

TOWN OF PATTERSON
PLANNING BOARD MEETING
March 29, 2012
Work Session



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

Michelle Lailer
Sarah Mayes
Secretary

Richard Williams
Town Planner

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



**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

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Ron Taylor
Edward J. Brady, Jr.

**Planning Board
March 29, 2012 Work Session Meeting Minutes**

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



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

The meeting began at 7:05 p.m.

Michelle Lailer was the Secretary and transcribed the following minutes.

Chairman Rogan called the meeting to order.

Board Member McNulty stated okay.

Board Member Montesano stated K. O.

Chairman Rogan stated okay, good evening everyone.

Board Member Taylor stated good evening.

Board Member Montesano stated good evening.

1) OSBORNE/COOK SITE PLAN – Public Hearing

Chairman Rogan stated okay we have a public hearing for the Patterson Garden Center coming up. Rich, after the public hearing next week, how are they looking on this site plan, I know they've been making some steady progress with you and Teddy.

Rich Williams stated they are looking pretty good.

Board Member Taylor can't beat the weather, right.

Rich Williams stated they are, they're they've been steadily cleaning up the site, it's looking much, much improved, I was planning on going out there this Saturday, taking another look at it, seeing what the status is. I was out there last Saturday and then I plan on going out Thursday just before the Planning Board meeting and photographing it and coming back in.

Board Member McNulty stated see I drive by there a lot and from the road I can see where there's a lot of activity, it looks like they are cleaning up and organizing it.

Chairman Rogan stated good, I think we'd be in a, well it depends on what you find but how far out are we to getting this site plan wrapped up.

Rich Williams stated oh, I think we can probably do the resolution Thursday night.

Chairman Rogan stated cool, great.

Board Member McNulty stated and that will be pretty much based on their previous site plan, correct...

Rich Williams stated correct.

Board Member McNulty stated isn't that what we said.

Board Member Taylor stated have they decided the change anything or are they just going with the old one.

Rich Williams stated they're just going with what they had. I believe at this point that the tenant that was intending to move in has now backed out of the deal.

Chairman Rogan stated oh, that's a shame.

Rich Williams stated yeah, it is, so she is but she is still moving forward to get this site plan approved so if she finds anybody else, she can move them in.

Chairman Rogan stated good, good, no, that's good, and be a little more proactive, all right.

2) M&S IRON WORKS – Public Hearing

Chairman Rogan stated and we also have a public hearing on M&S Iron Works, I saw a memo from Andrew's office but it was just like two items on it. The one was that rip rap right at the top of a very high slope or wall, like above a 14 foot wall, do you remember that issue and hopefully you talked to Andrew about it.

Rich Williams stated yeah, I actually do not remember Andrew's memo, I don't know that I've looked at it.

Board Member McNulty stated it just came out today.

Chairman Rogan stated well it just came out, I think today; it got e-mailed today from his office.

Board Member McNulty stated Justin Dates.

Rich Williams stated see this is the thing.

Chairman Rogan stated yeah.

Rich Williams stated no, I've gotten two e-mails today on, from Best Web and that's all I've gotten, I never got a thing from Andrew today.

Chairman Rogan stated it was from, like you said...

Board Member McNulty stated Justin Dates, I think the name was.

Chairman Rogan stated yeah.

Rich Williams stated yeah, I didn't see a thing.

The Secretary stated I don't get CC'd on anything.

Chairman Rogan stated yeah but it was...

Board Member McNulty stated the one issue...

Board Member Taylor stated do you remember what the two issues were.

Chairman Rogan stated yeah, one was he has an issue about the, it was a rip rap area...

Board Member Taylor stated yeah I know that one, that's, they've been...

Chairman Rogan stated oh I'm sorry.

Board Member Taylor stated they've been doing that one for a while.

Chairman Rogan stated yeah, that was a...

Board Member McNulty stated I think his issue was he didn't see it take, it was noted in the engineer's notes that it was addressed but I don't think it was addressed on the plan, if I read the note right.

Board Member Taylor stated okay, all right.

Board Member McNulty stated and the other issue was about lighting but the lighting is addressed on the architectural plan...

Chairman Rogan stated but it didn't show bulbs and wattages and stuff like that it sounded like.

Board Member McNulty stated well it did...

Chairman Rogan stated oh, it did.

Board Member McNulty stated it's got a pretty clear cut, I have it here if we want to look at it.

Chairman Rogan stated okay.

Board Member McNulty stated it's on the architectural plan and there's only lighting on the building, there is no site lighting that I saw on the parking lot. So that is a question I have is if they are going to put any kind of site lighting.

Rich Williams stated we have gone through this, I've beat this to death because I can't understand how they would have the site without parking lot lighting, you know I know the type of operation, we talked about this extensively at the last meeting.

Chairman Rogan stated the last meeting, right.

Rich Williams stated yeah and...

Board Member McNulty stated but there is no lighting shown and they do clearly mark the architectural plan who is not included in Andrew's memo, he didn't have the architectural plan listed as a document he reviewed, just the site plan. So the lighting looks pretty high tech, it's LED lighting, it's I think motion detection, I can pull it out here if you want to look at it.

Chairman Rogan stated no, it's okay.

Board Member McNulty stated and it, I think that's going to be, it's all down lighting, surface mounted on the building, I think there was one light facing [Interstate] 84, most of the lighting was southeast elevation I believe but I didn't see any kind of parking lot or site lighting anywhere.

Rich Williams stated there isn't.

Board Member Taylor stated so what's the code on that.

Rich Williams stated there isn't.

Board Member Taylor stated isn't, it.

Rich Williams stated there isn't.

Board Member McNulty stated so it's their option.

Chairman Rogan stated well this isn't a public site...

Board Member Taylor stated no, it isn't.

Chairman Rogan stated it's not a, it changes things a little bit, right.

Board Member Taylor stated their closing it; yeah they're locking the doors...

Chairman Rogan stated yeah.

Board Member McNulty stated well the less lighting the better if you ask me.

Chairman Rogan stated I imagine if they ever found there was a need for it, they could modify their site plan, right, come in and, well they, probably, most people would just do it but...

Rich Williams stated see, this is why I pushed the issue is because what's going to happen is you know they're going to realize they really do need more lighting, they are just going to put it up.

Chairman Rogan stated right.

Board Member McNulty stated they'd have to dig up their parking lot and everything.

Rich Williams stated it's an item four parking lot.

Board Member McNulty stated oh.

Chairman Rogan stated oh yeah.

Board Member McNulty stated that's the only question I had on that is I saw no site lighting and the other lighting looked like it was acceptable.

Rich Williams stated all right we'll take; I haven't had a chance to look at this one yet.

Board Member McNulty stated yeah on the architectural plan, just, he's got the whole spec sheet, everything printed on there.

Board Member Taylor stated and what's the one that's facing toward the highway.

Board Member McNulty stated it's a little over a man door and it's a down, it's all the same lighting on the whole building and...

Board Member Taylor stated oh it's...

Board Member McNulty stated it's a surface...

Board Member Taylor stated you mean it's on the side facing highway but the light itself is not facing highway, okay, it's a down light over the door.

Board Member McNulty stated no, it's a down, faces down over the man door.

Board Member Taylor stated okay, yeah that's fine.

Board Member McNulty stated and it looked like the only light on that side. I had a question on he, he clearly has a sign on the architectural plan, should we urge him to put in a sign application now as well to get it all done.

Rich Williams stated as long as he has it on the site plan that's sufficient, he doesn't need a separate sign application.

Chairman Rogan stated its part of the site plan.

Board Member McNulty stated oh really, so if it's part of the sign application, good to know.

Rich Williams stated yeah.

Chairman Rogan stated one less application.

Rich Williams stated that's why we always encourage people to put it on the site plan because there it is.

Board Member McNulty stated and it looked like a nice sign, I didn't dimension it, he's got a lot of room there, so...

Rich Williams stated I've dimensioned it before and it was fine.

Board Member McNulty stated yeah it looked like a pretty, it was a nice sign.

Board Member Taylor stated and it's facing Commerce Drive.

Board Member McNulty stated yeah, it's right on the front of...

Ted Kozlowski stated hey guys.

Board Member McNulty stated hey Ted.

Board Member Montesano stated Ted.

Board Member Taylor stated hello, how're you doing.

Chairman Rogan stated hey Ted.

Board Member McNulty stated speak up.

Ted Kozlowski stated what.

Board Member McNulty stated just so we can hear you.

Rich Williams stated no, not...

Ted Kozlowski stated hello Michelle.

The Secretary stated hi Teddy.

Ted Kozlowski stated these are mine.

Rich Williams stated one of them.

The Secretary stated it's labeled.

Board Member McNulty stated so those were the only two issues on Maser's, rip rap and...

Board Member Taylor stated okay.

Board Member McNulty stated sign and the SWPPP which was commented that it's in the DEP.

Chairman Rogan stated right.

Board Member Taylor stated so they are moving ahead finally.

Rich Williams stated we're getting close.

Board Member Taylor stated good, good.

Chairman Rogan stated excellent.

Board Member Taylor stated yup.

Chairman Rogan stated okay.

Ted Kozlowski stated did we lose a Board Member already.

Rich Williams stated and I do want to say Andrew and I high fived ourselves on this project, we've never have DEP comments come back that were so few, so insignificant.

Board Member Taylor stated oh good.

Chairman Rogan stated wow, good, that's great.

Rich Williams stated we were happy.

Board Member McNulty stated well that's good, it's not in a wetlands, so.

Chairman Rogan stated right.

Rich Williams stated it is still DEP.

Chairman Rogan stated its stormwater.

Board Member McNulty stated yeah.

Chairman Rogan stated yeah, okay, item three on the agenda is Adam Levine, the fill permit...

3) ADAM LEVINE – Fill Permit

Chairman Rogan stated we have two letters, at least that I have one is from Maser review letter March 13th and the other one is a letter from Mr. Levine as an update stating that he has retained legal counsel and that he is requesting some time for them to review the paperwork et cetera. The...

Board Member Montesano stated dear old dad.

Board Member Taylor stated so could he be more specific than that, what do they want another year and a half, two years, give them...

Ted Kozlowski stated guess he's not going to meet the timetable then.

Board Member McNulty stated well he's supposed to have a remedial action plan this meeting, correct.

Chairman Rogan stated that's right.

Board Member Taylor stated yup.

Rich Williams stated and he's already behind with getting the Board the survey.

Chairman Rogan stated right.

Board Member McNulty stated oh, we still don't have the survey.

Rich Williams stated no, you still do not have a survey.

Board Member McNulty stated with the amount of coverage right.

Board Member Taylor stated with his house.

Board Member McNulty stated his house, they only showed the...

Chairman Rogan stated yeah.

Rich Williams stated yeah he has stopped doing everything.

Board Member Taylor stated he's stopped doing everything.

Rich Williams stated well we have not received anything.

Chairman Rogan stated right.

Board Member Taylor stated oh okay, so we can ask him and his attorney.

Chairman Rogan stated presumably the attorney will be here next Thursday with him.

Board Member Montesano stated maybe.

Board Member McNulty stated will this get forwarded to the neighboring lots attorney, this letter, maybe put them on notice to get them here.

Rich Williams stated we certainly can.

Board Member Taylor stated well they've been here every meeting anyway, sitting out there paying for...

Board Member McNulty stated yeah but...

Chairman Rogan stated well I think, I mean I think this comes down to and certainly we need to have Mike Liguori in on this conversation but I think it comes down to the idea that the Planning Board took a lot of time and with a great deal of due diligence in putting together a timetable that seemed, at least to us seemed reasonable and we were looking for some progress and while I appreciate that Mr. Levine is, has counsel now, which he could have done at any time over the last two years and probably should have, it doesn't mean and they are requesting an extension, I agree we need to have more definitive information because he still needs to be either making progress or we need to be, you know, if he's not making progress then we need to be finding out from Mike whether we should be putting him back over to an enforcement branch and proceed that way, so you know I, I assume that Mr. Levine is just looking to make sure that he knows what all of his options are but he needs to come in next week and say that and I think we need to be honest with where we're headed with this.

Board Member Montesano stated we spent all this time.

Board Member McNulty stated I think we should ask him specifically too, you know the timetables for the survey and the action plan when will we have it.

Ted Kozlowski stated I think you're going to get all sorts of excuses as to why this is going to be delayed.

Board Member Montesano stated and if he's got an attorney, he's going to be paying I'm sure if we were to push this anywhere else, we'd end up in the court and he's get a stay from the court that says he can do it.

Rich Williams stated first off, it would be going to our local justice, we'd issue a violation and he would be sent over there, he's not going to get a stay from that.

Chairman Rogan stated well he's already been issued a violation, right.

Rich Williams stated he hasn't been issued an appearance ticket yet.

Chairman Rogan stated right, so he would be, he wouldn't need another violation, he would just need an appearance ticket.

Rich Williams stated an appearance ticket...

Chairman Rogan stated right.

Rich Williams stated we send him to court, they wouldn't get a stay from that...

Board Member Montesano stated no but they...

Rich Williams stated and the only thing that, in my non-legal opinion that him bringing this attorney in at this stage would benefit him is if he was going to sue the people who brought the people who brought the material onto his site, to pay for the removal and or the cleanup...

Chairman Rogan stated sure.

Rich Williams stated you know, which is...

Chairman Rogan stated and that is certainly possible and the...

Rich Williams stated which is fine but I don't see where bringing an attorney has any real bearing on the issue of the fill...

Chairman Rogan stated on our action.

Rich Williams stated being on the site or what the Planning Board's action is.

Chairman Rogan stated and I agree and I hope that is exactly the intent is to gather information.

Ted Kozlowski stated it's just that this is two years now...

Board Member Montesano's cell phone rings

Chairman Rogan stated yup.

Ted Kozlowski stated we're going up to two years and every time and it's not us, it's not anyone else, Mr. Levine, every time he comes in we've got, we have a little surprise, whether it's, you know he couldn't blame the weather this year but it's everything else, Terry Bergendorff couldn't get out there, this one couldn't do this, this one couldn't do that, now we have an attorney and we're going to be back to square one.

Board Member Montesano stated some people are very persistent when they have a problem.

Ted Kozlowski stated and I just think it's really unfair to the Town...

Board Member Montesano stated it makes it much easier.

Ted Kozlowski stated it's unfair to the neighbors, it's unfair to everybody and Mr. Levine acts like he's the victim here and I don't think that's right. Just look at all the time we have spent on this...

Rich Williams stated so you want to wait until he comes in or do you want me to do anything in between or...

Chairman Rogan stated no, I think we have to wait until he comes in but I mean, I think that, I'm hoping that his, not that we need his attorney here but I'm hoping that either the attorney will come or he'll at least come with some good answers as to what his plan is.

Rich Williams stated but I will contact him and make sure that he's here.

Chairman Rogan stated appreciate that, okay...

Board Member McNulty stated I would urge him to bring his attorney too...

Chairman Rogan stated sure.

Board Member McNulty stated because he would give us specific, the specific timeline and he could get maybe, understand our point that the timeline is in place and that the clock's ticking.

Ted Kozlowski stated I think you're going to get this needs to be studied.

Chairman Rogan stated right.

Board Member Montesano stated and I think his attorney is going to be, he's not interested in what your timeline is...

Chairman Rogan stated right.

Board Member Montesano stated it's going to be what's convenient for him and his client.

Chairman Rogan stated well let's...

Board Member Taylor stated let's see.

Chairman Rogan stated play it forward.

Board Member McNulty stated then you take it forward from there.

Chairman Rogan stated yup, okay and we are continuing the review for the Ray See application over on Farm to Market Road.

4) RAY SEE – Driveway Waiver & Fill Permit

Ted Kozlowski stated I'll give you a fill-in, we went to court, however Rich and I met with Ray See and the Building Inspector and his contractor, Anthony, I don't remember his name.

Board Member McNulty stated Macchia.

Ted Kozlowski stated we all came to, oh and Andrew, the Town Engineer, we pretty much came to an agreement on how things should go, I think Rich put it together in a memo, I met with Ray See Jr., before the court appearance, you know with him and the Town Attorney, Laura, is she a Town Attorney is she...

Rich Williams stated she represents the Town.

Ted Kozlowski stated and we hashed it out that he would have 60 days to comply with all that we agreed as identified in Rich's memo. He had a hundred dollar fine which is basically covering a wetlands permit but the judge, Judge Molé did warn him that if he is not in full compliance by the end of the 60 days, there will be no discussion, there will be significant fines. I spoke with Ray See after the, I spoke to Ray See after the thing and told him he had to this, that I needed to be called if there are any problems, any changes, any deviation to what we all agreed to and I need to be kept informed of his progress. Unfortunately I have not heard from him since, so he will be getting a phone call from me over the weekend and I will go out there and see if there is any progress.

Board Member McNulty stated his 60 days has started already.

Ted Kozlowski stated his 60 days started, my understanding from the court date which was last Tuesday.

Chairman Rogan stated so is the purpose of this being on the agenda for next week, to just get an update of where, if we can move him forward.

Rich Williams stated well, yeah, let's recap this...

Chairman Rogan stated okay.

Rich Williams stated currently the Planning Board has a driveway waiver pending that was submitted by Mr. See, recently he has submitted the fill permit application that the Planning Board directed him to do, as Ted, you know informed the Board, well Ted, myself, Andrew and, we met out there and Nick Lamberti, with Mr. See and we came up with a plan of action for remediating the site. I told Mr. See not to do anything except where it relates to the wetlands which is Ted's jurisdiction because he doesn't have Planning Board approval...

Chairman Rogan stated okay.

Rich Williams stated essentially you know, if you're in agreement with the items that we've laid out and how we're going to address them, then they would become part of the fill permit and driveway conditions and then he would have the right to go finish the site.

Board Member McNulty stated so the court appearance only addresses the wetland issues.

Ted Kozlowski stated he had a wetlands fine...

Board Member McNulty stated where he got into the stream and...

Ted Kozlowski stated right.

Chairman Rogan stated okay.

Ted Kozlowski stated he's got, as Rich said, he's got other issues there, it's not just wetlands.

Chairman Rogan stated right.

Board Member McNulty stated with the detail there at the bottom of the stream, he's going to put a culvert in, is it or a pipe and then, what's the bottom...

Rich Williams stated he's going to put a, yes...

Board Member McNulty stated I forget what the bottom of the area is called, scour hole was it or something.

Rich Williams stated yes.

Board Member McNulty stated so that is part of what he has to correct within the 60 days.

Ted Kozlowski stated yes.

Board Member McNulty stated okay.

Ted Kozlowski stated and that's going to be better for the wetlands, it's going to be better for the stream, he'll have access to cross over it and, but he still has to deal with the other things that you guys have and Rich have to iron out here, and the Town Engineer.

Chairman Rogan stated Rich, forgive me but I don't see, maybe I don't have it in front of me, I have site walk comments, I don't have your, you mentioned a memo for correction, that's the site walk comments.

Rich Williams stated yeah, it lays everything out.

Board Member Taylor stated yeah it's in that.

Board Member McNulty stated I did the same thing, I'm looking for two pages.

Ted Kozlowski stated it's the new way, conserve, it saves trees.

Chairman Rogan stated well no, I guess I was, site walk comments are observations...

The Secretary stated we're going green.

Ted Kozlowski stated we're going green.

Chairman Rogan stated and it sounded like a memo that was more of a, okay...

Board Member Montesano stated anybody missing a page, oh...

Ted Kozlowski stated Mike just got it.

Board Member Montesano stated no, no I have, yeah I just realized that the site walk comments are on the back of the same page.

Rich Williams stated well no, it's all one memo, I just started off with site walk comments...

Board Member Montesano stated okay.

Rich Williams stated and ended up going another way.

Board Member McNulty stated so we're looking at, we have to address these two permits in front of us, do we wait until the other actions are done or do we wait...

Chairman Rogan stated no, I think we...

Board Member McNulty stated do we approve based on these notes and the guiderail and let him go to work.

Chairman Rogan stated this way they get the most time they have available to get the work done but like you said the time frame is 60 days, that is specific to the wetland violation, that's not specific to the site plan improvements, the fill permit...

Board Member McNulty stated okay.

Chairman Rogan stated but it sounds like while my opinion, while you have the attention of the gentleman, it may be less clear to delineate between the two and what we might get a lot of the work done, in a short time frame.

Ted Kozlowski stated he tells me he doesn't want to go through this again, I have to believe him...

Chairman Rogan stated okay.

Ted Kozlowski stated as he was walking out of court, he just doesn't want to go through this again.

Board Member Taylor stated how does this fall into...

Ted Kozlowski stated I am hopeful that he will comply.

Board Member Taylor stated how does this fall into the new proposal to not to do anything, if there is an outstanding violation.

Chairman Rogan stated good question.

Board Member McNulty stated but it's not outstanding; he paid the fine, correct.

Rich Williams stated except, except where your action would cure the violation.

Board Member Taylor stated okay.

Ted Kozlowski stated this more of a curative, it is Ron...

Board Member Taylor stated okay.

Ted Kozlowski stated than...

Chairman Rogan stated no but valid point, yeah.

Board Member Taylor stated yeah I think that's...

Board Member McNulty stated I was thinking the same thing.

Chairman Rogan stated yeah.

Board Member Taylor stated yeah, I think we need to read the language to be sure that we're covering ourselves, yeah I want to go ahead with this, I think that would be very good...

Chairman Rogan stated yeah.

Board Member Taylor stated let's wrap everything up if we can. Are there any problems that you see, everything's covered.

Rich Williams stated everything's covered.

Board Member Taylor stated everything's covered, okay.

Rich Williams stated we looked at all the slopes, where the retaining walls needed to be, the guardrail, how he was going to put it in, stabilization of the slope, reconstruction of the stream, the issue with the trenching in the wetland, everything was touched on.

Board Member Taylor stated and the runoff from the garage and that stuff, okay, all right. I will read this in more detailed but yeah we should be able to just strike, we can do a resolution and get it off the table.

Chairman Rogan stated yeah.

Board Member McNulty stated let him go to work.

Rich Williams stated yup.

Board Member Taylor stated yeah let him go to work and if he doesn't then hit him with a violation.

Rich Williams stated and Mr. See has this and he has the details that Andrew provided about the scour hole.

Board Member Taylor stated yup, good.

Chairman Rogan stated right, okay.

Board Member Taylor stated and Nick is board with all this.

Rich Williams stated yeah.

Board Member Taylor stated right, so who's inspecting this at the end then, you, you're inspecting this, yes okay.

Rich Williams stated I'll make sure it gets done, between Ted and I.

Board Member Taylor stated all right, okay.

Chairman Rogan stated all right but just so that I'm clear, we have a fill permit on Ray See, we're talking about approving that fill permit but that fill permit doesn't contain all the corrective issues contained within the memo on this, right.

Rich Williams stated no, all right let's say...

Chairman Rogan stated whereas by simply approving the permit, we're not capturing everything, we do need something to go along with this.

Board Member Montesano stated we can put that in the resolution.

Rich Williams stated Ray submitted, we put that package together ourselves, Ray submitted the fill permit which is the one page.

Chairman Rogan stated got it.

Rich Williams stated which the Planning Board requested he do, he also submitted a sketch for guardrail which the Planning Board asked him to do which we sent to Andrew Fetherston who reviewed it and we discussed that out on the site...

Board Member Taylor stated okay.

Rich Williams stated and came up with a means and methods for getting that in and there was a third sheet, I'm not sure what the third sheet was.

Chairman Rogan stated okay, yup, the third sheet is the...

Board Member McNulty stated that's just from Kent Highway [Department] about the fill was clean.

Rich Williams stated oh, there was also a letter that he had submitted about...

Chairman Rogan stated about where he was getting his fill.

Rich Williams stated where he got the fill from that kind of indicated it was clean fill.

Chairman Rogan stated and that sketch, it addresses the retaining the wall on the downhill side of the driveway, between the driveway, it does not address the retention required at the, in this area, even though we spoke about it at the meeting, we spoke about a corrective action, you remember at the meeting which was a stone...

Rich Williams stated that's true.

Chairman Rogan stated right.

Rich Williams stated all that's supposed to really represent is the...

Board Member McNulty stated the guiderail.

Rich Williams stated the guiderail.

Chairman Rogan stated okay.

Board Member McNulty stated so there is no site plan for this site.

Rich Williams stated there is no site plan.

Board Member Taylor stated now he's before us with a driveway waiver.

Rich Williams stated he has requested that the Planning Board waive the requirement that he pave the driveway.

Board Member Taylor stated and we are wrapping this stuff into the driveway waiver.

Rich Williams stated and the fill permit.

Board Member McNulty stated two applications.

Chairman Rogan stated two applications, concurrent.

Board Member Taylor stated all right, so I am just curious is how we say this, so we're granting the waiver under the condition that he put in the guardrail and duh, duh, duh, duh...

Chairman Rogan stated no.

Board Member McNulty stated that's the fill permit.

Chairman Rogan stated that's part of this.

Board Member Taylor the guardrail goes with the fill permit.

Chairman Rogan stated yeah.

Board Member Taylor stated how does it fall under a fill permit.

Chairman Rogan stated well you know it just as easily falls into the driveway because it's a driveway issue, so...

Board Member Taylor stated so we can somehow say it in such a way that we're wrapping these...

Rich Williams stated yeah I hear what you're saying...

Board Member Taylor stated it just kind of...

Rich Williams stated I'm thinking about it, how we're going to do this.

Chairman Rogan stated yeah.

Rich Williams stated I'll think about it.

Board Member Taylor stated okay, it just doesn't make sense in some ways.

Chairman Rogan stated right.

Board Member Taylor stated there should be a site plan really, I mean that's really what we're dealing with here, aren't we, site plan issues.

Board Member McNulty stated well it's a residential site.

Rich Williams stated there should have been some sort of site plan from the beginning.

Board Member Taylor stated beginning, yeah.

Rich Williams stated as part of the building permit and Nick could have asked for that site plan as part of the building permit.

Board Member Taylor stated all right, so...

Rich Williams stated we don't have the ability to require a site plan for something like this.

Board Member Taylor stated right, okay.

Chairman Rogan stated okay.

Board Member McNulty stated and in our code are there guiderail regulations within our jurisdiction, within the code for planning, for driveways.

Rich Williams stated no, no.

Board Member McNulty stated in the fill permit area of the code.

Rich Williams stated no.

Board Member McNulty stated then we've got nothing to say about the guiderail.

Rich Williams stated sure you do.

Board Member McNulty stated okay.

Board Member Taylor stated under what...

Rich Williams stated well you're issuing a driveway waiver, you're concerned about the surface that you're waiving, the blacktop surface is certainly going to be more stable than a granular surface that would have the ability for the car to slide a little bit more...

Board Member McNulty stated so we've asked for added protection.

Rich Williams stated yeah.

Board Member Taylor stated so it's a condition of if you do, if you want this, then you've got to do this, okay, so that, it's in that sense...

Rich Williams stated do you like the way I twisted...

Chairman Rogan stated yeah I was just thinking that but...

Board Member Montesano stated sure, we can get away with that one.

Chairman Rogan stated hey, you know what the end result is the important thing.

Board Member McNulty stated that way you have to ask questions.

Board Member Taylor stated yeah.

Chairman Rogan stated what are we left with, that's the important thing. Okay, we have a sign application for the Prospero Nursery, 741 East Branch Road.

5) **PROSPERO NURSERY – Sign Application**

Rich Williams stated yes.

Chairman Rogan stated okay.

Board Member Taylor stated this is the nursery right past the polo grounds.

Rich Williams stated yes.

Ted Kozlowski stated yes.

Board Member Montesano stated you mean the person that's been in there for the last 20 years or so.

Rich Williams stated no, it was recently sold.

Board Member McNulty stated just go back one second...

Chairman Rogan stated yeah.

Board Member McNulty stated on Ray See, you'll wrap stabilization of the slope into that.

Rich Williams stated that's part of the fill permit.

Board Member McNulty stated fill permit, okay, gotcha, we can move on.

Chairman Rogan stated no, that's a good question.

Board Member Taylor stated creative night tonight, isn't it.

Rich Williams stated Patterson Nursery has been sold and the new owner is currently moving in, they are looking for a sign application, they submitted a sign, a somewhat attractive sign, they didn't submit where it was going to be, I've contacted them, got the location, provided that in the memo, what they also haven't provided is how it is going to be lit, other than incandescent lighting, I'm assuming they are planning on putting a couple of flood lights on the ground and we just want to make sure that's screened off.

Board Member McNulty stated that was my question, where they were going to place it, is it going to be on the building or out by the road.

Rich Williams stated no, it's out on the road.

Ted Kozlowski stated that's a wholesale nursery, so he's not going to be open...

Board Member Taylor stated at night.

Ted Kozlowski stated at night, it's not a retail operation.

Rich Williams stated he's still lighting the sign.

Chairman Rogan stated up lighting.

Ted Kozlowski stated I'm sure but I'm saying it's not; it doesn't have to be lit up like a Christmas tree.

Board Member Taylor stated and is the sign going where the existing sign is.

Rich Williams stated it's a wholesale nursery lit up like a Christmas tree might help.

Board Member Taylor stated so is the sign going where the existing sign is.

Rich Williams stated I don't know and I went out there to photograph the existing sign, so that we would have some idea and they had already taken it down.

Board Member Taylor stated oh, so there is no pre-existing non-conforming sign.

Rich Williams stated there's no sign, well there's no, there was a sign there, a week ago.

Board Member Taylor stated yeah.

Rich Williams stated ten days ago but the old Patterson Nursery or Prospero's, somebody took it down.

Board Member Taylor stated and the posts.

Ted Kozlowski stated it wasn't there Saturday.

Rich Williams stated there are no posts, there is nothing.

Board Member Taylor stated so it's gone.

Rich Williams stated it's gone.

Board Member Taylor stated so then the issue of pre-existing is gone.

Rich Williams stated pre-existing, you have a pre-existing use of property and you have about 6 months in which you can stop the use and then pick it back up, so it really hasn't gone away.

Board Member Taylor stated okay but I thought with signs that part of the thing was you had to maintain the sign in good repair to keep your pre-existing, well if it's gone, it's gone, there is no repairing it.

Ted Kozlowski stated yeah but it's a different company now, totally different sign.

Board Member McNulty stated but they took the sign down.

Board Member Taylor stated I'm talking about the pre-existing part of it...

Chairman Rogan stated yeah.

Board Member Taylor stated if it's gone, it's gone, it's no longer pre-existing, it's disappeared.

Board Member Montesano stated was that sign ever approved.

Chairman Rogan stated I mean what Ron is in essence saying is does the new sign location make sense, is where we're going to put the new sign acceptable...

Board Member Taylor stated yeah, yeah...

Chairman Rogan stated and that is really what it comes down to.

Board Member Taylor stated but there is no argument about pre-existing anymore, it's...

Board Member Montesano stated was the old sign ever approved.

Ted Kozlowski stated is he having it at the entrance.

Rich Williams stated no.

Ted Kozlowski stated no.

Board Member Taylor stated yes, so that's fine.

Board Member Montesano stated Ron, question.

Board Member Taylor stated yeah.

Board Member Montesano stated was the old sign ever approved.

Rich Williams stated Mike, let me say this, we don't have any record of it ever being approved.

Board Member Taylor stated okay.

Board Member Montesano stated I know that...

Rich Williams stated we have no idea but...

Board Member Montesano stated no, there...

The Secretary stated but even still, it's down.

Rich Williams stated it's down but even, listen, if he had an existing sign and he wanted to change it out and he came to the Planning Board and got approval to put a new sign up and then took the old sign down and then didn't put the new sign up for two weeks...

Chairman Rogan stated right.

Rich Williams stated he, by virtue of the fact that the sign is down, doesn't mean that he loses pre-existing non-conforming status, he would have to intentionally abandon that use for an extending period of time, i.e. Patterson Nursery goes out of business, they take the sign down, it takes them four months, five months, six months to sell it, the new people come in, there is no pre-existing status anymore.

Board Member Taylor stated okay, all right, so the issue then is, is the new sign going where the old sign was.

Rich Williams stated that is the issue.

Board Member Taylor stated okay, all right and if it isn't, then pre-existing goes away then in 6 months.

Rich Williams stated yes.

Board Member Taylor stated okay, that's all I'm just trying to clarify where we stand here.

Chairman Rogan stated sure.

Board Member Taylor stated okay, all right but...

Board Member McNulty stated but it meets the size requirements that they need.

Board Member Taylor stated yeah, it's a little bit under.

Rich Williams stated we're walking into a little bit of a grey area here, again, you know...

Board Member Taylor stated farm permits.

Rich Williams stated it's in a residential zoning district so you can consider it pre-existing non-conforming because the old sign was there for so long, I have no idea when it went up or how long it's been there or you can consider this a quasi-farm operation and that would allow a sign to be put up that is less than 12 square feet, either way his proposed sign meets both criteria in my opinion.

Board Member Taylor stated okay.

Board Member Montesano stated it's been up for about 30 years.

Board Member Taylor stated now is he part of the County agricultural district.

Chairman Rogan stated what is 2 inch hdu, do you know what that is, 2 inch hdu, sand blasted and painted light green, high density urethane...

Rich Williams stated he is not because he doesn't qualify as a farm.

Board Member Taylor stated okay.

Board Member McNulty stated we're getting.

Board Member Taylor stated the sign is a farm.

Board Member Montesano stated he's qualifying, he's qualified if we're going into a residential area.

Rich Williams stated I'm trying to find a way to be reasonable here.

Board Member Taylor stated I understand.

Chairman Rogan stated Rich do you have any idea...

Board Member McNulty stated I don't know, 2 inch thick, it might be a two inch thick sign, high density urethane, like you're saying.

Chairman Rogan stated urethane, yeah.

Rich Williams stated right.

Chairman Rogan stated okay.

Board Member McNulty stated yeah, it's carved.

Board Member Taylor stated it's a pretty looking sign.

Chairman Rogan stated yeah and I mean it's not all that large so, you know, okay and they didn't put the sign up, the sign is not up today right it's not up yet.

Rich Williams stated no, it's not.

Board Member Montesano stated it will be up tomorrow.

Chairman Rogan stated sometime we got other sign applications where the sign is already up and they're coming in.

Rich Williams stated this gentleman has tried to do everything right in Patterson, been a pleasure.

Chairman Rogan stated oh that's nice, good.

Ted Kozlowski stated I will tell you also that there are wetlands there, he has contacted, Richie and I, both met him back in February, it was Presidents' Day, we met him, he wants to put up a fence because the previous nursery kept taking land, they kept pushing out into the wetland and Joe Prospero, Rich and I

expressed our concerns, he told me, he assured me that will stop that they are going to put up a fence and that will be the no fly zone, you know beyond that fence is wetlands, so we kind of laid it out. He called me the other day and asked me to come out, he wants me to come out show him again the line and that, with his men and that's where he'll put the fence. So, I trust that's what he's going to do.

Board Member McNulty stated does he own another operation somewhere else or is this his only...

Ted Kozlowski stated he's got an operation in Westchester County. I know this nursery, the County does business with this nursery and it's been a good relationship and I have all reason to believe that he's going to conduct his business up here like he does down in Westchester.

Board Member McNulty stated sounds like it.

6) RIMALDI SITE PLAN – Site Plan Application

Chairman Rogan stated okay, next up with have Rimaldi Site Plan.

Ted Kozlowski stated Rich; I have a question on Rimaldi, and it looks like they are using an existing stormwater basin.

Rich Williams stated yes.

Ted Kozlowski stated or are they going to create a new one.

Rich Williams stated no, there is an existing pond out there, they are going to enlarge.

Ted Kozlowski stated okay so do we know where the wetland line is.

Rich Williams stated yeah.

Ted Kozlowski stated so they're out, there are no wetland issue here, okay.

Rich Williams stated this is a very old project that's coming back around, it hasn't been before the Board in two years, I did do a memo on it, I do want to highlight the first three items in the memo that I completed they are kind of a carry-over from past memos. First, I'm questioning where they are putting the ADA required parking, ADA requires you to have it as close as possible to the front door and they've got it off on the sides of the building, his excuse is he doesn't want ADA compliant people to have to cross the parking aisle...

Board Member McNulty stated yeah I read that, yeah.

Rich Williams stated you know it's up to the Board to decide whether that's reasonable, the second issue is the refuse enclosure which the Board has previously, was not happy with it being all the down at the end of the parking lot, I don't know if your attitudes have changed on that and the third issue is the access drive behind the building, he's got a short access drive behind one building, there is nothing behind the second building, there is nothing, there is no way to get trucks who are delivering goods to that second building except by parking in front of the building and I suspect though, it hasn't been confirmed that the Fire Inspector is going to require a fire lane in front of the building which would prohibit, you know, the trucks

parking and unloading. Plus, the septic tank and the grease trap, you're going to have to pull a hose about a hundred and twenty feet to get to the grease trap or septic tank and you know, his response is well they have hose extensions they can use, probably right but it's still a long way to not have any sort of access behind this building and it's up to the Board to decide whether that's reasonable...

Board Member McNulty stated is there any reason why he doesn't want this access or he can't get the access.

Rich Williams stated I can't answer that, I don't know.

Board Member McNulty stated I'm not familiar with the lay of that land, is it, will it be a difficult place to build an access.

Rich Williams stated somebody pop the plan out.

Board Member Montesano stated couldn't we just, the State wouldn't let him have the access.

Rich Williams stated ultimately the State backed off.

The Secretary stated yeah.

Rich Williams stated he now has a one way out, the entrance on the south end which is better than what it was.

Board Member McNulty stated well he's got, the first building has a rear entrance, well not a rear but a side entrance.

Chairman Rogan stated correct.

Board Member McNulty stated and you're saying he's not extending it beyond...

Rich Williams stated this is the existing plan, this isn't what he's proposing.

Board Member McNulty stated go to the next page.

Board Member Taylor stated there you go, we were looking at the topo's earlier together...

Rich Williams stated well then go to the next page then, if you want to look at topo.

Chairman Rogan stated you want to look at topo yeah, there it is.

Rich Williams stated grease trap, tank, here's the one access; excuse me, behind that one building...

Board Member Taylor stated it is pretty steep.

Board Member McNulty stated and you would want them to extend further this way Rich, is that what your thought is.

Rich Williams stated the Board had...

Board Member McNulty stated the previous Board, previous...

Rich Williams stated the Planning Board in previous looks at this and in doing the site walk, thought it might be advantageous to have that driveway go all the way across.

Chairman Rogan stated it's been a while and we probably kicked these issues around over the last two to four years but we were talking about garbage, I think I remember even discussing that they could always put but we had also talked about the idea that they could have with a little more use in the back they could do deliveries back there, they can do garbage pickup in the back where it's all closer to the facilities.

Board Member Montesano stated well he's got that delivery road there, right, in the back of the building.

Chairman Rogan stated he could have a garbage area here for both buildings that's conveniently located to this access road, not in the front where you're, you don't want all this heavy traffic where your pedestrians are...

Board Member McNulty stated yeah but it's pretty much down the bottom though.

Chairman Rogan stated the end, yeah.

Rich Williams stated the problem with this is, these people to get the garbage, have got to drive it all the way down, it's doable...

Chairman Rogan stated yeah, no, it's doable...

Rich Williams stated it's doable.

Chairman Rogan stated it's just that's why we plan, to see if there is potential for a better way and I think your deliveries, like you were saying, if this is a fire zone, your deliveries they're going to stop right on this road here and they are going to hand truck it the whole way or they are just going to pull in and not worry about it.

Rich Williams stated oh no I don't think , they're going to ignore the fire lane.

Chairman Rogan stated or stop right on [Route] 22.

Board Member McNulty stated have we in the past...

Rich Williams stated I don't think they're going to do that, they're going to block the fire lane.

Chairman Rogan stated on the curb on the shoulder.

Board Member McNulty stated designated commercial zones for loading and any parking, do we have that within our code.

Rich Williams stated what do you mean commercial zones.

Chairman Rogan stated a loading zone.

Board Member McNulty stated a loading zone for commercial vehicles.

Rich Williams stated yes.

Chairman Rogan stated but they don't have the room here though.

Rich Williams stated we're required to have loading zones based on the square footage you have to have a certain number of loading zones, there is not a lot square footage out here, so they are only really required to have one loading zone, the problem is they are showing a loading zone which is not, it does not support the second building they are putting in, the loading zone was for the first building, they are not changing that.

Board Member McNulty stated to support square footage wise the amount of commercial zone that they allow for square footage requirement.

Rich Williams stated yeah. So, three issues that I think you really need to tune in on and resolve in order to move this process forward.

Chairman Rogan stated wow, they really did just go away for two years, I had forgotten, I, you know...

Rich Williams stated yeah.

Chairman Rogan stated I kept thinking to myself, why haven't they started building that, it must be the economy.

Board Member McNulty stated when I first got on the Board, this had come by us for something.

Chairman Rogan stated really.

Board Member McNulty stated yeah, I do remember that, this coming in front of us.

Rich Williams stated have you been here, you haven't been here two years...

Chairman Rogan stated no.

Board Member McNulty stated yeah.

Chairman Rogan stated you have.

Board Member Montesano stated yeah, he's an old...

Board Member McNulty stated 2010.

Chairman Rogan stated oh.

Board Member McNulty stated '10 and '11.

Board Member Montesano stated he's been old now.

Board Member Taylor stated yeah I can remember, sitting out in the audience.

Chairman Rogan stated well yeah, I figured.

Board Member McNulty stated yeah, no, this I can remember this coming in front of us, January 2010 I came on the Board, time's flashed for me too.

Board Member Taylor stated what is this dotted line that runs across and all the way, is it some kind of a drainage thing and cb...

Chairman Rogan stated that's sure what it looks like, catch basin.

Rich Williams stated this...

Board Member Taylor stated yeah.

Rich Williams stated is a pipe.

Chairman Rogan stated yeah.

Board Member Taylor stated that's a pipe.

Rich Williams stated that's the pipe going back in, catch basin here, picks up the drainage as everything slopes back here, I think its 18 inch.

Board Member Taylor stated and this one is coming off the, these are leaders coming, okay I can see...

Board Member McNulty stated this is all new.

Rich Williams stated 15 inch.

Board Member Taylor stated yeah.

Rich Williams stated this is new piping, these are new outlet structures, this is the existing piping that's already out there with the flow splitter here.

Chairman Rogan stated so the three issues that we were just talking about, garbage, loading and the clean outs for the grease...

Board Member Taylor stated grease trap is here, oh grease trap and septic is here.

Chairman Rogan stated right.

Board Member Taylor stated and so they would have to park where to get to these, they park here...

Rich Williams stated either there or there.

Board Member Taylor stated yeah, so if we extended this just a little bit here, put the garbage over there,

they could get to the, they would be a little bit closer, as opposed to requiring something all the way behind the building, does that solve some of the problem.

Chairman Rogan stated let's find out whether, what did you say it's a hundred, a hundred and twenty feet basically.

Rich Williams stated about a hundred, a hundred and twenty feet.

Chairman Rogan stated yeah, let me just ask one or two of the pumper guys if that's reasonable or not, what they, I mean if it's, you know it's one of those things...

Rich Williams stated the only one...

Chairman Rogan stated yeah it's reasonable but we have to throw an extension on the truck and we charge for it or something like that, you know.

Board Member McNulty stated yeah they probably do, they probably charge for the extra haul.

Rich Williams stated yeah, oh yeah, actually the only one, in talking to Mike Budzinski, that we haven't figured how to do is Larry Plapler's house, Willow Island, the middle of Putnam Lake.

Chairman Rogan stated we were wondering about that too, Put Lake, yeah, right, yup.

Rich Williams stated Mike, what are we going to do about that, I don't know.

Board Member Taylor stated canoes.

Board Member McNulty stated barge.

Board Member Taylor stated yeah, a bunch of canoes.

Rich Williams stated well he's got five years to figure it out.

Chairman Rogan stated yeah.

Board Member Taylor stated run the pipe across the canoes.

Chairman Rogan stated yeah that's, well no, that makes a lot of sense.

Board Member Taylor stated Putnam Lake 5th year annual clean out day.

Chairman Rogan stated or do it in the wintertime.

Board Member Taylor stated do it in the winter, well you can't count on that anymore.

Chairman Rogan stated yeah right.

Board Member Montesano stated you have to get a surplus float bridge.

Chairman Rogan stated good point.

Board Member Taylor stated yeah.

Board Member Montesano stated from world war two and just stick it across.

Chairman Rogan stated all right so, we'll see if you guys come up with any brainstorming ideas on how to resolve those if not, let's move forward and...

Ted Kozlowski stated okay.

Chairman Rogan stated you know, okay Rich and Barbara Murphy...

Rich Williams stated Richard and Barbara Murphy...

7) RICHARD AND BARBARA MURPHY – Request for Driveway Waiver

Rich Williams stated you've got an application for a driveway waiver for a couple at the end of a cul-de-sac, Danby Lane, up on [Route] 22. They have, they applied to the ZBA for variances in order to construct a barn style garage, Michelle has a photograph for you, showing I went out and took a photograph of where the driveway is going in.

Chairman Rogan stated for the boats.

Rich Williams stated he has to put a second driveway in because the garage is going on the side and to the rear of the house, so he's going to put a second driveway in, along that...

Board Member McNulty stated this, where the boats are there.

Rich Williams stated yeah, generally in that area.

Chairman Rogan stated he's going to come in and get into that back corner where there is a swing set right now.

Rich Williams stated yeah.

Chairman Rogan stated Rich, where is Danby Lane.

Board Member McNulty stated its right by the golf range...

The Secretary stated yes, right before it.

Board Member Montesano stated yeah.

Board Member McNulty stated the golf range is right behind that, see the tall pole.

Chairman Rogan stated oh yeah, yeah, so only the golf range is really going to see this garage.

Board Member McNulty stated so his barn is going to be right against that fence probably or close to it.

Board Member Montesano stated give the guys that are slicing...

Rich Williams stated it's going to be a way from the fence but it's going to be close to the property line.

Chairman Rogan stated his existing driveway is in better shape than the road.

Board Member Montesano stated it's great for slices, now you've got to hit a nice building instead of everybody's pool.

Rich Williams stated they've submitted a letter, they've talked about a lot of drainage issues and everything, honestly I don't find any of their...

Board Member McNulty stated pretty little lot...

Rich Williams stated reasons compelling, I wouldn't agree with any of their reasons. Having said that I think the Board needs to, in its evaluation, balance the benefit to the property owner against the detriment to the Town, not having a paved driveway and in this case the slope is very slightly sloping, there is not going to be a lot of runoff from this, it's at the end of a cul-de-sac, very limited houses, not even a well-defined cul-de-sac so I don't know that there is any real impact.

Chairman Rogan stated right, so they want to use a colored item four after the initial paved area.

Rich Williams stated I don't know why, we're famous for our legendary Peckham white.

Chairman Rogan stated I wish I'd known where to get brown item four.

Rich Williams stated anywhere else.

Chairman Rogan stated yeah but...

Board Member McNulty stated yeah.

Chairman Rogan stated where.

Board Member Montesano stated you can buy a spray can. You get that rubberized stuff.

Rich Williams stated you closed the window.

The Secretary stated when the train goes by it's so extraordinarily loud.

Rich Williams stated it's hot.

The Secretary stated I'll open it.

Chairman Rogan stated well you know what would be kind of nice with this...

Board Member McNulty stated so they want it unpaved because of the neighbors complaining about runoff.

Chairman Rogan stated well you know what's funny is, well that's what they're saying but the item four surface when it's not used a whole lot, you know what's going to happen and it might be better aesthetically is the grass is going to grow up at some point, it finds its way into the area...

Board Member Montesano stated oh yeah.

Chairman Rogan stated because they're not going to dragging a York rake along this every so often, it's a level area, it's probably not going to need a ton of maintenance and at some point will start blending right back into their grass...

Board Member McNulty stated yup.

Chairman Rogan stated it's almost like, it would almost be like a grass paver at some point, where you're going to have a really hard base with grass growing up, you know...

Board Member Montesano stated there's an idea, maybe we can get those pavers put in.

Chairman Rogan stated I don't have a problem with it as long as the first so many feet is paved or brick or something but...

Board Member Montesano stated they'll last a little longer.

Board Member McNulty stated you're saying, say that again, you don't have a problem.

Chairman Rogan stated with the driveway waiver to allow the gravel for the majority of their driveway to this garage.

Board Member McNulty stated they still need the minimum apron at the front, correct.

Chairman Rogan stated yeah, what's that 20 feet.

Rich Williams stated yeah, just so you know usually 25 feet from the center line is within the jurisdiction of the Highway Superintendent, he can waive anything past that point.

Chairman Rogan stated right.

Rich Williams stated but, there he has control and usually they want some sort of asphalt apron out to blend into the road.

Chairman Rogan stated and typically, it looks they are saying...

Board Member Montesano stated all these toys, well he's worried about runoff, is that to keep the boats from floating away or...

Chairman Rogan stated so what would the distance be, do you think Rich from the edge of the existing pavement in for paving, ten feet, twenty feet, something like that.

Rich Williams stated oh yeah.

Chairman Rogan stated yeah.

Rich Williams stated probably ten, fifteen feet.

Chairman Rogan stated ten, twenty feet, okay.

Board Member Montesano stated now if we do that, do we need an apron in front of the garage.

Rich Williams stated for what.

Board Member Montesano stated well yeah because if he doesn't do it right he's going to have water running into the garage, it would benefit him, not us.

Chairman Rogan stated the slope, we'll be all right, they'll figure that out.

Board Member Montesano stated he will after the first...

Rich Williams stated I would assume that he's going to have a slab that is going to be higher than the driveway.

Chairman Rogan stated yeah.

Rich Williams stated if not he's going to have to put a trench drain in and bring the water back out and that isn't going to happen.

Chairman Rogan stated the slope the way, the elevations the way they are, it looks like it will be a gradual slope right towards the garage...

Rich Williams stated slope toward the garage.

Chairman Rogan stated which will be great.

Rich Williams stated towards the garage or towards the road.

Chairman Rogan stated towards the road from the garage to the road.

Rich Williams stated right.

Chairman Rogan stated yeah, exactly, set their slab elevation, whatever they need it to be.

Board Member Taylor stated which means it will be the opposite of what they have now, right.

Rich Williams stated yes.

Chairman Rogan stated correct.

Board Member Taylor stated see the water is flowing down their driveway into their garage.

Chairman Rogan stated correct, yup, exactly.

Board Member Taylor stated I don't have a problem with it either except for the reasons that they are requesting it...

Chairman Rogan stated they're creative.

Board Member Taylor stated yeah, they're creative, do we have to rule on these reasons...

Rich Williams stated I don't think you...

Chairman Rogan stated no.

Rich Williams stated have to rule on those reasons and...

Board Member Taylor stated okay.

Rich Williams stated as I said I don't find them compelling.

Board Member Taylor stated yeah.

Rich Williams stated there're not but the reality is there is, you know no real impact to the Town or the road...

Chairman Rogan stated I wonder if the boats are going in the garage.

Board Member Taylor stated all right, so we can just say that, there is no impact and leave it at that.

Chairman Rogan stated yeah.

Rich Williams stated yeah.

Board Member Montesano stated they'll have to dig that down.

Board Member Taylor stated I don't think we want to get into the middle of the dispute between the neighbors about whose water is going where.

Chairman Rogan stated I agree, okay.

Board Member Montesano stated it should be interesting.

8) BROOK FARMS VETERINARY CENTER – Site Plan Waiver

Chairman Rogan stated item eight is a site plan waiver for Brook Farm Vet and I understand they had to apply to the ZBA for the, this, some variances...

Rich Williams stated for some variances because they were expanding pre-existing non-conforming structure or aspect of the structure.

Chairman Rogan stated so this was like a screened in deck or porch area or something.

Rich Williams stated it's going to be enclosed.

Chairman Rogan stated no I mean it is existing, as it exists is a screened in area, open porch...

Rich Williams stated it's an open porch.

Chairman Rogan stated they're going to convert it to an office waiting room or a use at the vet's office, a new type of use.

Rich Williams stated well there are two parts to this, he is enclosing the open porch and then he is putting an addition onto the building.

Chairman Rogan stated okay, so for the purposes of a site plan waiver, the Board should consider whether this change impacts the use of the site as it exists and as it was approved, for parking and pedestrian traffic and et cetera, right...

Rich Williams stated right.

Chairman Rogan stated in essence that's really the bulk of it.

Rich Williams stated correct.

Chairman Rogan stated and...

Board Member McNulty stated and they had an originally approved site plan.

Rich Williams stated they do have an approved site plan.

Chairman Rogan stated yeah.

Board Member Taylor stated this map that they supplied us, where is the new, is the new on here...

Board Member Montesano stated I think that's...

Board Member Taylor stated it's that whole...

Chairman Rogan stated just the little area...

Rich Williams stated no, no, no...

Chairman Rogan stated no.

Rich Williams stated it's up here; this is the existing porch...

Board Member Taylor stated oh, oh, I see now...

Rich Williams stated and you see the hatched area, that's the addition...

Board Member Taylor stated yes, that's the entrance, okay.

Board Member McNulty stated oh this isn't the addition.

Board Member Taylor stated yeah, okay, so it didn't show up in the...

Board Member Montesano stated he's already had one addition put on there, right.

Rich Williams stated he had a very substantial addition when he came back in and amended his site plan, yes.

Board Member Taylor stated this is parking here, right, this is their parking.

Rich Williams stated to put the kennel on.

Chairman Rogan stated the kennel, right, I remember doing that review.

Board Member Montesano stated and then...

Chairman Rogan stated about 10 years ago, right...

Board Member Taylor stated so this up behind, so this doesn't affect anything, parking or anything.

Board Member Montesano stated yeah.

Chairman Rogan stated I remember it was one of the first projects I was with you guys. I do go to this site because I take my dog to this vet and I've, you know I've never had a problem, all the different years I've gone I've never had problem with parking there, they, it lays out fairly nicely with the amount of parking they have.

Board Member Montesano stated when they originally came in, there were two people, one thank goodness is gone and I know a few people that worked in there...

Chairman Rogan stated but so the intent is that this is a waiting area for a new use of the building that's for a holistic...

The Secretary stated yes.

Chairman Rogan stated okay.

Board Member Taylor stated but it doesn't look like it affects parking or anything...

Board Member Montesano stated don't you get the magazine, it's free.

Chairman Rogan stated I mean I don't see...

Board Member McNulty stated they are just enclosing an existing footprint, correct.

Chairman Rogan stated to me, this isn't a big deal, yeah.

Board Member Taylor stated pretty much and bringing, they are going out to the edge of the existing building with the...

Chairman Rogan stated yup.

Rich Williams stated it is not a substantial increase in space.

Chairman Rogan stated Rich do you think...

Board Member Taylor stated yeah, yeah.

Board Member McNulty stated I'll take a look at it.

Rich Williams stated yes Shawn.

Chairman Rogan stated do you see any significant problems with this site plan waiver.

Rich Williams stated I do not.

Chairman Rogan stated no, okay.

Board Member Taylor stated are they creating any drainage problems with this.

Rich Williams stated no, they are not.

Board Member Taylor stated they're digging into the hillside, is that what's going on.

Rich Williams stated they will be digging in to put some footings in to get the addition on there.

Board Member Taylor stated yeah, oh but, the building itself is up above.

Rich Williams stated yeah, the slab that they are going to be putting in is higher than the hillside, the hillside is dropping down.

Board Member Taylor stated than the hillside, they're not going to be, okay, all right.

Chairman Rogan stated all right, item nine, hey this is nice that we finally have nine items on the agenda, huh, plus all these other business...

Board Member Montesano stated progress.

9) AMALFI TRATTORIA – Sign Application

Chairman Rogan stated we have a sign application for Amalfi Trattoria, which is the former D'Ambrosio's, former Paddock, former how many names have there been in the last ten years.

Board Member McNulty stated which is now open.

The Secretary stated a lot and there are some pictures that Rich took, just yesterday.

Board Member Taylor stated you guys got a different agenda than I've got.

Chairman Rogan stated possibly.

Board Member Montesano stated yes, we might be.

Rich Williams stated oh, which agenda are you working on the...

Board Member Taylor stated I've got an either point agenda.

Board Member McNulty stated yeah, there's a new one.

Board Member Montesano stated you're working on the weight watchers agenda.

Rich Williams stated no...

Board Member Taylor stated oh okay, so I'm missing, I've got another agenda here somewhere, huh...

Board Member McNulty stated it's buried, there it is.

Chairman Rogan stated there it is.

Rich Williams stated Ron, this week, it's been revised daily.

Chairman Rogan stated yeah.

Board Member Taylor stated we'll have more items next week, huh.

Chairman Rogan stated okay, so Amalfi's, it's the...

Rich Williams stated I've taken a quick look, I haven't done a memo on this and the sign is conforming in size and style...

Chairman Rogan stated those are the olds posts still...

Rich Williams stated those are the old posts, now here's where the difficulty comes in, the previous applicant was given permission to put a sign up, with the conditions that they submit cut sheets for the lights they were going to put up, they would get approved by myself and then they would put the lights up, they never submitted the cut sheets, I would not have approved those lights. I certainly would not have approved the pole light and in my opinion the light, the pole light has to come down and the two side mounted lights can be left as long as...

Chairman Rogan stated oh the pole light.

Rich Williams stated you put a full shield on them.

Board Member McNulty stated that's what I was going to ask, if they were shielded they'd be acceptable.

Rich Williams stated they put a full shield on or you should take them out and get shielded lights which is the right way to do it. I tried on numerous occasions to get the D'Ambrosios to change the lights out, I got yes we're going to take care of it, yes, we're going to and it never happened.

Board Member Taylor stated well then we should tie that into the sign approval, make it condition...

Rich Williams stated I would like you to do that, yes.

Chairman Rogan stated yeah, I can see why somebody thought this was misspelled, I mean you look at the name, on the smaller, it looks like the F and I blend together and its looks like an FT, F T S because you don't see that little, unfortunate...

Board Member McNulty stated they need a little white between there...

Chairman Rogan stated a little more white, yeah, the block, the letters are...

Board Member Taylor stated they crowded it onto their space.

Board Member Montesano stated yeah, they could amend the letters just a bit.

Chairman Rogan stated and it looked fine probably like this but when you put it up and stand 20 feet away, it blends together.

Board Member McNulty stated it's not going to Amalfi's, it's going to be the pizzeria up on 22, not Rocco's, the pizzeria.

Chairman Rogan stated yup.

Board Member Montesano stated trattoria.

Board Member McNulty stated trattoria.

Board Member Montesano stated we're going to trot, we're going to have horses up there and trot around.

Board Member McNulty stated are they taking the whole building, does anybody know or are they just in the bar area...

Rich Williams stated yes.

Chairman Rogan stated no, the whole building...

Rich Williams stated no, they are the whole building.

Chairman Rogan stated they did a big renovation, they also own Dante's Trattoria in Mahopac.

Board Member McNulty stated have you seen those lights at night, are they distracting if you drive up and down [Route] 22, I haven't noticed.

Rich Williams stated oh yeah.

Board Member Montesano stated they haven't really been on at night.

Rich Williams stated not in a while no...

Board Member Montesano stated so you wouldn't, when it used to be there it was a little annoying but, now open 7 days a week...

Chairman Rogan stated so we have pre-existing lights that were not approved.

Board Member Taylor stated well they're not pre-existing then.

Chairman Rogan stated no, they are pre-existing not in the terms that you were talking about but...

Board Member Taylor stated yeah.

Chairman Rogan stated they are pre-existing to this application.

Board Member Montesano stated is that part of the sign.

Board Member McNulty stated the lights are not conforming.

Board Member Montesano stated the lemons.

Board Member Taylor stated yeah, former lights.

Rich Williams stated those are two balloons.

Board Member Montesano stated oh, okay, I thought it was some kind of new lemon sign.

Chairman Rogan stated oh...

Board Member McNulty stated bottom line is we don't care how long they've been there, they are just non-conforming.

Chairman Rogan stated so this pole light that's shown up above the sign, that's attached to this whole...

Rich Williams stated yup.

Board Member McNulty stated I never noticed that driving by.

Chairman Rogan stated because of the difference in color, it doesn't look like it in the picture because they painted the bottom white and the top is dark and that's just illuminating the front of this building.

Rich Williams stated yup.

Chairman Rogan stated because it's not for the sign.

Board Member McNulty stated oh it illuminated the building, site lighting.

Rich Williams stated yeah.

Chairman Rogan stated it's shining towards the front instead of shining down...

Board Member Taylor stated and there is a site plan for this, no, it's all pre-existing...

Board Member McNulty stated this building is...

Board Member Taylor stated okay.

Rich Williams stated it's been around for god only knows how long. Let's say Ron, I'm not aware of a site plan for this building.

Board Member McNulty stated would the pole have to come down or can they change the head if they wanted to, so it's a different type of light.

Rich Williams stated I would say that there is nothing that they can do to make that light better...

Chairman Rogan stated yeah, the location is...

Rich Williams stated I mean the pole is not high enough to make it down lighting that would serve any useful purpose for the parking area.

Chairman Rogan stated look at this, the traffic coming north at night.

Board Member McNulty stated yeah, I see it.

Chairman Rogan stated you know, so the sign is okay but the lighting on the, the lighting that's intended for sign needs to be shielded and the pole light needs to come down, correct, okay.

Board Member Taylor stated now if they want to replace that pole light with something, what are they, they come back with a pole light application.

Rich Williams stated well they would make a proposal, yeah.

Board Member Taylor stated I'm being sarcastic tonight but it's like we've got all this paperwork we're dealing with...

Board Member McNulty stated but if there's not site plan, they couldn't do a site plan amendment.

Board Member Taylor stated right, that's what I'm saying...

Board Member McNulty stated yeah.

Board Member Taylor stated what would they come in for.

Rich Williams stated they would have to come in for a site plan for the site lighting.

Board Member Taylor stated okay.

Rich Williams stated now it doesn't have to be a full blown site plan...

Board Member Taylor stated site plan.

Rich Williams stated I mean they could...

Board Member McNulty stated it could be a hand sketch and show...

Rich Williams stated the Board has the ability to waive the requirements based on...

Board Member Montesano stated or put a rotating flood light on the top of the roof.

Rich Williams stated the reasonableness of the application.

Board Member Taylor stated right, okay. Can we object to the sign or are we not allowed to do that.

Rich Williams stated I'm sorry, what.

Board Member Taylor stated can we object to sign, the design of the sign.

Rich Williams stated you certainly can.

Board Member Taylor stated and just what we were saying about you know, change your letters, get different lettering or space them a little farther apart.

Board Member Montesano stated is the sign up yet.

Board Member McNulty stated oh yeah, that picture shows it.

Board Member Taylor stated yeah so we're back to square one.

Chairman Rogan stated its Italian colors, it's a pizzeria, it says the name.

Board Member McNulty stated (inaudible).

Ted Kozlowski stated (inaudible).

Chairman Rogan stated does this do color copies.

The Secretary stated no.

Rich Williams stated they're working on it.

The Secretary stated whose working on it.

Board Member Taylor stated okay.

10) OTHER BUSINESS

a. Dunkin Donuts

Chairman Rogan stated all right, other business under Dunkin Donuts, what's going on with Dunkin Donuts.

Rich Williams stated Dunkin Donuts, I threw that on two months ago...

Board Member Montesano stated to get dunked.

Rich Williams stated the Board had received or the Town Board had received a complaint about traffic backing up, we had sent Dunkin Donuts a memo or a letter saying hey you've got an issue, we'd like to see how you're going to address it, there has been no response, I threw it on just as a follow-up to see if anybody wanted to do anything or we're done and moving on.

Chairman Rogan stated well what's the status on, isn't, didn't you mention to us that the plan right now is for Dunkin Donuts to connect to the sewer which may create a usable area where the existing septic is.

Rich Williams stated yes.

Chairman Rogan stated okay and that is moving forward that plan.

Rich Williams stated as far as I know, the engineer is still working on it, whether it's going to be a viable plan I don't know.

Chairman Rogan stated okay, all right because that would be...

Board Member McNulty stated have there been any more complaints.

Ted Kozlowski stated not that I would...

Rich Williams stated no.

Board Member Taylor stated it seems like we discussed it and decided there wasn't anything that could be done at this point.

Chairman Rogan stated there isn't a whole lot, that's the problem.

Board Member Taylor stated so we might as well just stop.

Chairman Rogan stated but I think the idea that we've discussed it...

Board Member McNulty stated kind of waiting for this...

Chairman Rogan stated that there is potential in the future...

Board Member Taylor stated yes.

Chairman Rogan stated you know that's something.

Board Member Montesano stated we could always move the building.

Chairman Rogan stated but it does ask the question, that letter was sent to the Town Board, right...

Rich Williams stated it was.

Chairman Rogan stated and did Mike [Griffin] give any kind of a response to that person.

Rich Williams stated I don't believe they did.

Chairman Rogan stated okay, if it was sent to this Board specifically I would say that we should that we should have some kind of response to the person who filed the complaint...

Board Member Taylor stated right, sure that's fair.

Chairman Rogan stated to say we've discussed it and there's not a whole lot that can be done at this point but you know...

Board Member McNulty stated future infrastructure changes may provide alleviation of the problem or...

Chairman Rogan stated yeah.

Board Member Taylor stated now should we do something like that to the Town Board, what Shawn just said, respond to the Town Board...

Chairman Rogan stated or get, does Mike already have the same information.

Rich Williams stated Mike has the same information.

Board Member Taylor stated okay.

Chairman Rogan stated maybe we just...

Board Member Taylor stated we're set.

Chairman Rogan stated have a conversation with Mike to say hey what about maybe sending a letter back to these people, the guy did the time, a lot of complaints you get, a lot of complaints they're not worded as well as this one was with the time and effort put into it.

Ted Kozlowski stated he didn't get his coffee on time, that's probable.

Board Member Montesano stated should we send it to the assistant supervisor.

Board Member Taylor stated oh that's an idea.

Chairman Rogan stated we'll have to get you a rubber band gun.

Board Member McNulty stated who is the assistant supervisor.

Board Member Taylor stated Charlie, Charlie is.

Board Member Montesano stated Charlie Cook.

Board Member McNulty stated oh he is.

Board Member Taylor stated yeah.

Board Member McNulty stated he's the deputy supervisor, I didn't know that.

Chairman Rogan stated yeah.

Rich Williams stated yeah.

Ted Kozlowski stated Charlie's worked his way up, man.

Rich Williams stated oh yeah.

Board Member McNulty stated boy that was quick, I thought it was Ginny.

Chairman Rogan stated all right...

Board Member Montesano stated that's a recording you know.

b. Green Chimneys Bond

Chairman Rogan stated Green Chimneys Bond.

Rich Williams stated Green Chimneys, I've been out to the site, they've got all the work complete, site stable they had, and I'll do a memo for the Board on this, they had way back when posted a, shoot where is it...

Chairman Rogan stated we may not need it.

Rich Williams stated twenty-six thousand, a twenty-six thousand dollar bond which they are looking to have released.

Chairman Rogan stated and so your memo is going to basically say that you believe that we can recommend to release the bond.

Rich Williams stated yes.

Chairman Rogan stated well why don't we just make a motion.

Board Member Taylor stated yes.

Board Member Montesano stated I make a motion that we notify the Town Board that we agree on releasing the possibility of a bond, et cetera.

Board Member McNulty seconded the motion.

Chairman Rogan asks for all in favor:

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

The motion carried by a vote of 4 to 0.

Board Member McNulty stated for Green Chimneys.

Board Member Montesano stated for Green Chimneys.

Chairman Rogan stated you don't have a memo on that, we just saved you that time.

Board Member Taylor stated we're done.

Board Member McNulty stated he doesn't want to know.

Board Member Taylor stated has everything else happened with their signs, their sign proposal yet.

Rich Williams stated no, we have not received anything new on the signage that they wanted to put up.

Board Member Taylor stated okay, they dropped that, good.

Chairman Rogan stated you don't have to do a memo for Green Chimneys, we just did a motion to...

Rich Williams stated I heard that.

c. Genovese Site Plan – Request for Extension

Chairman Rogan stated Genovese request for an extension, we have here...

Board Member Montesano stated all right, in the matter of Genovese's Flex Building, give a one year extension, moved.

Board Member McNulty seconded the motion.

Chairman Rogan asks for all in favor:

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

The motion carried by a vote of 4 to 0.

d. Ice Pond Estates Subdivision – Request for Extension

Chairman Rogan stated all right, that's done, Ice Pond is the, let's see what they're asking for here, Ice Pond.

Board Member Taylor stated just an extension.

Chairman Rogan stated minor adjustments, the SWPPP...

Board Member Taylor stated now is this Ice Pond's third extension.

Rich Williams stated second.

Chairman Rogan stated they're only asking for a 45-day extension.

Rich Williams stated they are seeking an extension in which to submit for final subdivision approval, the Board had granted on December 1, 2011 a 90-day extension.

Chairman Rogan stated and now they're looking just for an additional 45-days, that's just to make application for the final.

Rich Williams stated final.

Chairman Rogan stated 45 [days] enough for them, that's what they're asking for but I mean.

Rich Williams stated that's what they're asking for.

Board Member Montesano stated give them 60 [days].

Board Member McNulty stated go back on Genovese real quick...

Chairman Rogan stated we're not allowed to go back now, it's too late.

Board Member Montesano stated we already voted, where have you been.

Board Member McNulty stated we made a motion, I like not being allowed to do stuff, we just allowed a one year extensions...

Chairman Rogan stated correct.

Board Member McNulty stated because they asked for 90-days.

Rich Williams stated no, she should have asked for a one year.

Chairman Rogan stated no, it was one year, wasn't it.

Rich Williams stated yeah, it was supposed to be one year.

Board Member McNulty stated the flex building.

Chairman Rogan stated additional year.

Board Member McNulty stated oh, it was only for 90-days, sorry...

Chairman Rogan stated yeah, yeah, yeah, yup.

Rich Williams stated the last one.

Board Member McNulty stated let's go forward.

Board Member Montesano stated oh, thank you.

Chairman Rogan stated no, we don't mind you slowing us down. Ice Pond Estates, I make a motion we grant a 60-day extension.

Board Member Montesano seconded the motion.

Chairman Rogan asks for all in favor:

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

The motion carried by a vote of 4 to 0.

e. Town Code Amendment – Code Violations

Chairman Rogan stated all right, now we have a packet on the Town Code amendments and Ron, you touched on this a little bit earlier right with the, oh I'm sorry, this one is for the Town Code violation, I apologize. Yeah, one in the same, you know what it was, your memo here is much shorter and I know you have a packet on it...

Board Member Taylor stated no, that's the same.

Ted Kozlowski stated just a question on that Rich.

Rich Williams stated well...

Ted Kozlowski stated what if there's a wetland violation, is the Building Inspector going to write that.

Rich Williams stated going to write it.

Chairman Rogan stated the package is on the park district.

Rich Williams stated you know what we're talking about.

Ted Kozlowski stated on the violations, yeah.

Board Member Taylor stated yeah.

Ted Kozlowski stated what if there is an existing wetlands violation.

Rich Williams stated then the Planning Board doesn't get the review that then.

Ted Kozlowski stated no but it says here, maybe I'm reading this wrong, the Building Inspector has to sign off on it.

Rich Williams stated the Building Inspector has to sign off that there are no existing violations of code.

Ted Kozlowski stated right, so do you want a sign off on wetlands or do you feel comfortable we don't need that.

Rich Williams stated you know I wrestled with who is going to sign off and how many people are going to sign off and...

Ted Kozlowski stated I'm not looking for any more work...

Rich Williams stated yeah, no, I know.

Ted Kozlowski stated I'm just saying what, say somebody comes in and doesn't have a building violation, Rocchio...

Rich Williams stated right.

Ted Kozlowski stated and he's got a wetland violation.

Chairman Rogan stated right.

Ted Kozlowski stated how do you want to treat that.

Rich Williams stated well yeah...

Ted Kozlowski stated that's my point.

Rich Williams stated no, the wetlands is in the zoning code, so if Rocchio's were to come in, the Planning Board would not be able to consider that wetlands issue until he you know, cleaned up the site and the Building Inspector being the individual, the administrative individual who is here full time, he's the one that's going to say you know based on my review of the file because if there is a wetlands violation, he's got a copy of it, based on the review of my file...

Ted Kozlowski stated so you're going to have wetlands on this check off sheet and he's either going to check it off yes or no.

Rich Williams stated he's got the whole zoning code, he's got the whole Town Code.

Ted Kozlowski stated well I'm just saying, there are other violations than just Building violations.

Rich Williams stated yes, yes.

Ted Kozlowski stated okay.

Board Member McNulty stated I have a question on the verbage, the way when it says, in addition the Town Planner shall certify for any property in the Town of Patterson in which the applicant has a controlling share, that there are no outstanding, what does that mean controlling share, the applicant has a controlling share.

Board Member Montesano stated 51%.

Rich Williams stated yeah.

Board Member McNulty stated and what if the applicant is the engineer and has no controlling share.

Board Member Taylor stated or the lessee.

Board Member McNulty stated how does that work.

Rich Williams stated the engineer, I'm not getting that one at all.

Board Member McNulty stated well if the engineer puts in the application, they are technically the applicant...

Board Member Montesano stated he's got to have permission.

Board Member McNulty stated they might have been paid to process the application.

Board Member Montesano stated to put it in.

Ted Kozlowski stated he's on behalf of the applicant.

Board Member Taylor stated he's working on behalf of the applicant.

Chairman Rogan stated don't we have an affidavit of ownership or whatever that goes with...

Board Member Montesano stated yeah, he's got to have permission to put in the application.

Board Member Taylor stated what do we do with lessees, like cell towers.

Board Member McNulty stated this says the applicant. I was confused on that when I read it.

Board Member Taylor stated or his agent, can we say that or his agent, the applicant or his agent, no we can't do that.

Rich Williams stated what you want to do, is you want to tag the person who is making the application.

Board Member McNulty stated but it's the controlling share wordage that gets in there.

Rich Williams stated yeah, no...

Ted Kozlowski stated would it be easier just to say owner.

Board Member McNulty stated here we are creating laws that are going to vague later and we're going to be...

Board Member Montesano stated well if you have the controlling interest...

Rich Williams stated well not necessarily.

Board Member Montesano stated your engineer comes in, your engineer, well we used, what was it the one...

Rich Williams stated forget the engineer because the engineer is not involved in this...

Board Member Montesano stated all right...

Board Member McNulty stated well I'm just looking at, let's take Brook Farm...

Board Member Montesano stated another person comes in, a renter of the property...

Ted Kozlowski stated Rich is it written controlling share because of the case of a corporation is that why...

Board Member McNulty stated the applicant is Mihok the engineer.

Rich Williams stated do I not have it here...

Board Member Montesano stated I was under the impression that you had to have permission, signed permission.

Rich Williams stated I'm sorry, what.

Ted Kozlowski stated is controlling share used to cover a corporation because it's...

Rich Williams stated why I use the term controlling share is because if he didn't have a controlling share, I don't want to hurt a partner because he's a minor partner in an application.

Ted Kozlowski stated so it's like a corporation or...

Rich Williams stated right.

Board Member McNulty stated or it could be an ownership issue, you know, partners.

Rich Williams stated I really don't have it here because I know I looked at it earlier.

Board Member McNulty stated partners or a corporation.

Chairman Rogan stated the applicant is the business person that wants to do the business, not an engineer.

Rich Williams stated I certainly, Ron I understand what you're saying about lessee, I'll certainly take a look at that, I thought I had that in front of me but I don't.

Board Member Taylor stated okay, that's all.

Chairman Rogan stated that's a vet.

Board Member McNulty stated oh I saw that on the end, I thought that was an engineer...

Chairman Rogan stated DVM, Doctor of Veterinary Medicine.

Board Member McNulty stated oh, oh, oh, we're saying like on behalf, I'm a contractor, so sometimes people pay me to submit the building permit and I submit it as the applicant, the owner's listed but I'm the applicant, I have no controlling share in the project.

Rich Williams stated yeah but for purposes here, if you're coming in as a contractor you may have authorization to represent whoever is actually making the application but it's the owner or somebody who has some lease that has the right to make the application...

Board Member McNulty stated I'm looking at a legal...

Rich Williams stated ultimately the owner has to sign off on it, all right but as a contractor you're going, you're going to be a representative of the applicant, you're not going to be the applicant.

Board Member McNulty stated yeah but on paperwork, you know in a legal court applicant's name, how, maybe this is a question for Mike [Liguori] to say you know if the engineer or someone else other than the controlling share owner is the applicant, how does that legally, I'm just looking at it as vague to me, as a laymen.

Rich Williams stated that's what I'm saying, you're not the applicant, you may be a representative of the applicant and we have a section on the form that says the applicant has to sign off saying that you're

representing him but you're still not the applicant, it still goes back to the applicant, property owner, lessee and what his past performance in the Town is.

Board Member McNulty stated okay, so that's a different form than the ownership form.

Rich Williams stated yes.

Board Member McNulty stated okay, I'm not familiar with all the forms, so.

Rich Williams stated yeah, the ownership form just says I'm the owner of the property...

Board Member McNulty stated but there is another layer form in there that says I assign so and so...

Rich Williams stated yes.

Board Member McNulty stated okay, well that clears that up.

Board Member Taylor stated well I've always felt that should be the same thing we do with a lessee, we don't but it seems like the applicant should be the one who's making the application for the lessee.

Rich Williams stated what I'm thinking is I need to make it applicant and/or owner and that would cover the lessees, renters...

Board Member Taylor stated both of them, yeah, yeah.

Rich Williams stated yeah.

Chairman Rogan stated okay.

Board Member Taylor stated okay, well we'll look at it some more, pick it apart.

Board Member McNulty stated just before we catch that, get that catch 22 down the road because...

Board Member Taylor stated yup.

Board Member McNulty stated it also is pretty specific that no waiver will be granted if it's not going to cure a problem, I can't think of it but there's going to be that catch 22 where...

Board Member Taylor stated oh there always is.

Board Member McNulty stated we have no room to waive anything but we can't proceed because of the violation won't cure the problem and I'm just trying to think long term how to take the grey areas out or the catch 22 areas out the law.

Rich Williams stated what's the grey area.

Board Member McNulty stated well not a grey area but a catch 22.

Rich Williams stated where's the catch 22.

Board Member McNulty stated like I said I can't come up with it in my, you know the other night I was going through fast and just thinking that there is no room in there to waiver any action.

Ted Kozlowski stated well was Rocchio kind of a catch 22.

Rich Williams stated no.

Ted Kozlowski stated because we were wrestling with he's got an existing violation out there with...

Board Member McNulty stated that he paid.

Ted Kozlowski stated don't...

Board Member McNulty stated but never cured.

Ted Kozlowski stated then he had a wetlands violation and we were trying to cure the wetlands violation but he had a...

Board Member Taylor stated well we treated that as an emergency though didn't we...

Ted Kozlowski stated we did, we got around it by that.

Board Member Taylor stated is there something in the code for emergencies.

Rich Williams stated under this scenario, let's play this one out, all right Rocchio, Rocchio comes in today and makes the same application, he's got the violation out there where he is, he's got a, he's using it as a contractor's yard without a site plan, he's in violation. This Board would be prohibited from considering that wetlands application in that case, he would have needed to pull that pipe out of the stream and fix the stream or, or, he would have had to clean up the site, get all the equipment off which is still sitting out there...

Board Member McNulty stated but it was our recommendation from the ECI that there would be more damage pulling the pipe out the stream than leaving it there.

Rich Williams stated well let's ask Ted how that worked out.

Ted Kozlowski stated well he finished the pipe.

Rich Williams stated did he...

Ted Kozlowski stated yeah.

Rich Williams stated did he finally finish the pipe.

Ted Kozlowski stated yeah.

Board Member McNulty stated and he's for sale.

Ted Kozlowski stated he's for sale, everything's for sale.

Board Member McNulty stated 10 acres and a two-family.

Rich Williams stated but we still have the contractor's yard.

Ted Kozlowski stated we still have the contractor's yard.

Rich Williams stated nobody's doing anything.

Board Member Montesano stated still got the chicken.

Ted Kozlowski stated I know...

Board Member McNulty stated so what I'm saying, that would have been, this law would have put us in a catch 22, well not a catch 22 but it would have narrowed our ability and we would have had to say well take the pipe and then you're going to have to fix the damage, which I guess is not our problem, it would be his problem.

Rich Williams stated right.

Chairman Rogan stated you know this whole section is intended to give people the, the impetuous to fix a violation because they want to do something else and we're going to say you can't do anything else until you fix your violation when in fact maybe the better way, this is a great idea because it's one potential way to get people to fix things, what we're probably not considering is if we've got violations notices sitting in files and they are just sitting there they are either important or they're not and if they're important enough to have a violation on, they are important enough potentially to correct and to pursue through the court system, so I understand this and this is a good step towards resolving violations but we go back to if it's a problem it's a problem you know, eventually you hope that these things resolve themselves because people eventually want to do something else with the property but it brings back the idea that if it takes, if it's important enough for somebody to say this is a violation then maybe we should have correction of those, just straight out...

Rich Williams stated what if that's not happening.

Chairman Rogan stated well that's the, but that's the, but we're trying to fix that in an around the bout way by...

Rich Williams stated yes, you absolutely are.

Chairman Rogan stated you know and I'm not saying its wrong I'm just saying that it's a fact of the situation, you're right, you have violations and we don't have the, maybe the support to the Building Office to say go put all them to court.

Board Member Montesano stated all right, take New York City, take Long Island, all these municipalities that give out traffic summonses. How many of them are avoided, one county I think have 8 million dollars' worth of outstanding traffic violations, so what did they do they put a notice in the paper, they went on the local media, they said you've got 30 days to come in and pay your fine, no charge, if not, we're coming but they have the enforcement or the personnel to enforce it, with us, what do we do.

Chairman Rogan stated and they, well in that case you have something even more because people have valid drivers' licenses so you have something that you can take away from them, in one way or another...

Board Member Montesano stated yeah here...

Chairman Rogan stated you're right and you have these violations that you know, you just never seem to be able to clean up and this is one way to say well at some point in time it's like a pay to play thing, you say well you know you want to go get a permit for x, you still have this violation you have clarify that before you can, you know...

Board Member Montesano stated and that's the only way we can get it done...

Chairman Rogan stated and you know, hopefully this does resolve a lot of things.

Board Member Montesano stated but what else can you do.

Board Member McNulty stated which is our intent, which is what we wanted, I just had the issue on the controlling and then if it, we just get that one instance somewhere down the road where it locks, binds us where we can make the right decision.

Board Member Taylor stated maybe we can find a way around it. I think, it seems like the process, we're trying to work the process to make it work right and with the new attorneys and things and so on and working out the difficulties with the Buildings Department, the reason I was pushing this is that we've constantly been in this grey area of fairness and reasonableness to everybody of making exceptions for some people by fiat to a certain extent, this clarifies that for us...

Chairman Rogan stated yeah.

Board Member Taylor stated that we're being even with everybody...

Chairman Rogan stated right.

Board Member Taylor stated if one exception comes up down the line, I'm sure there will be one, we'll figure out a way to deal with it, I mean we do it as an emergency or deal with it in whatever ways but in general it clarifies things for us, that it seems to me that we shouldn't be making those kinds of decision, that those kinds of decisions are really Town Board decisions and this says to us, this is the way it is...

Chairman Rogan stated yeah.

Board Member Taylor stated you know, you had, abide by the law, you're asking us to do something legal, well then you've got to be legal too...

Chairman Rogan stated sure.

Board Member Taylor stated you can't be playing these games with us, you want to do it politically with the Town Board that's a different thing but I'm in favor of this.

Chairman Rogan stated yeah, oh I absolutely am also.

Board Member McNulty stated yeah.

Board Member Taylor stated oh.

Chairman Rogan stated is there the potential for the Town Board to give somebody a waiver from this as you might have just been alluding to, that if somebody comes in they say I want to proceed with my plan for this but I have this violation and I now go and petition the Town Board, not literally petition, but go before them and explain my circumstance and they say okay, we all agree and we're going to grant waiver from this section of the code to allow them which is what was mentioned earlier in the memo.

Rich Williams stated there is not.

Chairman Rogan stated okay.

Rich Williams stated now this is going...

Chairman Rogan stated I think there probably shouldn't be.

Rich Williams stated at least the first portion is getting inserted into the zoning code.

Chairman Rogan stated okay.

Rich Williams stated and the ZBA has the ability to waive anything or grant a waiver that it has original jurisdiction or appellate jurisdiction over within the zoning code, so I would be of the opinion they could grant a waiver. Having said, I wrestled with this somewhat about whether to actually state that in this law that the ZBA has the ability to grant a variance from this standard.

Chairman Rogan stated the problem with stating is then that and that is implied in all areas of the zoning code that the ZBA and we don't say it every section of the code...

Rich Williams stated correct.

Chairman Rogan stated if you say it there, then every single one that meets this is going directly to the ZBA...

Rich Williams stated absolutely.

Chairman Rogan stated so I think you shouldn't put that in there, you know.

Rich Williams stated well again, that's what I did, I agree.

Chairman Rogan stated yeah, now I agree, I was just asking the question.

Rich Williams stated sure.

Chairman Rogan stated you know, maybe something needs to said in the zoning code up front that says an area of the zoning code that you are seeking relief from here is the waiver.

Rich Williams stated I think it's said the back.

Chairman Rogan stated so, yeah, so it's in there and that implies for all areas and I think that, I wouldn't say it right in there because that's going to create a ton of...

Rich Williams stated sure.

Chairman Rogan stated you know.

Board Member McNulty stated yeah, locked into it.

Rich Williams stated and I want to jump back to Rocchio's, you know under our current code, he came in, he's got a violation, he's got two violations, we cured the wetland violation, the other one is still there.

Board Member McNulty stated it's unresolved.

Chairman Rogan stated yeah.

Board Member Montesano stated you've got to work within the guidelines.

Board Member McNulty stated but if this code was in place and then say he ignored it and didn't pull the pipe out, so we've got 2 unresolved.

Ted Kozlowski stated well I would have taken him to court to pull the pipe out.

Board Member McNulty stated he'd pay the fine and leave the pipe.

Rich Williams stated no.

Ted Kozlowski stated no because he would pay the fine and then have thirty days to take the pipe out...

Board Member McNulty stated well he paid the last fine and left all the equipment there.

Rich Williams stated yeah but he's going to be conscientious about the way he does his job, Ted is going to follow up he's going to make sure it gets done, the problem here is was have...

Board Member McNulty stated a lapse.

Rich Williams stated no follow up.

Chairman Rogan stated can I go back to something that Tommy said maybe a month ago on this, it might have been two months ago when he had his voice, this implies, this states that if someone wants to come before Planning or Zoning for an application, it doesn't say if somebody want to go and pull a building permit for a deck but they have a wetlands violation or they have some violations and that's what you were talking about in some areas you go to and you said that they won't even let you pull a building permit if there is an existing violation.

Board Member McNulty stated yeah I remember that discussion.

Rich Williams stated what's the, I don't have it in front of me and I apologize for that but what's the second section.

Chairman Rogan stated oh, no building permit or certificate of occupancy shall be issued to a property owner for construction occurring on a lot on which there is an outstanding or unresolved violation, thank you I'm sorry, that says it all.

Board Member Taylor stated now if somebody comes to us like Rocchio's...

Board Member McNulty stated but I remember what you're talking about.

Chairman Rogan stated yeah.

Board Member Taylor stated and they are issued a new violation...

Rich Williams stated for what.

Ted Kozlowski stated a new violation for...

Board Member Taylor stated like Rocchio's for the pipe, he's issued a new violation.

Ted Kozlowski stated if he does it all over again.

Board Member Taylor stated no, no, no, let's say this, we're going back to, if this was in place.

Rich Williams stated let's do the site plan, he got issued a violation, he went to court, he plead guilty, he paid a fine.

Board Member Taylor stated right.

Rich Williams stated never did anything, now he's issued a second violation.

Ted Kozlowski stated he's going to pay a heavier fine.

Board Member Taylor stated no but what I'm talking about the, on the pipe it, it's a different violation this time...

Board Member McNulty stated the second violation...

Chairman Rogan stated you're talking a pipe and you're talking a contractor's yard.

Board Member Taylor stated yeah the wetlands violation, I'm trying to think what happens if maybe that's a way out...

Ted Kozlowski stated are you assuming that this new law is in place.

Board Member Taylor stated yes, if the new law has been in place.

Ted Kozlowski stated all right, let's start with Rocchio.

Board Member Taylor stated you issue the wetlands...

Ted Kozlowski stated let's make believe we don't know the guy...

Board Member Taylor stated right.

Ted Kozlowski stated the law is in place.

Board Member Taylor stated okay.

Ted Kozlowski stated I think what Richie is saying is he's got that first violation which is the mess.

Board Member Taylor stated yes.

Chairman Rogan stated contractor's yard.

Ted Kozlowski stated okay, I come out there, he's got a wetlands violation...

Board Member Taylor stated right.

Ted Kozlowski stated he now does not have the opportunity to cure that violation, he has to pull the pipe out...

Board Member Taylor stated right.

Ted Kozlowski stated and restore the site to what it was before he put the pipe in because he, because of that other violation. Once he gets that other violation cured, he can come back in for a wetlands violation, I mean a wetlands permit to go for a stream crossing.

Rich Williams stated not necessarily...

Ted Kozlowski stated is that correct.

Rich Williams stated he also, he also could cure the first violation and he could clean all the equipment up.

Ted Kozlowski stated right, right.

Rich Williams stated and make application to the Planning Board...

Ted Kozlowski stated right.

Rich Williams stated now in Rocchio's, trying to think this through and work it out...

Ted Kozlowski stated well we all know Rocchio, that's why we're using his name.

Rich Williams stated if he's making steady progress on cleaning up the first violation, Teddy has the authority to enforce the code, to stabilize the wetland stream crossing so there is no environmental damage while he gets the first one cleaned up, then he can get the permit and finish the second one.

Ted Kozlowski stated right, see what we don't want to have happen is this get bogged down, drawn out and meanwhile there is an ongoing...

Board Member McNulty stated exactly.

Ted Kozlowski stated environmental violation that just is leaching into the stream; it's got to be stopped right away.

Board Member McNulty stated it's a condition.

Board Member Taylor stated all right then, so we're covered then.

Ted Kozlowski stated we're covered, yeah.

Board Member Taylor stated yeah, we're covered, all right so then.

Board Member McNulty stated one step further on Rocchio, correct me if I'm wrong, but he was issued a violation for the contractor's yard, went to court, paid it, walked away...

Chairman Rogan stated but there was never anything to say fix it, they just said here pay the fine, which is unfortunate.

Board Member McNulty stated was he ever issued a second violation for the contractor's yard.

Rich Williams stated no.

Board Member McNulty stated so we here we have no code violation in; we have an unresolved issued but no open violation.

Rich Williams stated right but Nick would have to certify that there is no violation on that site right now, he couldn't do that because there is.

Board Member McNulty stated okay.

Ted Kozlowski stated see that's, this is like a checks and balances thing here.

Board Member McNulty stated yeah, no this is what we want, a little meat to say but I'm just thinking of that odd situation that's going to lock us up...

Board Member Taylor stated yeah, yeah.

Board Member McNulty stated and we can't do anything.

Ted Kozlowski stated I'm sure there's going to be something.

Board Member Taylor stated we can't but he can.

Rich Williams stated listen...

Chairman Rogan stated it's a shame that they would send somebody to court for a violation, let them pay a fine and then not follow up from there...

Board Member Taylor stated yeah.

Chairman Rogan stated in essence you're saying...

Board Member McNulty stated well that's out fault.

Chairman Rogan stated you've paid the fine and now everything is clean.

Board Member Taylor stated yes.

Chairman Rogan stated instead of you pay a fine and like what Judge Molé just did, is you pay a fine and if in sixty days you're not finished you're not even coming back, I'm going to issue a bigger fine.

Ted Kozlowski stated and I'll go beyond that Judge Molé said to the applicant, to Ray See that Ted and Laura [Roberts] will have no say in what the final fee is going to be...

Chairman Rogan stated wow.

Ted Kozlowski stated he's going to initiate it and he assured Ray See it is going to be nowhere near as cheap as he got off on this one.

Chairman Rogan stated hundred dollars, yeah.

Ted Kozlowski stated so he's giving him a shot to fix it.

Chairman Rogan stated but that is the stern scare that some people need to say hey I'm going to take this serious and get it done or not he's going to have a fine levied against his property.

Board Member Taylor stated and that's the answer to your original question, I mean, that's got to be done too.

Chairman Rogan stated yeah, that's right.

Board Member Taylor stated because it's not in our...

Ted Kozlowski stated well the thing is, it's good that there is a judge that is you know, my past experience was not this good.

Chairman Rogan stated right.

Board Member Taylor stated right, sure.

Chairman Rogan stated well and we've been saying that that is one element of this whole process that we're going to start firing on all cylinders here, that we're going to have the law in place, the understanding, the backing from the courts and all of a sudden now things are going to start getting done, that's where it all comes down to this I think is a great step in that direction.

Ted Kozlowski stated yup, I agree.

Board Member Taylor stated okay.

Chairman Rogan stated cool, all right...

f. RCA Asphalt Site Plan – Request for Extension

Chairman Rogan stated RCA Asphalt site plan, I make a motion that we extend...

Rich Williams stated before you do that...

Chairman Rogan stated yeah, oh they don't need, didn't we just sign it.

Rich Williams stated Theresa insisted that this be on the agenda and submitted a letter.

Chairman Rogan stated yeah but that was a month ago and we just signed everything.

Rich Williams stated it was a couple weeks ago.

Chairman Rogan stated yeah.

Rich Williams stated and she submitted the plans with the waiver.

Chairman Rogan stated you're right, so we don't need it.

Rich Williams stated yeah.

Chairman Rogan stated well then I'm going to make a motion that we remove RCA Asphalt site plan extension from the agenda.

Board Member Montesano seconded the motion.

Chairman Rogan asks for all in favor:

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

The motion carried by a vote of 4 to 0.

g. Local Laws – Park Districts

Chairman Rogan stated okay and local laws for park districts...

Board Member Taylor stated that went right over my head, I don't know what you're talking about.

Chairman Rogan stated well I was kind of being facetious in a way.

Board Member Montesano stated don't worry you're getting a bill anyway.

Board Member Taylor stated can we just read this and not discuss it tonight.

Chairman Rogan stated absolutely.

Board Member Montesano stated oh jeez.

Chairman Rogan stated and we also have some minutes. The good thing is, you won't have to worry too much about what you said at the last meeting because I don't think it made it to the minutes that you were...

Board Member McNulty stated couldn't hear me.

Chairman Rogan stated you were really, really hard to hear.

The Secretary stated I could hear you.

Board Member McNulty stated I sit right next to her, she's hears me.

Chairman Rogan stated the important stuff. Anything from anyone else, Teddy, anyone, motion to adjourn.

Ted Kozlowski stated I just want to say Michelle does a nice job on the minutes.

Chairman Rogan stated I do too.

The Secretary stated thank you very much.

Ted Kozlowski stated she almost has when people cough, she has that on there.

Chairman Rogan stated great job Michelle...

The Secretary stated thanks.

Chairman Rogan stated let the record show.

Board Member McNulty seconded the motion.

Chairman Rogan asks for all in favor:

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

The motion carried by a vote of 4 to 0.

The meeting adjourned at 8:31 p.m.