

PLANNING DEPARTMENT

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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

**Planning Board
May 4, 2006 Meeting Minutes**

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

Present were: Board Member Mike Montesano, Board Member Dave Pierro, Board Member Shawn Rogan, Rich Williams, Town Planner, Gene Richards, Representative from Town Engineer's Office, Stantec Consulting Services Inc., Ted Kozlowski, ECI., and Paul Piazza, Building Inspector.

Meeting called to order at 7:31 p.m.

17 members in the audience.

Vice Chairman Montesano took the seat of the Chairman in his absence.

Vice Chairman Montesano led the salute to the flag.

1) ALPINE RESTAURANT SITE PLAN – Pubic Hearing

The Secretary read the legal notice.

Mr. Robert Groezinger, Applicant's Attorney, William Baker won't have to discuss I don't think.

Mr. Groezinger introduced himself to the Board.

Mr. Groezinger stated I am going to introduce William Baker who the owner has hired to essentially do the work on the site acknowledging the first instance there is a letter here from Putnam County National Bank indicating that they don't want any work done on their property and of course we can't do any work on their property and I don't think the Board is competent to grant anything done on their property notwithstanding their letter to us crossing where we address one to Wayne Ryder dated May 3 indicating that in no way would we do anything in their right of way or on their property. Now, with no further ado or less ado, William Baker.

Mr. Baker stated good evening, my name is William Baker I came into this thing I understand it has quite a history from what I understand at the present time again, the Putnam County National Bank which became the main issue why the prior approval was not performed because the owner was afraid of litigation. That letter received by the Planning Board of June of 04 having researched the files as best as I could I understand this is quite a tale of woe but bringing it to today I addressed to Mr. Ryder a letter saying that we intend we, meaning myself and the owner Mr. Rentoulis intends to do no work in the public right of way or in his right of way. He has a piece of property actually the right of way is his property that is between two parcels of property very closely adjacent to, as you can see by the map it actually runs right next to this restaurant and the problem was a minor piece of curbing up here which has to be removed if you can even see it, a little stone curbing was put in their attempt to comply with the regulations and the curbing amendment to the roadway, the DOT roadway. I spoke to the engineer from the State and what he said to me was if you are not going to change the roadway there you don't need a permit for that. That being said, I tried to address with Mr. Ryder via fax and copied your Secretary today having not seen the 2006 letter saying that we intend to do no work on his property. The history of this I get you people must know way better than me it scared the pants out of the owner the last time. He got a threat of a lawsuit back in 2004 and since that time this thing has gone nowhere except that it has gone a little bit down hill because in August of 05 there was a fire. In speaking with the Building Inspector I came up originally to renovate the fire damage building that is how I got caught into this. Then I found out there is no site plan approval. I did get a conditional permit to clean up the debris around the fire area and it has basically been stopped since then subject to this site plan approval being granted and also subject to at least the owner being motivated from what I understand to re-apply for this. So, in looking at this whole project what I suggested that he do is just re-apply for the permit that was granted in 04, acknowledge the defects of his timing. There were a couple of questions on my part I am not from this County I don't know how it works up here I thought the Town was going to provide a performance bond number which had to go back by getting this letter from the bank, Mr. Rentoulis basically got scared and he did nothing which sometimes happens. We do have a situation down there where the fire did damage the building adjacent to the restaurant. I did get a permit to demolish and preserve ninety percent of the structure. I did submit an application to the Building Inspector with a plan, with a Board of Health letter stating that no changes were going to be done in the structure and it would not matter. What we are here for tonight is to ask the Board to reconsider the application possibly grant the site plan approval which doesn't include a lot of work. It needed some gravel, Item-4 rather and some parking bumpers placed around which was not done. I believe if you people are aware of the history of this they are prepared to move the dumpster, he his prepared to of course fix of the house and he is prepared the bumpers are there. I didn't want to just come in and just start putting this material down because I was aware that someone had to okay it and discussions with the Building Inspector I came into basically a hornet's nest here and tried to calm people down. I am here to solve the problem. I am not here to make a problem. If there is anything that you would like to say at this time, recommend to me, I know we have an 04 stale plan. I only spoke to the engineer who was very tough to get a hold of although he only has an office down the street and he and I got into practically a fisticuff about three weeks ago where he told me he didn't want to work for it anymore. That is another one of the problems. We are prepared to produce a certified engineer site plan based on any recommendations or modifications to this. One of the modifications I will tell you now that there is going to be no work in the State right of way.

Board Member Pierro asked Mr. Baker, has our Environmental Conservation Inspector asked for mulch and other materials to be placed around the back of the building.

Mr. Baker replied I believe he did and it was from the best of my knowledge and the manager is here, Nick is here, I believe it was placed where he required it after another site inspection. The thing is I didn't get a copy of the memo but it was discussed at the meeting. Nick took it on himself to do it and I don't know if the gentleman, have you been back.

Ted Kozlowski replied not since the site walk.

Mr. Baker stated okay from what I understand it is done. I don't know if it is done deep enough for you but Nick could probably tell you what he did. You see everybody is trying.

Vice Chairman Montesano asked is there anybody from the audience that has any questions on this particular project before we go any further. There were no comments from the audience.

Board Member Rogan made a motion to close the public hearing. Board Member DiSalvo seconded the motion.

Vice Chairman Montesano asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Vice Chairman Montesano	-	aye

Motion carried by a vote of 4 to 0.

Board Member Pierro stated I am not comfortable with taking an action without the (unable to hear the rest of his statement).

Rich Williams stated the layout for this plan reconfigures the parking spaces out there to try and maximize the number of parking spaces we could get on the site. As everybody knows there is an issue with the size of the building compared to the number of parking spots and actually the parking is one of the factors that limits the overall number of seating within the building. It is not the actual size of the building. It certainly can accommodate much, much more. One of the things that was proposed by the former engineer was to do some improvements within the DOT right of way to open up the islands in front of the smaller building so that we can accommodate the parking. What I have heard tonight is they are not proposing to do those improvements anymore and my concerns are two fold. One is now, we are talking again by not doing those improvements you can't really do the parking spots and again, we are reducing the number of parking spots out there but also now we have a plan that is going to be substantially different so they are going to have to have it re-engineered. I guess my question is this, is that their intent not to provide the parking that is shown on the plan.

Mr. Groezinger stated it is my understanding from the history of this that that was not necessarily done to increase the parking. As a matter of fact, we couldn't figure out and we have tried to contact Jim Hahn many times, we could not figure out why he put that there. We figured I am not an engineer, I don't understand why he put it there. He would not return my calls as to why he put it there. The owner tried to talk to him about that to make the alterations in the right of way and change the curbing.

Rich Williams stated I am not talking about in that area.

Mr. Groezinger stated right and to change the curbing here to accommodate the parking, we are not making any changes and we will provide the parking as shown here.

Rich Williams stated you can't provide the parking shown there because you don't have enough distance to back out without hitting the existing curb on the parking next to the small building.

Mr. Groezinger stated the existing curb is here.

Rich Williams stated right.

Mr. Groezinger stated you can certainly swing around without any degree of difficulty that looks like at least at the very least eighteen foot back.

Rich Williams stated and as memory serves Bob there was not sufficient area to back a vehicle out based on parking geometry requirements.

Mr. Groezinger stated but you had said that was your understanding of it but I don't remember Hahn ever addressing that or saying that.

Board Member Rogan stated so we can address it with a new set of plans is what you are saying correct.

Mr. Groezinger stated if it needs to be addressed.

Board Member Rogan stated well let's make sure that all the provided parking spaces have adequate turning area that is fair.

Mr. Groezinger stated because clearly if you can't get out how are you going to get in.

Board Member Rogan asked the previous site plan did we waive any of the sizes for the parking spaces and I don't remember.

Rich Williams replied yes down to eight and a half and nine.

Mr. Groezinger stated right on this plan they have been shortened. As a matter of fact I think that is the way they have been configured here also.

Board Member Rogan stated I think the number of spaces shown on this plan at least what we reviewed a few months ago,

Mr. Groezinger stated 54

Board Member Rogan stated I think if memory serves me yes fifty or something that equates to a hundred for seating.

Mr. Groezinger stated that equates to 108 per so many seating.

Board Member Rogan stated not based on Fire Code and not based on Health Department but the reality is the lowest number will prevail in this case. Just so the owner understands this application only allows him for banquets and for seating to set up for a 108 seats that includes bar seating that includes,

Mr. Groezinger stated without getting into the legal issue I will agree with you that the 108 seats applies only as to the building's zoning. I will not necessarily concur with you as to the other aspects but I do not deny that the 108 applies to the zoning and then that is the competence of this Board correct.

Board Member Rogan stated understood fair enough. The other battle we will let you fight in another,

Mr. Groezinger stated that is a different issue if there is one.

Board Member Rogan stated well ladies and gentlemen I think we need a new set of engineered plans with a current design engineer's signature.

Vice Chairman Montesano stated definitely.

Board Member Pierro stated absolutely.

Board Member Rogan stated and we will move forward with this.

Mr. Baker stated it is not like I didn't try for six months with this guy.

Board Member Rogan stated understood.

Board Member Pierro stated well it is time to get them.

Mr. Baker stated yes you have to understand something the owner has been, this is from what I understand a long history, two years abandoned or let go and beyond that it has been quite a tale. Restaurant people don't know engineering and they shouldn't.

Board Member Rogan stated I understand that Sir that is why we are going to get the help of the engineer and we will resolve this thank you.

Mr. Baker stated prior to this meeting I wanted to address an issue the burnt out building I spoke with the Building Inspector and he gratuitously allowed us to just clean out the structure and it has been temporarily repaired. It is getting quite long for the structure to remain in the condition that it is. I was wondering if there is something that we could do to allow us to proceed with the repair of the burn out alone prior to the completion of this application. The Building Inspector has said that he wanted to see how it went tonight and I know we missed a meeting and months drag on it is no fault of course of this Board or the Town with this Applicant but it is not going to be a change to anything. I was wondering if the Board had a concern or if they could set a bond amount, we could post a bond subject to of course completion, subject to C.O. just to get the project going. I mean we are only talking about a few items here. We are prepared to come in and start. I was surprised that we could even put the mulch down. I am prepared to go in and move the dumpster site to show the good intention. I am prepared to go in and put the gravel down in the areas not in question and I was wondering if there is something that can be generated here tonight as a directive to me other than no.

Board Member Rogan stated the idea of a good intention I don't think this Board wants you going and moving the dumpster location or setting up anything without an approved site plan. We want the approved site plan and that would be the good intention. In terms of the Building Inspector's conversation with you I would ask for his impression on this and also our Town Planner's. I don't know if you caught the full question.

Rich Williams stated I caught enough of it.

Mr. Groezinger stated the bottom line is Rich we just want to rehab the back because it looks like hell and nothing more during the time that this is pending because as time drags on it gets more dilapidated. It looks like crap from the back end of it. It should not be the eyesore in the Town for whatever reason.

Rich Williams stated Bob, as far as it goes the cleaning up I don't think anybody anywhere would object to,

Mr. Groezinger stated I am talking about,

Rich Williams stated cleaning debris up and disposing of it.

Mr. Groezinger stated I am talking about,

Board Member Pierro stated he is asking to reconstruct the building.

Rich Williams stated I understand that.

Mr. Groezinger stated I am asking to reconstruct so it does not look like a burnt out shell.

Rich Williams stated right I understand that.

Rich Williams stated ultimately, this Board, Paul, myself we are all limited by what the Code allows us to do and in this case the Code does not allow anybody to really do anything unless there is a conditional site plan approval. Once that happens as we discussed earlier then there is the ability to start doing the improvements on the site and actually issuing building permits so that things like that can happen but absent an actual conditionally approved site plan what guidance do we have. What plan are we developing the site by.

Board Member Pierro stated we have no plans.

Mr. Baker stated it is not going to be a modification of any part of the structure.

Vice Chairman Montesano stated but there is no plan for the modification, for the structure if I recall.

Mr. Groezinger stated there is no plan for the modification of anything.

Vice Chairman Montesano stated there is no plan for the original structure if I recall right.

Mr. Groezinger stated correct. We are not talking about a structural thing to the Alpine. We are not talking about a reconstruction, a re-configuration of the back part. We just want to redo the back part in the same manner, in the same configuration, as it existed before the fire.

Board Member Rogan stated it sounds like the only way to get going with that is to get conditional site plan approval which I don't know if the Board is willing to do without a plan. I know I am not. That is my answer. If you get us a set of engineered plans next meeting you are in much better shape because the plans you already had a lot to go by. You had an approved set of plans from a year or two ago. It seems like a rather simple thing to get.

Mr. Baker stated try and talk to Mr. Hahn.

Board Member Rogan stated try talking to a new engineer.

Board Member Pierro stated you have to hire a new engineer.

Mr. Baker stated it is going to be another five or six thousand dollar bill that this guys is subjected, it is not your problem but that guy would be lucky to fit fifty people in that place the way business has been going. At this point in time the only request is there is going to be very little modification to anything if I have to go back, I can't fight with the Ryder's, if I have to go back to DOT and move a piece of curb six feet that is the only thing that is going to be deviated from this plan. That is it. I mean it gets a little (unable to hear).

Vice Chairman Montesano stated you want us to circumvent the law by giving you some type of approvals

Mr. Groezinger stated no one is asking you to circumvent.

Vice Chairman Montesano stated then what we just explained I think has gotten the point across.

Mr. Groezinger stated the only modification that we would be proposing to the site plan is to remove that curb.

Vice Chairman Montesano asked what plan.

Mr. Groezinger replied the one that is hanging on the Board.

Vice Chairman Montesano asked whose plan is that.

Mr. Baker replied that is Mr. Rentoulis' plan.

Vice Chairman Montesano stated I know he paid for it but we don't have anybody saying, he is stuck with it unfortunately.

Mr. Baker stated it is stamped and signed by an engineer. It was accepted in 2004. The small modifications on the thing,

Board Member Rogan asked do you want to ask Anthony the legal interpretation of the use of this plan.

Anthony Molé stated the problem the way I see it is that there is kind of two things going on at the same time here. If you allow him to reconstruct without a site plan you are waiving the requirement of having a site plan but then you are also requiring him to submit a site plan so it is really contradictory inherently you can't do both. It is either one or the other; either waive site plan approval entirely or you require a site plan. They will have to get a new engineer to redraft the plan and submit it with an engineer's stamp on it.

Mr. Groezinger asked but the issue is this, can we fix up the building in the back that was burned down that has in essence nothing to do with the site plan approval because that building as it would be fixed up,

Anthony Molé stated but it is on the site plan.

Mr. Groezinger replied no. The building is still on the site plan. We just want it to stop being a freaking eyesore. We are not looking to do anything that reconstruction is not shown here because it has nothing to do with a site plan.

Vice Chairman Montesano asked is the building on the site.

Mr. Groezinger replied yes.

Mr. Baker stated I understand the Board's predicament.

Mr. Groezinger stated but it is circular reasoning that is the problem.

Vice Chairman Montesano stated catch 22 made a hell of a movie but it is also very factual.

Anthony Molé stated also from a practical standpoint from what you are telling me it sounds like once you get a new engineer to take this plan and modify it with the minor modifications you make that could be done fairly quickly as long as you get an engineer who has the time to do it and they stamp the plan and resubmit it you should be back here and potentially get conditional final approval to make your renovations to the area that needs to be reconstructed. Right now, the Board basically you have a piece of paper up there but the Board does not technically have anything because that is an older site plan that is not the current site plan, it does not reflect what is to be done on the property.

Mr. Baker stated this is the site plan that was approved by the Board I don't want to become argumentative,

Mr. Groezinger stated it was approved it lapsed. It is the same site plan again except now we found because the engineer wouldn't tell us that this curb cut is not necessary. This curbing is not necessary.

Anthony Molé stated right but then it is not the same site plan and it depends on what the Board's comfort level is as far as making,

Mr. Groezinger stated well that is the issue is the Board comfortable.

Board Member Rogan stated Anthony, they also got the determination from that engineer that he didn't approve of using that plan anymore.

Mr. Groezinger stated but that is immaterial we paid for it. It is ours.

Board Member Rogan stated well I don't know whether I am not a lawyer you are but I am bringing that up.

Anthony Molé stated that is more of an issue between the Applicant and the engineer.

Mr. Groezinger stated assuming I paid for your services that would suggest that I could never use your services for what I paid for.

Board Member Rogan stated I don't know we saw it on another case where we questioned quite a bit that we had legal interpretation that couldn't be used further. I don't know I am not a lawyer but I am going to go on the advice of our lawyer.

Mr. Groezinger stated I have been in court many times sometimes even as a lawyer.

Board Member Pierro stated Bob, this Board has been standing firm on not permitting any movement on this site, any reconstruction until site plan has been taken care of and I can't see us, we want to help you get this thing over with but we are one meeting away from getting that done. Please come in with a plan from a licensed engineer with the corrections made and then this Board I believe will react on it favorably.

Mr. Groezinger stated thank you.

Board Member Rogan stated thank you gentleman.

2) D'OTTAVIO SITE PLAN – Public Hearing

Mr. Harry Nichols, Engineer and Mr. Steve D'Ottavio were present.

The Secretary read the legal notice.

Mr. Nichols stated the project that we have here the D'Ottavio Site Plan we are proposing two office buildings on two contiguous parcels, office warehouse buildings which will be serviced by an existing curb break, part of the driveway has been previously constructed opposite the intersection of Route 164. There is also an existing residence on the property which will be converted into a fifteen hundred square foot office building that is Building "C" on the site plan. The two sites have basically been integrated together because of the access as well as the Stormwater Pollution Prevention Plan requirements that would not afford us to provide separate facilities for each of the buildings. In essence even though they are two separate tax lots, the access, the drainage and even the septic is comprised on one or more of the parcels. The buildings will be served by individual on site septic; Building "B" will have a septic private and Building "A" since this was the best location for septic's it will have an access and service easement on the parcel for Building "B". Their septic will be pumped to this location. They will have individual wells and again the access easements over each of the properties for operation and maintenance. The stormwater management has been designed to control all storms up to and including the hundred year occurrence storm, providing the required water quality for comparing the after development to the before development and that water quality is provided by the extended detention and a filter basin meeting the requirements of both the New York City DEP as well as the New York City DEC and the Town of Patterson. With that, I will open up the questions to the Board.

Vice Chairman Montesano asked are there anyone in the audience that has any statements on this particular project. There were no comments from the audience.

Board Member Pierro made a motion to close the public hearing in the matter of the D'Ottavio Site Plan. Board Member DiSalvo seconded the motion.

Vice Chairman Montesano asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Vice Chairman Montesano	-	aye

Motion carried by a vote of 4 to 0.

Rich Williams stated Mr. Chairman; I think there is a couple of issues that need to be address by the Board tonight. One of them has to do with a note or actually a comment that was in the response memo provided by the engineer which indicated that architectural elevations are being prepared for one of the buildings not both of the buildings and it appeared that they were looking to basically use the architectural standards for the building that they were preparing the plans for as a basis for the architectural plans in the future for the second building. Is that a fair representation.

Mr. Nichols replied yes.

Board Member Rogan asked Rich could we not issue a note on the plat that says a Building Permit for that building can't be issued prior to architectural plans being approved by this Board.

Rich Williams replied you can do it from this Board, you can do it from me, you can do it from the Building Inspector there are a couple of different ways you can do it. The question is what comfort level do you have and how do you want to handle it.

Vice Chairman Montesano stated for a moment of discussion he is doing "A" why can't we have "B" at the same time.

Board Member Rogan asked do you mean approve "B" as the set of plans.

Vice Chairman Montesano stated this way if we are going to look at it, it should be at least similar you don't want to have an A-frame next to a flat roof.

Board Member Pierro asked can we restrict the release of any bonds that are in place until the architectural's are completed.

Board Member Rogan stated I agree with what Mike was saying that if we like the architectural's that are provided for "A", we can approve the same architectural renderings for "B" obviously they are to a different size, it is a different size building, but aesthetically,

Rich Williams stated the only thing that I would suggest what I did put in the memo if you are comfortable with doing something like that that before the Building Permit gets issued that my office review the plans just to make sure that they are,

Vice Chairman Montesano stated they match.

Rich Williams stated they are in conformance.

Board Member Rogan stated that sounds fine.

Rich Williams asked that is okay.

The Board replied yes.

Rich Williams stated the second issue that I have and Gene may have a few here; they are proposing on the plans at this point not to put a sign up out at the entry way. They are suggesting that will be handled by a future application. My only concern with doing that is even though this is two separate sites we are really designing as one site and I don't want to necessarily get into a situation where,

Vice Chairman Montesano stated we have two different signs,

Board Member Rogan stated well it can be two different signs but it should be on the same mounting or,

Vice Chairman Montesano stated the thing is we have two buildings we know what the size hopefully will be that means we can build a sign accordingly so we can allow for it to be mounted on one location and it will fall into the parameters of what we are going to allow.

Rich Williams stated but that would require one sign at the entrance. My concern is that in the future because there is no agreement between the property owners, the property switches we end up with Building "A" having to put a sign along the frontage of Building "A" which if you look at the plan really isn't going to be,

Vice Chairman Montesano stated the object is we will get a sign now.

Board Member Rogan stated a sign location you are talking about on Lot 2 near the entrance.

Rich Williams stated I would suggest that we have a location identified and have a general size of a sign approved, we don't need to necessarily approve the specifics of the sign and some sort of an agreement so that when Parcel "A" comes in they know that they will be able to hang this sign or, Board Member Rogan stated up to a certain square footage, Rich Williams stated in a certain location on Parcel "B" right at the entrance rather than fumbling around at a later date.

Mr. Nichols asked are you talking about one location or are you talking about maybe two locations.

Board Member Rogan replied one location.

Vice Chairman Montesano stated no one.

Mr. D'Ottavio stated one sign one location.

Mr. Nichols stated it could be two separate signs but mounted at one location.

Rich Williams stated right.

Vice Chairman Montesano stated fire protection you don't want to provide fire protection.

Mr. D'Ottavio replied I am working that out with Paul.

Board Member Rogan stated and Steve so you know we are working it out on one of the projects that you had witnessed to on the big conversation we had, Paddock View Estates and Rich came to an agreement with the Applicant to provide the area and subject to the Town Board approving something we would visit it at that point but just to get them through preliminary approval so I think possibly the same thing could work because I don't blame you for not wanting to jump in with both feet.

Board Member Pierro asked do we have the area here.

Rich Williams stated it is a little bit more difficult on this site because we are talking about a site plan. What we did with Paddock View is we just created the area recognizing that before they get the final approval we have a full design out there. That is where he is now he is at full design.

Mr. D'Ottavio stated we are going to voluntarily put the fire protection in after all the legality of it is settled.

Board Member Rogan stated understood. So, we are going to get an area with a design and we will have it installed, I mean the legality of that should be settled before this is built out.

Board Member DiSalvo asked is anybody working on the legality of it.

Rich Williams stated I am not sure what legal issues you were referring to.

Board Member Rogan replied in terms of a fire district, granted this is a commercial site.

Rich Williams stated this would be a commercial site, it is a private site so different from a subdivision it would be the responsibility of one or both of the property owners.

Board Member Rogan asked does that mean though that then the fire department can't go on to this site to access the water.

Rich Williams stated now that is one of the legal issues.

Board Member Rogan stated that is kind of where we see things like this if they are accessible to the Town's use for the greater good for the greatest number then my feeling is should be part of some district. I don't know. If we are just talking storage tank if it is for sprinklers for the building it is different.

Rich Williams stated talking with Dave Raines, the Fire Inspector he was looking at having a fire tank all the way in the back that if Building "A" had multiple occupancies which might trigger a requirement for sprinklers in the building that the tank would already be there and in addition they would put a steamer fitting on the side of the building so the fire department could hook right into it on the side of the building but essentially he was looking to have the tank there for future occupancy.

Rich Williams stated if we were doing for general application through out the area then we probably want to be talking about putting the fire tank up at the entrance by the small building.

Anthony Molé made a statement with regards to an easement (unable to hear).

Board Member Rogan asked is that because in a subdivision the Town road you are already using a,

Anthony Molé stated there are issues there as well. There are a number of issues that we have to address to figure out how to do it for commercial and residential some different issues some the same. As you stated, it would have to be a district if it is not a district there would have to be some sort of easement or license agreement for the fire department to go in there and utilize the tank if need be for other purposes other than just that particular lot.

Vice Chairman Montesano stated if it is that important at the time I think under the law you can go in there if that is the only accessible water. That is something you can probably work out as to whose going to pay for having it refilled I don't know.

Rich Williams stated well that is the question it is a private tank.

Vice Chairman Montesano stated I know on one occasion we did have a member of a professional fire person whose pool was going to be utilized to save a neighbor's house and he protested that it was his water and you can't use it and they did proceed to use it and they did save the house and he went to court and lost. It was very embarrassing for him to explain to his department why he felt it was necessary to go through that ritual.

Mr. D'Ottavio asked who filled the pool back in.

Vice Chairman Montesano replied they offered to fill it back in, he refused because if you ever saw where the water was coming from you really wouldn't want it filled. Their insurance company paid to have water brought in.

Mr. D'Ottavio stated I would have no objection for the fire department to come on the property and take the water as long as there was some sort of an agreement of if the fire department had some sort of insurance that if they damage anything on private property.

Board Member Rogan stated Steve I think those are the types of issues that are hopefully going to be straightened out by the Town Board reacting to this issue.

Anthony Molé stated the big issue like you said is who refills the tank once it is used.

Board Member Rogan stated I know Paul has said that usually the insurance from the person's house that is on fire would cover say Culligan or some other company coming in with a tanker and filling that but I think that needs to be set in policy. It sounds like it is more common knowledge than policy.

Anthony Molé stated that would be the case if there was a fire on the property but if there was a fire somewhere else and the water was utilized I don't think their insurance is going to pay to have it refilled.

Board Member Rogan stated yes and I think that is what needs to be addressed because they take the water and go fight a fire at Ted's house, Ted's insurance should pay to refill that.

Mr. D'Ottavio asked would if there is a fire on some vacant land there is no insurance on it.

Board Member Rogan stated there you go.

Vice Chairman Montesano stated somebody has got to own the land.

Board Member Rogan stated Steve that is why we are shooting for the fire district.

Mr. D'Ottavio stated they would have to have insurance.

Board Member Rogan stated that clearly falls under greatest good for the greatest number and that is why my opinion is we should have a fire district for the greater good of Patterson where myself and every other taxpayer picks up a small portion of the tab.

Vice Chairman Montesano stated we do it now.

Board Member Pierro stated we do have it now in a general sense.

Vice Chairman Montesano stated we will get back to that. Let the Town Board.

Board Member DiSalvo asked where are they at with it.

Board Member Pierro stated we don't know.

Vice Chairman Montesano asked Ted do you have something on this or Gene do you want to go first.

Gene Richards stated the only thing that I was going to say is if you looked at our memo, there is a few comments that just requires some cleanup on the plans. The only two real issues, number one is the performance bond calculation which Harry will have to get to us and we will react to. The other thing is the site lighting and I don't see it to be a big issue really it is a matter of an interpretation of the Code and I suggested that Harry work with Rich to make sure that the design on the height of the pole is fine but other than that Stormwater Report, the plans are just some clean up items and you got the bond calc.

Vice Chairman Montesano stated and with that note, I think a street light would be very beneficial especially in the community when they are driving and someone pulls out of there to let them know that there is another intersection on that side.

Rich Williams stated there is a street light there.

Vice Chairman Montesano stated sometimes we seem to lose these lights somewhere in the shuffle.

Board Member DiSalvo asked is the light on the plans.

Mr. Nichols replied no I think there is an existing light on the pole.

Rich Williams stated the intersection is lit on the State road. We are talking about the interior lights.

Ted Kozlowski stated Richie's latest memo dated April 6th, item number five which is something that he brought up that both he and I went out on to the site, in fact that weekend I went out to the site twice and I agree with Richie's recommendation to the Board which was a slight modification of that stormwater pond with the emergency overflow. The other thing is that Harry, I hope that what we saw up there was not an indication of things to come with the lack of erosion controls on those pits that were dug. I would assume that was just a mistake and that when this project begins we do protect that stream a little better. It was fortunate that it did not run off in there but there was a lot of material that was left on site unprotected and when this project begins there is going to be a tremendous amount of disturbance and you just got to adhere to those erosion controls. With regard to this permit there are still some minor issues that have with regard to the planting plan that has gone back and forth with my recommendations and then the Applicant's engineer not Harry but LA,

Mr. Nichols stated LADA yes.

Ted Kozlowski stated I still have a few issues with that that I would like to clear up and again, to me this whole thing with regard to the wetland permit I think it is critical that we try to preserve as much of that natural forested hillside as possible and that when this project begins we really delineate that area and make sure that the machinery and everything is kept out of the areas that we intend to protect.

Mr. Nichols stated we can do what we normally do on projects put up that orange construction fence.

Ted Kozlowski stated yes but you know a lot is said in these meetings but the actual field we have got to make sure and I will be there to do that okay Steve.

Mr. D'Ottavio replied yes absolutely.

Mr. Nichols asked are your comments relative to the types of plantings.

Ted Kozlowski replied yes it was that and just some minor details Harry. I am going to generate a memo that affect. This is not something that is going to hold you guys up.

Mr. Nichols asked can I sit down with you and go right through it.

Ted Kozlowski stated yes I am just going to bang out a memo. It is not big deal stuff.

Mr. Nichols asked can we do SEQRA.

Board Member Rogan asked we haven't done SEQRA on this. We did that a while ago. The only thing that we have left is the performance bond and the wetlands permit. April 6th we did SEQRA.

Mr. Nichols stated great thank you.

Board Member Rogan stated the ball is back in your court Harry.

Mr. Nichols asked are we in a position to ask for conditional final.

Board Member Rogan replied Harry you are a gentleman, no and your client is a gentleman and we all have been patient on this project. Do you think we could wrap it up next month.

Mr. Nichols replied I thought we could wrap it up tonight.

Some laughed.

Board Member Rogan stated thank you Harry.

Mr. D'Ottavio thanked the Board.

3) GRANT FILL PROPERTY

Board Member DiSalvo stated we approved that at the work session.

Board Member Pierro stated just memorialize it for the record. For the record, we at our work session we granted a fill permit for Mr. Grant, what was the road.

Vice Chairman Montesano replied Cornwall Hill Road.

Board Member DiSalvo stated 130 Cornwall Hill Road.

Board Member Pierro stated right we completed that at our last work session meeting and that will be enter into the minutes.

4) TOM'S BARBER SHOP SIGN APPLICATION

Rich Williams stated Tomas is not going to be able to make it tonight. I did meet with him you might want to put it off until the agenda and take care of some of the people that are here.

5) COSTA'S BAR & GRILL - Waiver of Site Plan

Mr. Angela Costa was present.

Mr. Costa stated I just wanted your approval to put my mobile food in place.

Board Member Pierro asked can you use a mic Sir, please.

Mr. Costa stated I wanted your approval to put my mobile food unit in on the premises nothing permanently just a couple of months out of the year through May and I think September. The picture I submitted, the trailer was vandalized, I have a smaller one that I am going to be using while that one is being repaired. It is basically just a hot dog cart.

Board Member Pierro stated one of our concerns Mr. Costa was Mike Bruen's van or

Board Member DiSalvo stated trailer.

Board Member Pierro stated truck back.

Mr. Costa stated trailer.

Board Member DiSalvo stated it is still there.

Mr. Costa stated I will tell you what he has got two to three weeks I have got somebody ready to pick it up. I have somebody ready to take it tomorrow.

Board Member Pierro stated if my understanding is correct from our conversation at the work session that is currently a violation.

Vice Chairman Montesano stated yes as far as I know. You have to ask Paul he is back there.

Board Member DiSalvo asked have you guys been by there.

Board Member Rogan asked Paul, still a violation correct. It hasn't been resolved.

Mr. Piazza stated still a violation.

Board Member Rogan stated Mr. Costa what we were talking about at the work session being based on having this violation corrected was granting the approval for this trailer but giving you a time frame I think we were talking some time towards the end of the year and if that violation had not been corrected this approval would expire basically.

Mr. Costa stated okay.

Board Member Rogan stated so in other words we would give you a an approval for this trailer and you have to take care of getting rid of Mr. Bruen's storage trailer.

Mr. Costa asked how long do I have to get the trailer out of there until the end of the year you said.

Vice Chairman Montesano replied November.

Board Member Rogan stated you said a couple of weeks you could get it out.

The Secretary stated I think you guys are talking two different trailers here.

Board Member Pierro stated I don't recall that. My understanding was that we were going to give Mr. Costa a permit to operate until November.

Vice Chairman Montesano stated the trailer can be out,

Board Member DiSalvo stated the Bruen trailer.

Board Member Pierro stated the Bruen trailer we would like it out of there ASAP because obviously it is a violation we would not be being consistent because we are not issuing site plan approval or conditional site plan approval to the last Applicant because he has a violation.

Board Member DiSalvo asked didn't you have something in your contract that he had to have it removed by a certain day.

Mr. Costa replied yes by the beginning of May which is now. I am fully aware and I am ready to take action myself. I am just, you have all dealt with that and I don't need the other.

Board Member DiSalvo asked is there material in it.

Mr. Costa replied junk.

Board Member DiSalvo stated I passed by today I did not realize it was that big.

Mr. Costa replied it is an eighteen-wheeler trailer.

Board Member DiSalvo stated on the ground there is no wheels.

Mr. Costa replied well it is in the bushes.

Board Member Pierro stated partially submerged.

Mr. Costa replied yes actually, I am talking to Brookfield Wreckers. They are basically going to have to come up with two, eighteen wheeler tow trucks, lift it and pull it which is going to destroy the back of the grounds because who knows if those wheels even turn according to him it was there, it has been there for like thirty-two years.

Board Member Rogan stated the Board may recall from the work session that the other reason for granting a time frame on the permit was so that we could monitor the site and make sure the site didn't turn into something that wasn't designed to be.

Board Member Rogan asked are you going to be putting any outdoor seating.

Mr. Costa replied I might put a couple of picnic tables nothing crazy like five or six just in back of the trailer.

Board Member DiSalvo stated Richie had mentioned that the well cap is behind the hot dog trailer right.

Mr. Costa stated it is going to have a cover over it, decorative. I might put some lattice boards or something around it.

Board Member Rogan asked Rich anything else we forgot to address on this.

Rich Williams replied no.

Board Member Rogan asked does anyone want to do a motion on this.

Vice Chairman Montesano asked hang on one second where is the sign.

Board Member Rogan replied it is out front.

Board Member Pierro stated the sign is already there.

The Secretary stated you approved that.

Board Member Rogan stated we approved the sign.

Board Member Pierro made a motion in the matter of Costa's Restaurant Site Plan approval that the Planning Board waives the site plan application with the condition that we revisit this in November.

Rich Williams stated you grant it for a period of time.

Board Member Pierro stated we grant it now until November.

Board Member DiSalvo asked November 1st.

Board Member Rogan stated and the trailer out.

Vice Chairman Montesano stated and we want the trailer out.

Board Member Pierro stated and we want Mr. Bruen's trailer out.

Vice Chairman Montesano stated ASAP.

Board Member Pierro stated as soon as possible.

Mr. Costa stated yeah but I am ready to step in on that that is not a problem.

Board Member DiSalvo asked do you want to give a date in November.

Board Member Pierro stated I don't want to see you forced into litigation but you have a contract, you have a closing agreement.

Mr. Costa stated yes, there is.

Board Member Pierro stated get it done.

Rich Williams stated if I might just add in there that you want to do a date specific not just November maybe the 1st, the 15th, the 30th.

Board Member Pierro stated the 30th of November is fine with me.

Rich Williams stated and the other thing is you want to be specific about what you are granting it for.

Board Member Pierro stated we are allowing a mobile food unit, hot dog truck or trailer to be placed,

Rich Williams stated as per the application.

Board Member Pierro stated yes as per the application dated 4/10/06.

Board Member DiSalvo seconded the motion.

Vice Chairman Montesano asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Vice Chairman Montesano	-	aye

Motion carried by a vote of 4 to 0.

Mr. Costa thanked the Board.

6) FIELD & FOREST APARTMENTS SITE PLAN

Mr. Harry Nichols, Engineer and Mr. Jay Hogan, Attorney for the Applicant were present.

Mr. Hogan stated we have reviewed the comments I think at this juncture we are going to ask the Board to consider granting conditional final approval for this project.

Board Member Rogan stated I don't see why not. We have beaten this to death. We have the review, Gene's comments are noted within this review Rich.

Rich Williams stated yes.

Board Member Pierro asked do we have bond calcs to react to.

Gene Richards stated we haven't seen the bond calcs for this one.

Mr. Hogan stated we can provide all that stuff.

Board Member Rogan made a motion in the matter of Field & Forest Site Plan that the Planning Board introduces the resolution granting Conditional Final Site Plan Approval with the five general and four special conditions contained therein and also to provide performance bond calculations for the approval the Town Engineer and the Planning Board. Board Member Pierro seconded the motion.

Vice Chairman Montesano asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Vice Chairman Montesano	-	aye

Motion carried by a vote of 4 to 0.

Mr. Hogan stated thank you so much I really appreciate your time and effort that you put into this thing. You are a hard working Board.

The Board thanked Mr. Hogan.

Rich Williams stated can we get you back in here for the next meeting to set the bond.

Mr. Nichols stated yes.

7) **PADDOCK VIEW ESTATES SUBDIVISION**

Mr. Dan Donahue, Engineer was present representing the Applicant.

Board Member Rogan stated Dan it looks like we were able to resolve at least for now the fire protection issues.

Mr. Donahue stated I showed an area over here at the last meeting. The Board had asked me to show an area where a future water storage tank could be provided for the Town. At that particular time we weren't too sure what exactly was going to happen we agreed at that time to show an area where we could provide a tank. I left it as that until we resolve the issue.

Board Member Rogan stated Rich, what I was referring to with Gene's memo is that the current memo that we just got would need to be included as a condition of this resolution that is prepared because it is not on it.

Rich Williams replied you could it is not necessary because this is preliminary approval.

Gene Richards stated Shawn, a lot of the comments in our memo really goes beyond preliminary. Dan, they are going to help you.

Mr. Donahue stated I got all your comments. I have to tell you a funny story I was out of my office, I came back in again and I saw your letter and I said geez, only a couple of pages I said this is great and then all of a sudden I looked at the fax and it said check paper. (All laughed). I will go over your comments and maybe we could set up a meeting and go over and discuss them.

Board Member Rogan stated in the matter of Paddock View Estates,

Board Member Pierro stated on the motion,

Board Member Rogan asked do you want to do it,

Board Member Pierro stated I so much wanted to do it after the last meeting you know I am going to defer and allow you to pontificate in front of your wife and your mother-in-law,

Board Member Rogan stated no, no.

Board Member Pierro stated go right ahead Sir, please.

Board Member Rogan stated I am not sure I remember what to say now.

(Some laughing).

Board Member Rogan made a motion in the matter of Paddock View Estates, I Dave Pierro make the motion (Board laughed) no, I am just kidding.

Board Member Rogan made a motion in the matter of Paddock View Estates that the Planning Board introduces the resolution granting Preliminary Subdivision with the six general conditions contained therein. Board Member DiSalvo seconded the motion.

Vice Chairman Montesano asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Vice Chairman Montesano	-	aye

Motion carried by a vote of 4 to 0.

Mr. Donahue asked you had indicated before was there some resolution of this.

Board Member Rogan replied not yet.

Mr. Donahue stated I will continue to address the comments of the Planner and the Town Engineer until such time I get a direction from the Town as to exactly what criteria they want on the fire tank.

(TAPE ENDED).

Mr. Donahue thanked the Board.

8) **KESSMAN LOT LINE ADJUSTMENT**

Mr. Bill Brickelmaier, Insite Engineering was present representing the Applicant.

Mr. Brickelmaier stated his name for the record.

Mr. Briklemaier stated this is a lot line adjustment and subdivision. The Board granted conditional approval on the subdivision several months ago and at the last meeting we got an extension and we are back before the Board for the lot line adjustment due to when the Board granted conditional approval on the lot line adjustment it was subject to the cabana being removed and the Kessman's wish to keep the cabana and so the lot line adjustment changed slightly and at the last meeting your Counsel recommended a new application be submitted for the lot line adjustment.

Vice Chairman Montesano asked any questions.

Board Member Pierro replied I have no questions Mr. Chairman.

Vice Chairman Montesano asked Richard.

Rich Williams replied no Sir.

Board Member Pierro made a motion in the matter of Kessman Brothers that the Planning Board grants Final Lot Line Subdivision Approval to amend the resolution of October 6, 2005 with the eight general conditions stated in the resolution dated May 4, 2006. Board Member Rogan seconded the motion.

Vice Chairman Montesano asked all in favor:

Board Member Pierro - aye
Board Member Rogan - aye
Board Member DiSalvo - aye
Vice Chairman Montesano - aye

Motion carried by a vote of 4 to 0.

Mr. Brickelmaier thanked the Board.

9) PLUNKETT SUBDIVISION

Mr. Rob Cameron, Putnam Engineering was present representing the Applicant.

Mr. Cameron introduced himself to the Board.

Mr. Cameron stated this parcel is about a fourteen acre parcel located on Route 164 near the intersection of Farm to Market Road. The application is a proposal to subdivide this parcel into two lots. This was previously before the Board and it had some comments regarding this. We responded by addressing the comments providing the application and the agricultural district requirements. I think we submitted a form for the agricultural district which was requested the last time. The roadway was previously an issue and the only access to this site is again through the access coming from 164 with a switch back leading to the top. We have re-graded this, we have indicated retaining walls and some grading along 164 for site distance. I think some of the comments, the latest comments from Mr. Williams was the open space overlay zone which we have to address.

Board Member Rogan stated you guys had some pretty strong feelings on this lot I am waiting for you.

Board Member DiSalvo stated the driveway looks a little like a serpentine over there.

Mr. Cameron replied yes that is due to the change in elevation from 164 to the top which is the location for the house. We can't get the house or septic on any place but the level area on the top. That is the only way this lot can be developed. The only access is by creating a switch back to get to the top.

Board Member DiSalvo stated it is going to be a lot of disturbance to the hill and a lot of trees cut down and soil disturbance.

Mr. Cameron stated actually there is limited disturbance I mean we have a tree area or an area in between here and in between there so actually what it is doing is cutting across the tree line and because it is steep it is actually cutting behind the trees. We are keeping trees along this area here. I mean we can do some plantings along this embankment here but there is no disturbance in this area here, no disturbance in that area here so technically we are cutting through. If this was a swath cut straight up the hill it would be different then you would see that there is a disturbance. You would see the swath cut through straight up to the top but because we have the trees and the non-disturbed area in between there it is going to hide a lot of that disturbance behind the tree line. We can address it with additional vegetation.

Board Member DiSalvo stated you are proposing retaining walls practically the whole length of the driveway.

Mr. Cameron stated yes.

Board Member DiSalvo asked and how tall are the walls going to be.

Mr. Cameron replied right off hand I don't know if I have a profile through there. (He reviewed his materials for a minute or so).

Mr. Cameron stated I think they are probably going to be like six to eight feet tall. That is just off hand what I think they are going to be. We didn't get it to the point of final development where I actually have the top of wall elevations but that is how we are preventing from having to grade the whole hillside because if we didn't have the walls then we would have to grade this from the bottom to the top. The walls is what keeps the green space in between.

Ted Kozlowski asked Rob, that cut that you are making is that rock.

Mr. Cameron replied I believe a majority of it is going to be rock. We have done some soil tests.

Ted Kozlowski asked do you know what the depth of topsoil is.

Mr. Cameron replied no.

Ted Kozlowski stated okay one of the issues that is going to be I mean I understand what you are saying about trying to minimize the site there but if you are cutting into rock and then you are going to try to put nursery trees as a replacement or a mitigation you really have to look at what kind of soils you have there and my gut feeling and I have seen the site is that you are going to try to plant trees in rock and that is going to be impossible. The trees that are on there now have naturally formed, their roots are embedded in rock and stuff. They are almost like a Bonsai situation. You can't reproduce that by just simply planting trees so you have a challenge there so please understand that.

Mr. Cameron stated yes I understand that on the slopes here, this is actually a fill section over here. We have cut and we have fill where we are cutting on this section and we are filling on that section so on the fill section I am able to plant the trees. It is on the cut section that I am cutting into the rock.

Ted Kozlowski stated it is just that it is very tough to do that on those kinds of slopes and then to get those again you are looking at and a lot of people don't understand this you are taking nursery trees that are watered on a daily basis and are weaned and developed in such a way and then you put them in a harsh environment like a moon scape like that it is very difficult to keep them going unless somebody is committed to nurturing them for a period of time so they can adjust to that kind of harsh site and quite frankly I never see it done.

Mr. Cameron stated you will have a bond right.

Ted Kozlowski stated I know but again I just want to bring that up.

Mr. Cameron stated there is a way we can that if the trees die within a year we can extend that time to make sure that it does not happen.

Board Member Pierro stated my concern Rob in the course of those trees dying in a year we are talking about trying to stabilize a site with new stock we maybe creating a nightmare, mudslides, water draining down those hills and the new driveway and I am not sure that the Applicant is prepared for the cleanup that may be required here. I don't know if you are planning on selling this property off or if you are planning on building home for a family member this may be quite difficult to accomplish.

Mr. Cameron stated it is a difficult driveway but it is not impossible to make it happen.

Board Member DiSalvo asked how long is the driveway if you were to straighten this out.

Mr. Cameron replied from the bottom to the top it is about a thousand feet up to the house.

Board Member Pierro stated eleven hundred feet I thought we were talking about.

Vice Chairman Montesano asked Paul on a fire issue, a thousand foot driveway going up a switch back what size would we need for a truck to get up there in case of an emergency as far as the curves are concerned.

Board Member DiSalvo asked Paul did you see the plans.

Paul Piazza stated (unable to hear no mic) you are never going to get a ladder up.

Vice Chairman Montesano asked would you be able to get a pumper and,

Paul Piazza stated the smaller of the trucks would be able to get in, a big tanker I don't see it happening on that switch back.

Mr. Cameron stated it is a ten percent grade.

Vice Chairman Montesano stated on the argument that even the ambulance would get up there are we going to have any place where two vehicles can pass or one can come off the driveway.

Board Member Rogan stated they have shown two, pull-off's Mike on the plan, two, ten by forty pull-off's.

Vice Chairman Montesano stated if you can get the tanker up there fully loaded. It will be fun.

Mr. Cameron stated there is one over here and one down there referring to the plan.

Mr. Cameron stated and we have also gone a little bit further on this we have also investigated how we are going to handle the stormwater and what we are planning on was a series of filtration units. We are going to plan one up in this vicinity, down here and over there referring to the plan. We have done an initial stormwater analysis and it appears as though it can work.

Board Member Rogan asked Rob, is that going to eat up the areas that you currently show as no disturbance meaning areas that you were not going to clear.

Mr. Cameron reviewed the plan for a minute and replied only minimally. It will add a little more disturbance on this section right over here and on the outside of this curb right here. The slope really isn't that bad over here where we are proposing it.

Gene Richards stated Rob, let me just jump in here if I may Mr. Chairman. A couple of things I heard; number one, stormwater is going to be critical on this project because of the hillside and how you handle it. We are not opposed to infiltration but one thing that you have to be concerned about again, what Ted hit on was the rock. You are going to have to do test pits and make sure you have soil there to put the infiltration structures into and erosion controls are going to be very critical plus Ted talked about trees and you want to make sure that the trees fit in with what you are doing with any infiltration. There is a lot of things working against you there. You just have to pull it all together on your plans. I am not saying it is impossible but stormwater is going to be critical on this and erosion controls.

Board Member DiSalvo stated the walls, the retaining walls digging into the rock.

Mr. Cameron stated we are going to have to create retaining walls.

Board Member Rogan stated Rob, the Board discussed at the work session the idea that this obviously this site is very challenged and is going to be costly to build out and we just want to caution the Applicant that proceeding along with this that at this point there are no guarantees on this. The Board is very concerned about disturbance and the visual impact from the road and I guess the word of caution is proceeding at your own risk. I just want to make sure that you understand that. That it is a very challenged site.

Mr. Plunkett stated,

Board Member Rogan asked Sir, could you please use the microphone and state your name for the record.

Mr. Plunkett stated I am Frank Plunkett, owner of the property. Basically, I just want to subdivide it and I want to sell it at that point. I am not going to get into this actually building. I will let somebody else do that because I don't have the resources for that at this time.

Board Member Pierro stated Mr. Plunkett with all due respect that concerns me even more that some other person is going to come in here with an approval that may not understand the difficult time he is going to have in getting this site stabilized and getting that roadway in there.

Mr. Plunkett stated well I will have to refer him if it does get approved then I will just have to refer him to the Board.

Board Member Pierro stated it may behoove you to sell it without approvals and allow someone else to come in through the process.

Mr. Plunkett stated I will have to consider that.

Board Member Pierro stated very well Sir.

Mr. Cameron asked is there any other.

(Unable to hear Rich's comments).

Board Member Rogan stated the site was nice once we got up there Rob when we walked up there.

Board Member Pierro stated it is beautiful up on top. It is getting there.

Board Member Rogan asked how about a helipad.

Mr. Cameron stated I was actually contemplating an inclined railway.

Board Member Rogan stated it is a shame that there is not other access because it is quite nice up on top of that hill.

Board Member Pierro asked is this contiguous to that other preserve.

Board Member DiSalvo asked Couch Road.

Board Member Pierro stated the Luschynski or is this contiguous to that other Putnam Land Trust parcel that is in that area.

Rich Williams replied yes.

Board Member Pierro asked it is.

Rich Williams replied well I am seeing Luschynski up on the plan.

Mr. Cameron asked as far as the overlay zone is concerned where do I stand on that. Am I going to be able to proceed forward with the Planning Board addressing the stormwater or is the overlay going to be a priority issue to address.

Rich Williams replied there is some discretion built within the law about whether a parcel is or is not appropriate for a cluster subdivision. If the Board feels that this subdivision going forward is appropriate not to apply those regulations they have the ability to make a recommendation to the Town Board who then has the ability to waive those requirements but there is some stipulations that go along with that in that everybody has to consider how to apply the intent of the law to the property in protecting the open space and keeping the Town rural and things like that. There are specific requirements in the law for looking at that but it ultimately comes down to a recommendation from this Board and what techniques you are going to propose and the Board is going to consider as far as meeting the intent if we are going to waive the specific requirements meeting the intent of that law.

Mr. Cameron stated because this is only a two lot subdivision. I understand the intent of the regulation for clustering obviously if you cluster you preserve more open space but on a two lot subdivision I am not sure how you would cluster it.

Rich Williams stated I could do it.

(Some laughed).

Board Member Rogan stated you mean not with a thousand foot driveway and,

Rich Williams stated perhaps not on this site.

Board Member Pierro asked is any portion of the lower part of the site where the driveway is buildable without putting in a thousand foot driveway.

Mr. Cameron replied everything is extremely steep going down there. The only place that we really had for a house and a septic area was up at the top.

Board Member Pierro asked could you place a house on the lower level and put the septic up on that upper level.

Rich Williams stated you still have to have an access road, you still have to have,

Mr. Cameron stated we are going to have to get up there somehow or way even to build it and even coming from this side we are running into the same thing. Even if the access was an easement granted over here. We are building the road all the way through here and then we are cutting off, I mean this is very steep over here. These are ten foot contour intervals and they are almost on top of each other.

Board Member Rogan asked Rob you are showing the entire driveway at ten percent grade or less.

Mr. Cameron replied yes. That is what the profile shows.

Board Member Rogan asked you are allowed what fifteen percent.

Rich Williams stated yes I mean I am certainly not an engineer I did take a quick look at it and I didn't think that we gained that much by going to fifteen percent.

Board Member Rogan stated I was just going to ask by increasing the slope would you decrease the disturbance.

Rich Williams stated I didn't think so. The issue is the driveway kind of matches the existing topography. It is just the topography is steep to begin with. It is at that grade so I mean if you picked the plan back up and you show the existing driveway or you show the existing grade and the proposed grade with the driveway you can see it almost matches.

Mr. Cameron stated here is the existing grade and there is the proposed. This is what I was talking about the cuts and the fills where we are going to be cutting some material out and filling it in obviously this is through the center line of the road and a lot of the cut is going to past the center line of the road in these areas over here and the fill in that section there.

Rich Williams stated going to fifteen percent you could tighten it up but I would think that you would run into problems with your turning radius.

Board Member Pierro stated I would be concerned about fire department access and emergency vehicle access during the winter time at that grade.

Board Member Rogan stated I guess the word is proceed cautiously.

Board Member Pierro stated thank you Rob.

Mr. Cameron thanked the Board.

Board Member Rogan stated the next item on the agenda I am going to recuse myself because I am a party of the application. Board Member Rogan left the meeting room at this time.

10) BURDICK LOT LINE ADJUSTMENT

Ms. Marianne Burdick was present.

Ms. Burdick stated her name for the record.

Ms. Burdick stated we are requesting two lot line adjustments. There are three parcels currently that do not meet the minimum lot area requirements in an R-4. The two lot line adjustments will result in all lots exceeding the minimum requirements. I know there is an issue with easements. We have a description that we forwarded to our Attorney and she is in the process of working up those easements if you should choose to approve this.

Board Member Pierro asked Rich, can we react to this application without having the easements filed or we make it contingent to.

Rich Williams replied one of the conditions within the resolutions deals with,

Board Member Pierro asked supplying those easements.

Rich Williams stated I believe so.

Board Member Pierro stated I didn't see it sorry.

Rich Williams stated we can make it one that is for sure.

Board Member Pierro stated we will make it number eight, okay Mis.

Ms. Burdick asked isn't it number six.

Rich Williams stated it is actually what I did is number seven covers the issues that I raised in my memo and one of those issues has to do with easements.

Board Member Pierro asked in an earlier memo.

Vice Chairman Montesano stated April 27th.

Rich Williams stated but it wouldn't hurt to re-state just to,

Board Member Pierro stated we will call it number eight provided that, contingent upon Applicant providing filed easements.

Rich Williams stated it is kind of complicated because they need cross easements back and forth.

Vice Chairman Montesano stated the necessary easements. This way Missy can cover it all.

Vice Chairman Montesano asked can we get a motion.

Board Member Pierro asked any comments from the audience, Mike.

Vice Chairman Montesano stated we don't need any.

Rich Williams stated it is not a public hearing.

Vice Chairman Montesano stated we don't need audience comments.

Board Member Pierro made a motion in the matter of Blanche Burdick, Marianne Burdick, Shawn Rogan, William & Katherine Burdick that the Planning Board grants lot line adjustment approval with the eight general conditions supplied in the resolution prepared by the office of the Town Planner dated April 27, 2006 and the addition of comment number eight is that the Applicant provide the necessary cross easements required for the access road to this property. Board Member DiSalvo seconded the motion.

Vice Chairman Montesano asked all in favor:

Board Member Pierro	-	yes
Board Member DiSalvo	-	yes
Vice Chairman Montesano	-	yes

Motion carried by a vote of 3 to 0.

Ms. Burdick thanked the Board.

Rich Williams stated if we could only get the ZBA to move this quick.

The Secretary stated if we could only stop getting ZBA cases.

Board Member Pierro stated we are available to come to some ZBA meetings if you want Rich.

Ms. Burdick stated come and pontificate.

(Some laughed).

Board Member Pierro stated touché Marianne, very good.

Ms. Burdick stated I waited all night.

(Some laughed).

Board Member Rogan resumed his seat on the Board at this time.

11) TOM'S BARBER SHOP SIGN APPLICATIN

Rich Williams stated I went out and talked to Tomas again. He has got the window over the transom right here. He currently has got a neon sign that says barber shop in there which you can take out and he can put a sign in there.

Board Member Rogan stated wonderful.

Rich Williams stated that would be sixteen by forty-eight is size. He also has two side windows. He did ask if he could do something else, put a barber pole right in here referring to the picture, and put a perpendicular sign right in here, to this point it is eleven feet. He would like to put up a thirty by forty-eight inch sign.

Board Member Rogan asked forty-eight deep, thirty wide.

Rich Williams replied no the other way, forty-eight inches wide.

Board Member Rogan asked on that side window, no I don't like that.

Rich Williams replied no not on the side window, hanging off of this post right here.

Board Member Rogan stated that seems big for that.

Rich Williams stated which he could hang. I looked at it thirty, by thirty-six maybe.

Board Member Rogan stated it is too big.

Vice Chairman Montesano stated thirty by forty-eight is kind of big.

Board Member Rogan stated it should not over hang into the neighboring store front of course.

Vice Chairman Montesano stated he wants the sign to be seen from the side which I can understand.

Board Member Pierro stated I think it would look much nicer painted on the interior of the windows.

Vice Chairman Montesano stated yes but you can't see the windows if you walking down the street.

Board Member Rogan stated you know what though, the barber sign that you are talking about the whirly gig if he put that on the left side that would be more visible from the other businesses.

Board Member DiSalvo stated he has it in the window now.

Board Member Rogan stated that alone tells people. Everybody knows that universal sign barber shop. My feeling would be let him put the pole mounted whirly gig in the transom window and more or less be done with it and he probably still, everyone would know he is there. They may not know it is Tom's Barber Shop but they would know it is a barber shop. That is just my feeling the transom and the barber pole.

Board Member Rogan asked how do you feel on that Mike.

Vice Chairman Montesano stated the pole to me is universal and to have that thing here I would be worried about somebody walking down and whacking into it.

Board Member Rogan stated I agree.

Vice Chairman Montesano stated I mean the pole is going to be bad enough but if you hit that pole,

Board Member Rogan stated that is good question though it should be mounted fairly, the same height as that orange.

Vice Chairman Montesano stated Rich did he mention where he would mount the pole. I mean you don't want somebody walking down the street walking into it.

Rich Williams stated he has got it there already and it is only about twelve inches wide I would say, (unable to hear too many talking at the same time).

Board Member Rogan stated as high up as possible.

Rich Williams stated it is only about this big.

Vice Chairman Montesano stated I am more worried about the kids that come riding up and down on the bicycles and somebody whacks into it but I think that would be fine.

(Too many talking at the same time unable to transcribe).

Rich Williams asked do you want to do a motion on that.

Board Member Rogan asked Maria do you want to do that motion.

Board Member DiSalvo asked what are we approving.

Rich Williams replied a sixteen inch by forty-eight inch sign in the window over the door.

Board Member Rogan stated the transom.

Rich Williams stated before we go down that road are you okay with the colors he was proposing the white with the red and the blue letters.

Board Member Rogan stated I have a question, we were going to look back at the sign ordinance whether or not white could be used as a background because I did not remember.

Vice Chairman Montesano stated no.

The Secretary stated no it can't be.

Vice Chairman Montesano stated no it had to be the blue, the green or the red.

Board Member Rogan stated as a background.

Vice Chairman Montesano stated as the background.

Board Member Rogan stated or a gold leaf lettering or something like that so that is where,

Vice Chairman Montesano stated so we tell him we can approve it with a blue, green or. Do you think you can explain now the colors.

Rich Williams replied I will make every attempt.

Board Member Rogan asked what sign was it that came in and that brought up that question. It wasn't this one.

Vice Chairman Montesano replied his.

Board Member Pierro stated it was his sign. He had a powder blue in the background.

Rich Williams stated no he had a white background.

Board Member DiSalvo asked so a blue background, what are we doing with the letters.

Vice Chairman Montesano replied you can have a blue, a red or a green. If he is going to use blue lettering you would probably be better off with the red. I would say change the lettering to gold leaf because that is what we put in the Code if I remember right. Did we specify the letters.

The Secretary stated I don't think it was just gold.

Vice Chairman Montesano stated was it black.

Board Member Rogan stated the reality is if somebody wanted to do a red color, the red color that we picked, the red background with the green that we picked as the lettering that would be acceptable because that was within the sign ordinance. It was a combination of those colors was the intent but we definitely wanted one of those three colors as the background.

Vice Chairman Montesano stated if he put in those colors he could do just the way the sign is with the barber pole on the front and it would match in.

Board Member Rogan stated except that the red is more of a colonial red than candy cane red.

Board Member DiSalvo made a motion in the matter of Tom's Barber Shop that the Planning Board declare this application an unlisted action, negative determination of SEQRA and that the Planning Board approves a 16" by 48" transom mounted sign and one barber pole to be placed on the, where is it going on the left side do we have the measurements of the barber pole. The one he had in the window was small.

Rich Williams stated one foot by two foot.

Board Member DiSalvo stated a one foot by two foot barber shop pole, the color of the sign is to meet the Hamlet sign ordinance. Board Member Pierro seconded the motion.

Vice Chairman Montesano asked all in favor:

Board Member Pierro	-	yes
Board Member Rogan	-	yes
Board Member DiSalvo	-	yes
Vice Chairman Montesano	-	yes

Motion carried by a vote of 4 to 0.

12) Other Business

a. Site Inspections

Chierra Landscaping

Board Member Rogan stated we have a set of plans on Chiera. Rich do we have everything on the plans that we had spoken about.

Rich Williams replied I believe you do the only outstanding issue is the sign (unable to hear).

Board Member Pierro asked excuse me Rich what was the last part.

Rich Williams stated the only outstanding issue is the sign, Maria had some concerns about the location and the size of the sign blocking the site distance coming in and out of there for traffic. That really needs to be addressed when he comes back in for a permanent sign for the site.

Board Member Pierro stated so he is coming back in here for a permanent sign.

Rich Williams stated right you gave him a temporary approval for the sign.

Board Member DiSalvo stated Richie you had some concerns about the septic fields where they are located and what is on top of them.

Rich Williams stated yes I did, Shawn if you want to take a look at that you probably have more (unable to hear). Look at the big site plan, see the septic fields for the building that is where they are storing the plant material.

Board Member Rogan stated so they are not getting a whole lot of evaporation off that site are they.

Rich Williams stated not only that but they are watering the plants all day long.

Board Member Rogan stated and the plants are probably growing very well.

Board Member DiSalvo asked that is on the other site right.

Board Member Rogan replied yes.

Rich Williams stated so again, it is not related to this particular application but it is (unable to hear).

Board Member Rogan stated well what is interesting and I can ask this question Monday when I go back in but there are obviously certain things that they don't allow over septic fields or don't recommend but nursery stock is something that I have never heard discussed and I can certainly raise the question and see where get from it.

Rich Williams stated my concern wasn't so much with the mulch and the nursery stock as it was for the continual watering of the stock.

Vice Chairman Montesano stated mulch once it gets wet stays wet is that going to prevent in any way,

Board Member Pierro stated it will affect the evaporation.

Board Member Rogan stated the good thing is we have an office that is tied into this with just one bathroom so the reality is the water usage is minimal at best.

Rich Williams stated that is good because I am sure the septic is minimal too.

Board Member Pierro asked so what do we need on this. Was it a waiver.

Rich Williams replied yes he was looking for a waiver of site plan.

Board Member Pierro made a motion in the matter of Chierra Landscaping that the Planning Board waives the site plan approval and place into the record the design provided by Mr. Chiera indicating where he will have a garden path and a floral garden center design area display in the rear of his office. Board Member DiSalvo seconded the motion.

Vice Chairman Montesano asked all in favor:

Board Member Pierro	-	yes
Board Member Rogan	-	yes
Board Member DiSalvo	-	yes
Vice Chairman Montesano	-	yes

Motion carried by a vote of 4 to 0.

Board Member Rogan stated the rest are just site walk comments we don't need to do anything.

The Secretary asked are you accepting the comments on Leonidas, Boniello and NRA.

Ted Kozlowski stated I have comments on Leonidas.

Leonidas Subdivision Site Inspection Comments

Ted Kozlowski stated Rich forgot to put in the Leonidas the inconsistency of the wetland flagging.

Rich Williams stated I didn't forget that, that is an issue with the Environmental Conservation Inspector.

Board Member Pierro stated who will be providing a written memo in that regard, correct.

Ted Kozlowski stated well I actually called Theresa to tell her about the next day. I said would you like that in writing, oh no.

Rich Williams stated I will add it to the memo.

Vice Chairman Montesano asked now answer a question for me Sir, who do you consider has more power Theresa or us.

Ted Kozlowski replied you. I will put it in writing.

Boniello Subdivision

Vice Chairman Montesano asked Boniello any comments.

Board Member Pierro stated my only comment on Bonniello was in support of what Ted had mentioned to me at the site walk and there were two actual issues; one that he had to put erosion control around that pile of dirt that he screened and that I think that if he continues with his attempt to put the access driveway to those rear lots he ought to swing around to the southerly south easterly side of the property instead of going through the center of the property in that wet area near the stream. I think if he goes around to the right and to the back it would be environmentally better.

Ted Kozlowski asked what is the possibility of you know when we did that site walk obviously they are putting a road in for this new,

Board Member Pierro stated for Leonidas.

Ted Kozlowski stated why can't they,

Board Member Rogan stated that is something Dave said when we were on site.

Board Member Pierro stated I suggested that to him but time frame are we guaranteeing that Leonidas is going to get approved.

Ted Kozlowski stated well,

Board Member Pierro stated they should but if Leonidas does not get approved then he has no access.

Board Member Rogan stated I definitely don't support going through the center of that contractor yard. When we jumped up and over the concrete wall and walked back up through the woods do they own property, remember we saw it was like an old abandon car and an old shack.

Board Member Pierro stated that is torn down now. Paul issued a Building Permit last week to tear that down and that was on Enrico's property.

Board Member Rogan asked so that it is not even property that is available.

Board Member Pierro stated but a portion of that may be his.

Board Member Rogan stated the reason that I was saying to the southerly side of the property once you get into the woods you are dealing with a whole another wetland system it seemed like when we walked up through the woods, down to our left was quite a bit of wetland. While it may be better for going through the yard area it may not be environmentally. We would have to look at that.

Ted Kozlowski stated I just don't know honestly why yes, Tony is a great kid and if he lives there fine but someday he is not going to live there and who is going to want to drive through a contractor's yard to get to their house.

Board Member Rogan stated I agree.

Board Member Pierro stated I agree again it is not our decision.

Board Member Rogan stated that part is.

Board Member Pierro stated I mean if he wants to drive through the contractor's yard that is his choice he owns the property.

Board Member Rogan stated that is changes of uses though.

Rich Williams (hard to transcribe too many talking at the same time) stated it is your decision whether he is allowed to do that or not.

Ted Kozlowski stated the thing is there is so many logistical questions, Tony locks that gate now if it is owned by somebody else one day and that guy has valuable stuff there and he locks that gate, a person going through and their guests what do you do.

(Too many talking at same time unable to transcribe).

Board Member Pierro stated it is not where I would choose to live but if he could have the kind of gate Maria has with a code.

The Secretary stated that is just it though when he sells and you have two houses up there, you have to have a code, and delivery people do what and guests.

Board Member Pierro stated it is the same thing we approach every time we issue a common driveway.

The Secretary stated no this is different you are driving through a business to residential.

Ted Kozlowski asked how about fire.

Board Member Rogan asked Maria, what happens if the fire department has a fire at your house.

Board Member DiSalvo replied just push the gates open.

Board Member Rogan asked just blow threw them.

Board Member DiSalvo stated just push them they are not locked. I think that if they can get the lot that adjoins their property from Leonidas and have an entrance that way.

Board Member Pierro stated that was a suggestion that we, Board Member DiSalvo stated then we also talked about fire prevention too.

b. WHITE BIRCH REALTY

Vice Chairman Montesano stated White Birch Realty we have a slight problem.

Board Member Rogan asked what problem is that Mike.

Vice Chairman Montesano replied basically there is two people in the building they would like to have for the third person,

Board Member Pierro stated they need a building permit.

Vice Chairman Montesano stated to get a building permit before we do anything else and do you want to explain the rest of this situation that we sat with.

Rich Williams stated I am not seeing where the situation is as I indicated earlier. They have a conditional approval on a site plan that allows them to go start doing improvements on the site. I believe it also allows them by Code to pull a building permit. The issue is getting the C.O. and certainly our Code says you can't get the C.O. until all the site conditions, all the site improvement conditions have been met, all the site improvements have been completed and then he gets into the issue about needing to meet whatever Paul's requirement are for a building permit.

Board Member Rogan stated that would be the exact same issue we just discussed with the Alpine, getting a building permit for that building, they were looking basically for a conditional preliminary approval tonight so that they could draw a building permit to work on that. It is the same scenario they could get it if we had issued preliminary approval tonight they could have gotten a building permit but not gotten a C of O until the site plan was resolved to its entirety. It is the same issue it sounds like so it does not sound like this Board needs to take an action. Does that sound about right Paul.

Vice Chairman Montesano stated no that is why he is here.

Paul Piazza replied yes and no. The short version yes and no. Yes, I can give him a building permit and they can go to town and do their job, get everything built up, I can't give them a C.O. The problem is I know for a fact that Craig Zotola is being pushed out of his place, he needs to go some place, where do you think he is going whether he has got a C.O. or not for the building. Now, if the Board gives the authorization that I can allow him to move in there, get a C.O. and move in there I am happy. If the Board doesn't I can't do anything. I don't see how the Board can do it based on our Code.

Board Member Pierro asked can we give them a time certain to,

Rich Williams stated a person can't occupy the building by our Code, I am probably speaking for the Attorney until they have a Certificate of Occupancy to occupy. The only person that can say that the conditions have been met is Paul.

Anthony Molé stated that pretty much covers it. You can't issue a C.O. before the conditions are met and you know there are provisions in the Code and in Town Law that provide for waivers in the site plan process but the problem is those waivers apply proceeding the final approval really not after you granted a conditional final approval again, I sent an e-mail on this as well where I said it is basically if you were to grant the waiver, some sort of waiver which I don't think that you could do by the way but to grant the C.O. that would be tantamount to basically granting a waiver of your own conditions which you can't do, shouldn't do.

Vice Chairman Montesano stated so we are back to square one.

Paul Piazza stated okay I can issue the building permit, they cannot occupy the building. We all know that two of the spaces are occupied at this point. One of the things that I am going to do in a letter to the owner when he gets his building permit is I want the fire suppression water pond established and the dry hydrants put in.

Board Member Pierro asked prior to occupying.

Board Member Rogan stated prior to the building permit.

Paul Piazza stated in conjunction with the building permit.

Board Member Pierro stated okay fine.

Paul Piazza stated if that is okay with the Board and it is for their protection.

Rich Williams stated there are some other conditions out there that he has to satisfy before he can do that with Ted.

Vice Chairman Montesano stated he is going to have to pass it down, he will have to go to Ted and satisfy Ted.

Ted Kozlowski stated I thought, weren't we squared away on that.

Rich Williams stated you wanted to see (unable to hear)

(Too many talking at the same time unable to transcribe).

c. Patterson Garden Center

Board Member Rogan asked didn't we take an action last meeting.

Rich Williams replied yes but Anthony was not present and there seems to be some confusion.

Board Member DiSalvo stated we had other legal opinions that evening.

Rich Williams stated either we proceeded correctly or we didn't proceed correctly and I certainly have some questions.

(TAPE ENDED)

Rich Williams stated and actually conducting a business, it has been eighteen months, two years that they have been doing this without a Certificate of Occupancy to legally occupy the building or site plan approval. In September he got a conditional approval, he had 62 days in which to satisfy all the conditions, do all the improvements on the site and then the Board would sign the plan. He got down to where he had just a few outstanding items then winter caught us so he didn't finish them up. When we went back out there this spring to see how he was doing with finishing up the site improvements we found that not only that those four outstanding items had not been finished but we now had fourteen new violations and wetland violations and everything else. There was a discussion about whether he should be allow to continue to operate the business while he is satisfying the conditions of the site plan because essentially the site plan and the conditions and all the improvements are there to ensure a safe and reasonable operation of a business. We don't want a business operating before those improvements are there which are necessary to operate that business. We talked about it at the work session, it was decided that the Board did want to seek a temporary injunction to stop him from operating the business, correct.

Board Member Rogan stated that was the motion made.

Rich Williams stated which they took that action. I also argued the Board also to back up the Board also wanted him to pursue aggressively getting the site improvements completed so that he was no longer in violation and could operate the business. I argued that I can't go out there and tell him he has to do certain improvements if he does not have at least a conditional site plan approval showing me what improvements he needs to be making so the Board granted him a thirty day extension. It then came up that was a mistake it would have affected getting a temporary restraining order which personally I don't understand because the temporary restraining order would be against him operating the business not doing the site improvements. The conditional approval was for him to do the site improvements.

Anthony Molé stated it wasn't a mistake. It was really just what I was mentioning was from a practical standpoint. You go to a judge with an order for a temporary injunction, the judge will look at the facts, and the Attorney is going to argue basically that a thirty day time period was granted for them to satisfy the conditions, get the property back into the state that it is supposed to be in. From a practical standpoint what would probably happen is they adjourn it for thirty days, see if he does what he is supposed to do then we will address the temporary injunction. So, I don't know if the Town wants me to go ahead and do that now or wait the thirty days to see what is accomplished and then go for the injunction at that point if necessary. From a legal standpoint technically we can still go for a temporary injunction. There is nothing preventing us from doing that but I think from a practical standpoint that is what would happen.

Board Member Pierro stated after thinking about it the next day I just felt that it was not practical our decision. Either we issue the TRO or have it issued and then negotiate with his counsel on a

process to get this thing remediate or we grant him a thirty day extension. I didn't think we should have done both.

Vice Chairman Montesano stated let's look at it this way, if you give him the thirty days then you are showing that you are willing to work with him but you are also telling him we are going to work with you but you can't conduct business until you show, the man has been there for two years and has done absolutely nothing.

Board Member Pierro stated that is exactly my point Mike. Lets get the TRO issued.

Anthony Molé stated the bottom line is he is operating a business without a C.O. at this point.

Board Member Pierro stated right let's issue the TRO and go for it.

Vice Chairman Montesano stated this is what we granted if it was improper and we can rescind the granting of the extension.

Rich Williams stated I don't know that we,

Anthony Molé stated I don't know that you should do that. I would keep that in place.

Vice Chairman Montesano stated it is gone a week already so you have approximately three weeks to go.

Board Member Rogan stated the correspondence that I saw from him seemed to indicate that he already worked to clear up quite a few issues.

Ted Kozlowski stated there is a memo here saying he was going to be here tonight. Where is he.

Board Member Pierro stated and where is he.

Rich Williams stated I was out there, I went through some of the things. Did he tear the addition off of the building that he put on yes he did that. Did he tear the dam out of the stream which should not have been in in the first place, he did that. There were a couple of other things but the majority of them had not been addressed. We had some disagreement for example the swale that he dug into the wetlands he said he dug that by hand, I looked at it.

Board Member Rogan stated I kind of thought that it was dug by hand.

Rich Williams stated a good portion of it could it had been dug by hand there were a couple of sections of it that somebody had to be pretty dam big to be digging it by hand.

Ted Kozlowski stated he has excavated and he is piling stuff in wetlands.

Vice Chairman Montesano asked what about those charming electric motors that were running with the pumps.

Rich Williams replied I think that was out of the stream when I was out there.

Ted Kozlowski stated well the old oil tank on the stream bank is holding water.

Board Member Rogan stated he claimed I think that that was there when we did the initial old site walks. I don't remember.

Ted Kozlowski stated I don't remember seeing it.

Board Member DiSalvo stated I remember seeing it.

Rich Williams stated nobody remembers it but regardless as I explained to him he is bible is the site plan. If it is on the site plan he is fine if it is not he is not fine.

Board Member Pierro stated you photographed the site when we were out there the first time did you check your digital and see if that oil tank was there.

Ted Kozlowski stated plus I believe, I remember that stream being very narrow I think he had an excavator in there that stream seems wider now.

Vice Chairman Montesano stated I don't recall it because it was a used oil tank not a clean one.

Ted Kozlowski stated the whole bottom is smooth and there is no debris or anything.

Board Member Pierro stated that is not the way I recall it.

Ted Kozlowski stated no it was mess, it was not a mess but it was full of natural it has been scooped.

Board Member Pierro stated my recommendation is that we issue the temporary restraining order now.

Board Member Rogan stated we already did that last meeting but are we also still consistent with the thirty day extension so he can work on this stuff.

(Too many talking at the same time unable to transcribe)

Vice Chairman Montesano stated we were just informed that we shouldn't take that away. So you figure there is three weeks left to go by the time Anthony gets into the Judge and gets it moving on anything.

Board Member Pierro stated and the next thing he is going to ask for an extension on the thirty days eventually we have to fish or cut bait either we are going to be tough or not going to be tough.

Vice Chairman Montesano stated he has got thirty days of which a week is gone,

Board Member Pierro stated no he has got,

Board Member Rogan stated it sounds like the amount of time has nothing to do with us. Doesn't it.

Board Member Pierro stated he has got less than thirty days.

Board Member Rogan stated no, no the thirty day extension and the time frame that Anthony was talking about in terms of a Judge doing something are two separate issues here.

Board Member Pierro stated well if that was my court I would not be issuing a TRO when we already gave him thirty days.

Anthony Molé stated well by the time it takes to put it together there might be a week or two left.

Ted Kozlowski stated I don't think you are going to see that site,

Vice Chairman Montesano stated any improvements at all.

Board Member Rogan stated we say in the Health Department that when people get tied up in enforcement it gives them the most time they ever had than when we work with them. When we work with them there are stricter guidelines. As soon as they get in front of the Judge, the Judge says come back in a month, do your work and come back in a month. A year later you are still not resolved.

Anthony Molé stated sometimes the threat of bringing there does more.

The Secretary but it will stop him from making money. It closes him up.

Anthony Molé stated you have to understand too courts are not too fast to do something that is going to cost someone their livelihood so that is a factor too.

Ted Kozlowski stated the thing is I don't know how much that nursery is really being the bulk of his business it looks more like a contractor's yard than a nursery.

Vice Chairman Montesano stated he did the same thing in Southeast. You drive down past where the yard is and you see the mess that is in there.

Board Member DiSalvo asked did he ever more block up on those walls to make them higher so there is no spillage.

Rich Williams replied he had not when I was out there the beginning of this week. I am planning on going out the beginning of next week.

Board Member Pierro made a motion to adjourn the meeting. Board Member DiSalvo seconded the motion. All in favor and meeting adjourned at 9:30 p.m.