog Hill Site Plan. We did that; six months.

c) Frantell Development Corp. – Request for Extension

Chairman McNulty: Frantell, we did that.

Board Member Taylor: Minutes.

Chairman McNulty: A question: Hebert was in front of us about a propane tank.

Rich Williams: Yeah.

Chairman McNulty: Did that move forward?

Rich Williams: It's all done.

Chairman McNulty: It's all done?

Rich Williams: It's all done.

Chairman McNulty: Any word back from them what they plan to do or how to address their...

Rich Williams: This snow has just...

Chairman McNulty: Their engineering...

Rich Williams: killed everybody.

Chairman McNulty: Yeah. I can understand that.

Mike Liguori: Everything. Doesn't matter where you are.

Rich Williams: Yeah.

Ron Gainer: Yup.

Chairman McNulty: And the cold is...

Board Member Ladau: Snow? What snow?

Chairman McNulty: the bigger collaborate than the snow.

Mike Liguori: Yeah, it's really true. That actually...

Chairman McNulty: Because it doesn't let it melt.

Mike Liguori: Yeah. It...

Rich Williams: I got to tell you, I don't care how cold it gets with there not being snow, people will still get out in their yard. They will still move things around. They will still be looking to do things, I don't care how cold it is.

Board Member Brady: No.

Rich Williams: Put the snow down, they don't go outside.

Chairman McNulty: Yeah.

Rich Williams: They don't.

Board Member Brady: Yeah, well you could dress for the cold.

Rich Williams: They don't go out to restaurants...

Chairman McNulty: I'm out in it every day, so...

Board Member Brady: Yeah. And then you get wet. Man, that's it. You're done.

9) MINUTES

Chairman McNulty: Okay. We have minutes from January 8th and January 29th. Has everybody had a chance to take a look at it? I make a motion to adopt the minutes for January 8th and January 29th, 2015.

Board Member Ladau: Move.

Chairman McNulty: All in favor? Motion carried by a vote of 4 to 0.

Chairman McNulty: Any other comments? Questions? Ted, anything to report? Ron?

Ron Gainer: No.

Chairman McNulty: Mike, we heard from you a lot tonight.

Mike Liguori: I know.

Chairman McNulty: Make a motion to adjourn.

Board Member Brady: Second.

Board Member Taylor: Second.

Chairman McNulty: All in favor? *Motion carried by a vote of 4 to 0.*

Meeting was adjourned at 8:38 p.m.