

**TOWN OF PATTERSON
PLANNING BOARD MEETING
May 5, 2005**

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Planning Board
May 5, 2005 Meeting Minutes
Held at the Patterson Town Hall
1142 Route 311
Patterson, NY 12563

Present were: Chairman Herb Schech, Board Member Dave Pierro, Board Member Shawn Rogan, Board Member Maria Di Salvo, Rich Williams, Town Planner, Gene Richards, Representative from Town Engineer's Office, Anthony Molé, Town Attorney and Ted Kozlowski, Town ECI.

Meeting called to order at 7:34 p.m.

There were approximately 23 audience members.

1) BUDAKOWSKI SUBDIVISION – Public Hearing Continued

Mr. Brendan Mayer, Attorney with Shamberg, Marwell was present representing the Applicant.

Mr. Mayer stated good evening Mr. Chairman, Members of the Board, Brendan Mayer, Shamberg, Marwell, Davis & Hollis, 55 Smith Avenue, Mt. Kisco, NY 10549 on behalf of the Applicant. For the members of the public this a subdivision application to divide an existing twenty acre parcel into a roughly 16.7 acre parcel and a 4.067 acre parcel. It is my understanding that the Planning Board had a chance to make a site visit recently.

Chairman Schech stated yes.

Mr. Mayer asked are there any concerns, questions raised during that site visit that you would like me to address.

Chairman Schech replied let's get the public hearing over with then we will go over it.

Chairman Schech asked is there any comments from the audience. There were no comments from the audience.

Chairman Schech asked can I have a motion to close the public hearing.

Board Member Rogan made a motion in the matter of Budakowski Subdivision that the Planning Board closes the public hearing. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Chairman Schech stated now you want to know what we came up with here.

Board Member Rogan stated the delineation of the roadway we all agreed with. I don't remember there being any real sticking points on that.

Chairman Schech stated the only problem is up where we first go in there, the right of way it is very confined between the neighbors and what not so what we want to do is keep just that one right of way and if anyone else wants to go in there they are going to put another half of the road over on the right hand side.

Rich Williams stated if I might Mr. Chairman,

Board Member Pierro stated we had some more specific issues.

Chairman Schech stated all right well I just started here.

Rich Williams stated I know but I just wanted clarify at the last or a couple of meetings ago a representative for Mr. O'Hara had indicated that Mr. O'Hara would prefer that the road go down the center of what was considered the right of way of the St. John's right of way and if my recollection is correct the Planning Board seemed to find that acceptable not going one side or the other am I wrong.

Board Member Rogan stated I think the only issue there would be that if Mr. O'Hara decides to do improvements or subdivide the property that will access that road additional improvements will be required so if we use center line of the road,

Chairman Schech stated now you have lost me.

Rich Williams stated then Mr. O'Hara would be required to do it if the Board determined that it was appropriate on either side of the road.

Board Member Rogan stated (hard to hear others talking) on both sides of the road that is my only concern.

Rich Williams stated yes in my opinion.

Board Member Rogan stated then I have no problem.

Chairman Schech asked I thought once we got over the knoll and then we would put the road to the edge of the property.

Rich Williams stated I think what we said is we were going to put the road at the edge of the property once it crossed the property line owned by Budakowski's.

Chairman Schech stated right because if we don't do that up on the front we will have to take land from the current property owner's on the left which we don't want to do.

Mr. Mayer stated and I had discussions with the neighbor's attorney and it was agreed at that time back in March that the initial road would run up the north side of the drive and then once it got to the Budakowski property it then would cross over to the center line and run up and that was agreed to by Mr. O'Hara's attorney and it is referenced in a letter to him as well and I believe to the Board.

Chairman Schech stated well all I know is what we want. I don't know what Mr. O'Hara's attorney wanted.

Mr. Mayer stated I just want to make sure that we are clear as to what the Board wants that is my only concern because I am hearing two different things.

Chairman Schech stated Rich we have a problem.

Mr. Mayer stated it is my understanding that the initial as soon as you turn into the road the drive will be located on the north side as it goes up to the Budakowski property and then once it reaches on the Applicant's property it will then run down the center line. Is that your understanding Rich.

Rich Williams replied no my understanding was that the road, the improvements to the existing road were going to run down the center until it hit Budakowski's property line and from that point forward then it would be on the Budakowski property.

Mr. Mayer stated okay that is different as opposed to,

Rich Williams stated I think Mr. O'Hara is here if you want to get further clarification.

Chairman Schech stated this is what we like.

Mr. O'Hara stated it is supposed to be center line all the way.

Chairman Schech stated no sorry. The entire road would be center line all the way we are only putting a half of road in.

Board Member Rogan stated I think that is the concern that we are only building a road, Chairman Schech stated we are only putting a twelve foot road in, Board Member Rogan stated for the potential of this application.

Chairman Schech stated potential is a twenty-four foot road.

Board Member Rogan stated future improvements or future subdivisions on that road will require

improvements we have gone to great extent to say that. Quite honestly if you subdivide your property we are going to require additional improvements on your side of the property.

Mr. O'Hara stated excuse me but I think you said that before where Budakowski was concerned and then we end up doing something else.

Board Member Rogan stated I am sorry I don't understand your question.

Mr. O'Hara stated Budakowski was supposed to put in a major road there and they didn't.

Board Member Rogan stated that is what we are in the process of doing now.

Chairman Schech stated that is what we are in the process of doing a half of road. We came to a half road compromise. They are only getting one lot out of it.

Board Member Rogan stated Mr. O'Hara the original intent in this is to try to get a fifty foot right of way ultimately. The Planning Board decided that it would be fair if we could get twenty-five foot from center line through the portion of the property that the Budakowski's could get which would be all of their own property and then any portion up front that we could get. We certainly were not looking to do a taking of property so now the idea is that in the future we would like to if there is another proposal, if another proposal doesn't happen off of that road then there is no need for other improvements. If there is a proposal if you decide to subdivide we would ask for the twenty five foot right of way from center line on to the Applicant at that time so that we ultimately have a fifty foot right of way which meets town road specs.

Board Member Pierro stated it was never our intent to have Mrs. Budakowski improve a road on your property. We cannot do that.

Mr. O'Hara stated excuse me maybe I don't understand here but that really is kind of what is happening.

Board Member Rogan stated I think I am a little confused but I think the portion from the entrance from 311 to the Budakowski's property is where we are talking about centerline, using centerline of the road and that is partly your request.

Mr. O'Hara stated right.

Board Member Rogan stated we certainly could shift over to the Budakowski's to that side of the road but I think in that section it makes more sense to use centerline.

Mr. O'Hara asked so explain to me exactly what is happening because I am getting a couple different versions now.

Board Member Rogan replied no we are only saying one version. The version is that from the entrance on 311 to the beginning of the Budakowski property we are looking at improving that road twelve foot wide using centerline of the road as the reference point, six foot of each side of center. Once we get to the point where Budakowski's property begins that twelve foot road is going to shift over, centerline will be the edge of the road because from there up is it is un-improved anyway so we don't have as defined roadbed so at that point the twelve foot driveway, roadway will be from centerline over on to the Budakowski's property all the way to the point where it is used.

Mr. O'Hara asked you are not confusing Budakowski with Porto are you.

Board Member Pierro stated it is the same property.

Board Member Rogan stated it is the same property I apologize. It is Budakowski property in terms of this application.

Mr. O'Hara asked so just to clarify so that everybody understands because I certainly don't what exactly is the Board proposing.

Board Member Rogan stated I guess I can re-state it. Which part are you confused about from 311 to Budakowski's and I am using the whole site now when I say Budakowski, Porto, Budakowski.

Mr. O'Hara replied yes okay run through it again.

Board Member Pierro asked from Route 311.

Mr. O'Hara replied right.

Board Member Pierro stated centerline of roadway.

Board Member Rogan stated all right you have the centerline of the roadway we are going to have six foot on each side from that center which basically is what is there right now improved. Once we get to the point where the Budakowski's property begins which I don't know how far in it is, a couple of hundred feet,

Mrs. O'Hara asked so we are going past Porto's see that is what is confusing.

Board Member Rogan replied no we haven't even gotten there once we begin their property, do you have the map there.

Mr. Mayer replied yes.

Board Member Rogan asked can you point to it on the roadbed, put your finger where 311 is first, okay that is Route 311 now as we go down towards the Budakowski's property drop over the hill that is where the property begins right, show where the grade changes, the drop down hill and the existing roadbed.

Someone said we are going to that property line.

Board Member Rogan stated okay so that is it, so where the existing road starts to go down the hill is the beginning of the Budakowski's property from that point we are going to have a twenty-five foot right of way from the existing centerline over on to their property and we are going to ask them to improve to twelve foot wide from that centerline over.

Chairman Schech stated the existing property line not centerline, property line.

Board Member Rogan stated I am sorry right the old centerline of the roadbed, which is the delineation of the two properties.

Chairman Schech stated the best thing to do is put it on paper because otherwise nobody is going to understand this thing and we can straighten it out from there.

Mr. O'Hara asked so you are starting off on centerline and then going over on to the Budakowski's.

Chairman Schech replied technically we are starting off with what is there. There is a right of way there, we are starting off with that. That is going to be the twenty five foot right of way going in to the Budakowski property line. If anyone else wants to access the rear they have to put in another twenty-five feet on the right hand side as you face it.

Board Member Rogan stated not twenty-five another twelve feet.

Chairman Schech stated another twelve foot to give us a total of a twenty-four foot town road.

Board Member Rogan stated but to rest your concerns regardless of where this current improvement goes it does not change let's say you come in a month from now for a two lot subdivision it will not change the cumulative of what we ask from you. The improvements will be the same it is just where they are being placed. If you do improvements in the future based on an application it will just happen to be on your property line. We are going to ask for a twenty-five foot right of way with twelve foot of improvement on your property.

Mr. O'Hara stated okay so we are starting off from 311 on centerline then we are going over to the Budakowski's side. Is that correct.

Board Member Rogan stated that is correct, yes Sir.

Board Member Pierro stated Budakowski will be responsible for twelve foot of the roadway and anybody who comes in in the future after that will be responsible for the other twelve foot.

Board Member Rogan stated at that point we will have it up to specs.

Mr. O'Hara asked when you say specs are you talking a twenty-four foot wide driveway or twenty-four foot wide road.

Chairman Schech replied technically a twenty-four foot wide road with binder course only.

Mr. O'Hara asked and what about drainage.

Chairman Schech stated drainage will be whatever drainage is needed will be installed.

Mr. O'Hara asked by the Budakowski's or by the other Applicant.

Chairman Schech stated whatever is needed for the Budakowski's,

Board Member Rogan stated well since we don't have an application before us that is kind of,

Chairman Schech stated we have to go with this. This is just the beginning I have no idea I am not an engineer.

Board Member Pierro stated if the Budakowski's are required to do drainage then they will have to do drainage on their side.

Mr. O'Hara stated but there is no plan for that now.

Board Member Rogan stated also when we started this process I don't know how long ago, two years ago the original intent was to try and get a fifty foot right of way so that we had this right of way in place including your property and apparently that was not an option at that time because we had them explore that if I remember Rich and that wasn't an option.

Mr. O'Hara stated I am sorry but nobody from the Board ever contacted me about this subdivision until I got a letter from Chairman Schech, which was back in December so this process has been on going for about two years.

Board Member Rogan asked so you are saying that the Applicant's engineers or lawyers had never contacted you.

Mr. O'Hara replied and nobody from the Board ever contacted me.

Board Member Rogan replied no we would not contact you we are not the Applicant.

Mr. Mayer stated all property owners were notified.

Mrs. O'Hara stated or them.

Board Member Rogan asked are you saying though that you were not notified by the Applicant or their attorneys.

Mr. O'Hara replied correct.

Mrs. O'Hara stated until December.

Mr. O'Hara replied until December.

Mrs. O'Hara stated when you said this was two years ago we are saying,

Board Member Rogan stated yes this was quite awhile ago.

Mr. O'Hara stated we were never notified.

Another audience member stated something but was unable to hear.

Board Member Rogan asked who are you Sir.

Mr. Baker stated his name (hard to hear) letter in December and that is the only reason we are here.

Rich Williams stated we need to get them on mic's.

Chairman Schech stated all right this is just the beginning until we get it down on paper so everyone knows what is going on including me okay.

Mr. Mayer asked and is there anything else from the Board that you would like.

Rich Williams stated if I might where we stand right now in the process is,

Chairman Schech stated I think we threw enough at you right now.

Rich Williams stated there is still an outstanding memo that was released in January by the Board, by myself identifying a number of issues that still need to be addressed on the plat they have not yet been addressed on any plan. In addition I would just like to make everybody aware that we closed the public hearing now the Board has 62 days in which to make a decision on this application unless the Board and the Applicant mutually agree to waive that 62 days statutory time period. To do that we would need something if not already done from the Applicant in writing.

Board Member Rogan stated I think we were close to our time frame anyway expiring on keeping the public hearing open.

Rich Williams replied this is why we closed it tonight is we hit our 120 day time period. We had to close the public hearing.

Mr. Mayer asked is that it.

Chairman Schech replied that is it.

Mr. Mayer thanked the Board.

2) REILLY LOT 37 WETLANDS WATERCOURSE PERMIT – Public Hearing

Mr. Harry Nichols, Engineer and Mr. Joe Reilly, Applicant were present.

Chairman Schech stated Melissa, Reilly public hearing notice.

The Secretary stated Rich will take over.

Rich Williams stated if I might Mr. Chairman we ran into a problem with Reilly Lot 37 public hearing in that the Applicant did not notify all the people that he was required to notify so in affect we cannot go forward with the public hearing. Now, having said that there may be a number of people here who were coming expecting to have an opportunity to speak. I don't know how the Board would like to handle that but because we did not meet the statutory requirements the public hearing cannot be held tonight so we are going to have re-notice the public hearing for the next meeting and he is going to have to re-notice all the property owners.

Board Member Rogan asked Rich we have the opportunity as a Board to allow public comment on any project don't we.

Rich Williams replied yes you do.

Chairman Schech stated so we can have the comments now from the people that are here and then put it off until the next time.

Board Member Rogan stated it would be part of the record and then we could make a motion to include those comments as part of the public record for that.

Rich Williams replied you could. While I have the floor though if I might as I talked about with a couple of you one of my recommendations was the Applicant is picking up the drainage off of Cornwall Hill Road and moving it across their property, my recommendation was to move it on to the adjacent property which would give us more room in the future to perhaps put in some sort of stormwater quality practice to treat the runoff coming off of Cornwall Hill Road even though it is a County Road.

Board Member Pierro asked do you need a recommendation on that Rich.

Rich Williams replied it is up to the Board whether they would like to make that recommendation to the Town Board that the Town Board consider granting an easement.

Board Member Pierro made a motion in the matter of Reilly Lot 37 that the Planning Board recommends that the Town Board grant an easement for drainage purposes on to the Town owned right of way road off of Cornwall Hill Road to facilitate drainage along Cornwall Hill Road. Board Member Rogan seconded the motion.

Chairman Schech asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Chairman Schech asked does anyone want to make any comments on this.

Bob Barry asked my question is where is this Lot 37.

Board Member Pierro replied it is on Cornwall Hill Road adjacent to the barn at the former Maguire residence.

Chairman Schech stated the large white house on the left.

Bob Barry asked it is on the left hand side.

Board Member Pierro stated it is on the right hand side going towards 311.

Ted Kozlowski stated it is directly opposite somebody's very nice vegetable garden.

Board Member Pierro stated John Bodor's.

Zolton Handrik stated I live on 460 Cornwall Hill Road and I am walking on that right of way three, four times every week and there is all kinds of measure on Cornwall Hill Road, I mean on the right of way to the pumping house. It has been surveyed I don't know how many times and the stickers on the bushes are wetland, wetland, wetland and there is a level of ground the same level as that lot that is supposed to be built on. There is always water in there. I don't know how people can approve to put a house in there. Any sense can tell you there is a wetland here there is only a hundred yard at the same level and a wetland there too. I don't need an engineer report. I can tell you that. I know that area more than probably anybody else. I live there for thirty years okay that is my comment thank you.

Chairman Schech thanked him.

Chairman Schech asked anyone else.

Edie Keasbey asked can you describe what you are doing Harry because nobody knows.

Harry Nichols stated this is Lot 37 of the Van Cleef Subdivision and we are proposing a single-family residence.

Board Member Rogan asked Harry when was that approved the subdivision.

Rich Williams replied back in 97.

Board Member Pierro stated before our tenure on the Board.

Harry Nichols stated a single-family residence with a septic and a well.

Edie Keasbey asked are you still proposing the big house that you talked about a month ago instead of the little house that is shown on the papers that you submitted and was permitted by DEP.

Harry Nichols replied this is a three-bedroom house it is not a big house.

Edie Keasbey asked and what was the other one. It was very small.

Mr. Nichols replied it has always been a three-bedroom house because the original approval only approved it for a three-bedroom house based on what size septic could be accommodated on the property.

Board Member Rogan asked Edie are you talking square footage or bedrooms. Are you more concerned about the size square footage.

Edie Keasbey replied I am more concerned about square footage because people can change the interior around of any house. We can't or it will fall down.

Board Member Rogan stated the reason I asked is because Harry answered your question based on bedrooms and I thought you were asking more about square footage.

Edie Keasbey stated and what I am saying is the one that is proposed now is so much larger than the little one that the DEP based their permit on even though it was supposedly for three bedrooms this is so much

bigger that with some moving of walls around they could end up with four bedrooms or five bedrooms and what is a den for one person is a bedroom for another.

Board Member Pierro stated Edie my recollection is that the maps that were used to go to DEP did not have any dimensions on them. It only was,

Edie Keasbey stated it showed something.

Board Member Pierro stated it showed a square box and,

Edie Keasbey stated and that is not a good way.

Board Member Pierro stated as the process evolved we got a larger box in the wetlands and with dimensions on it. It is bigger but we have pulled it further to the south, up grade of the real soft area,

Board Member Rogan stated this submission is also smaller they took the garage off.

Board Member Pierro stated right they took the garage off of this submission so we no longer have a 58 foot,

Edie Keasbey asked what about a deck.

Board Member Rogan stated the deck is still shown on this set of plans.

Edie Keasbey asked and what is in the buffer.

Board Member Rogan replied what is in the buffer almost everything. Everything but sixty percent of the septic, well no that is not fair sixty percent of the primary area.

Ted Kozlowski stated just to be clear for everybody the application, which was filed with the Town of Patterson two years ago reflected a house I could be wrong I have to read my memo but I thought it, was 1,350 square feet.

Board Member Rogan answered for one floor.

Ted Kozlowski stated it didn't say one floor that was just the square footage that is just the dimensions of the house. I believe it was 17 by, Board Member Rogan stated 27 by, Ted Kozlowski stated 27 by 52 something like that.

Board Member Rogan stated which is what we are at now 27 by 50.

Ted Kozlowski stated I think what has increased in size was the addition of an attached garage which enlarges the footprint of the house.

Edie Keasbey stated I just want to say for the umpteenth time that somewhere along the line and I think Ted agrees with me on this somewhat the Town has got to take a stand and stop permitting stuff in the buffers otherwise why bother with buffers and this is the Great Swamp. It is not some dinky, little wetland up on top of Bullet Hole Road or something. This is the Great Swamp. It is a Class 1 Wetland if you

haven't read the regulations and the criteria that go with a Class 1 Wetland you really should do it and refresh your mind. They are very, very strong.

Chairman Schech stated Edie I think you ought to refresh the DEP's mind.

Edie Keasbey stated I agree with you.

Board Member Rogan stated Edie, we have a situation here that we have been struggling with as a Board because in many aspects philosophically anyway I agree a hundred percent with you and if this were an individual lot we would not be having this conversation. I think the obvious concern is that it is already an approved subdivision. It was a subdivision that was approved prior to some of the wetlands laws that are in place now so what we are dealing with a situation and many people look at not myself but many people look at as if it was built when it was approved so we have situation that I would like to know a reasonable way out of this other than a taking which would be a phenomenal cost to the Town.

Edie Keasbey stated it is not a taking. Taking have nothing to do with individual wetland and Town ordinances. I gave some material to Ted tonight on the issue of takings and it has absolutely nothing to do with Swansic decision of the Supreme Court either. They have nothing to do with wetland regulations.

Board Member Rogan stated I am not an attorney so.

Chairman Schech asked anyone else.

Rick Campbell stated I live in the house commonly known as the Maguire house and assuming that the place does get built I just wanted some clarification as to where the house is going to be positioned on the property because I know there was some issues as to where it was going to be located.

Board Member Rogan stated Rich remember when we were on site and we spoke with you we pointed to the slope to the south of the property.

Rick Campbell stated yes.

Board Member Rogan stated that is the same area that we spoke about.

Rick Campbell asked so if you are on the road looking at the property, Board Member Rogan stated to the right. The septic area is closest to your property.

Bob Dumont stated I guess the problem I have with this and other applications is the fact that we approve things piece meal in this Town.

Board Member Rogan asked how do you mean that I don't understand.

Bob Dumont replied how do I mean that we say on this application there is no garage six months from now the guy who buys the six hundred thousand dollar house comes in with a garage application we tell him go to zoning, we tell him get the permits and the garage is in. We don't plan for the total project. I think I said this last month at a Town Meeting I will just say it again here. It doesn't matter what box you approved today, the guy could knock it down, double it he is going to come in and build a deck. I forget who I said it to last month but again, if you plan for a house with no pool I can guarantee you the guy is going to come in have three kids and put a pool in. If you plan for a house with no deck, he is going to put a

deck in. It is just the nature of the beast you have to start planning like this with a box. You have got to plan a total house. A 2,800 square foot house the next thing the guy is going to do is put a garage in, the next thing the guy is going to do is put a pool in, the next thing the guy is going to do, present plans that make sense not a half of a plan to fit the house in today and deal with the problem two years down the road, present the total package. We don't do this and so look at this, Deerwood Lot 6 Wetland, I think he did Deerwood too, you are going to have seventeen Deerwood houses with the same issue.

Ted Kozlowski stated just for the record Bob, we did ask the Applicant, Joe a month ago for when the application was revised again for everything on it; deck, what is that you want to do because it is my intention that if the wetland application gets approved that is it. It is a one shot deal because this lot is very challenging.

Bob Dumont stated and again I will say you ask for it but again to make it fit there is no garage so you asked for it but you didn't get it so you have the right to say it don't work.

Board Member Rogan stated actually the problem is that based on your idea none of it fits honestly. What we are saying is that the garage fit in the context of the plan but we were trying to reduce the impact. We are trying to mitigate some of that so we asked him to remove the garage for the grading of the plan. It had nothing to do with septic area. It was totally based on excavation and grading for the house and that was really what we were looking for. They can still put a garage in. My recommendation at last meeting was to put a garage on the first floor and I see a shaking head back there so it sounds like that may be an issue or an option. They could pour concrete and have a basement underneath a garage. It costs more admittedly but it is something that can certainly consider.

Bob Dumont stated and that is fine but again present the plan because the next thing down the road is a garage. You know it is going to happen save yourself the worry.

Board Member Rogan stated of course, I agree to build a house like that without a garage,

Bob Dumont stated it has got to have a garage it is ridiculous.

Board Member Pierro asked aren't there limitations documented on the plans already Ted by the Health Department.

Ted Kozlowski asked I am sorry what.

Board Member Rogan stated you are talking about the septic system.

Board Member Pierro asked aren't there considerable limitations documented on the plans.

Ted Kozlowski replied that is just for the use of the septic; one wash a week, etc.

Board Member Rogan stated the document that comes along with this approval just from the was it DEC or DEP.

Ted Kozlowski replied DEP and the DEC it was a package but again remember this is based on the original 1,350 square feet.

Board Member Rogan stated and again Ted we all know it is based on the bedrooms not on the square footage in terms of septic.

Ted Kozlowski stated right but DEC is not looking at the septic design they are looking at the total impact to the wetland.

Mr. Noblet stated we have been looking not too long ago at a number of houses that have been built and they result in problems like on Bullet Hole Road we have one house that is completely full basement and he is trying to find a solution. Another house on Bullet Hole Road and Michaels Way and every time it rains it is a swimming pool in front of the house. There is another house on Bullet Hole and McManus where there is a stream going down so it looks like there is a pattern where we allow things to be built and try to find a solution later. The solutions sometimes are not going to be easy so my question is in order to do a project like this how are we going to deal with the problems that are going to come in the next two, three, four, five years and who is going to pay for that.

Board Member Rogan stated I think the commonality in all the lots that you have, I should not say all the lots, the one lot the house burned down so clearly you are not going to take the right of someone to have a house, I don't necessarily agree with them having a full basement in that house. The other two houses you mentioned are prior subdivisions lots and I think the lesson that this Board is trying to take on themselves is that when we look at brand new subdivisions we are trying to look at it and say let's build what will work now and ten years from now and learn from those things. I won't say they are mistakes in the past because there were different laws in effect at the time. The people didn't have the tools when they were designing those septic systems, the laws in place that we have now.

Ted Kozlowski stated quite honestly Shawn I don't know that a basement is going to be possible because I think that water table is going to prevent,

Board Member Rogan asked where are you talking about.

Ted Kozlowski replied at that lot.

Board Member Rogan asked this one or Bullet Hole.

Ted Kozlowski replied Cornwall Hill. It is right on top of the wetlands the water table is high.

Board Member Rogan stated the first floor elevation is I think you need to look at the topography. It is a raised ranch.

Ted Kozlowski stated I will check it out but I have a feeling that going down to six feet,

Board Member Rogan stated Ted remember the hill though that they are proposing this on.

Board Member Pierro stated yes they pulled this up to the south.

Ted Kozlowski stated it is still within a hundred feet of a wetland the water table I think is going to be a factor. I can't say for sure.

Chairman Schech asked any other comments.

Edie Keasbey asked how is the Town going to enforce this crazy DEP permit where they can only eat certain things, and only use certain things.

Board Member Rogan stated that is a great question for the people who approved it isn't Edie. How can the DEP put restrictions like that on a private home. It is ridiculous.

Edie Keasbey stated exactly. It is going to end up on you guys it isn't fair. How does the Health Department cope with that.

Board Member Rogan replied I don't know I can't answer that question.

Edie Keasbey stated I mean it is asinine.

Rich Williams stated I would like to wish Edie a Happy Birthday today.

The audience applauded.

Chairman Schech asked anyone else. There were no more comments.

Chairman Schech stated we will leave the public hearing open until the next meeting.

Board Member Rogan stated we haven't opened it yet. We were just being nice.

Mr. Nichols asked can I address some of those comments.

Chairman Schech replied address next time when we have the official public hearing.

Board Member Rogan stated but the people are here now.

Ted Kozlowski stated Harry and Applicant, guys you have got to get your stuff in ten business days before the next meeting. I said this a month ago and I have said it before. Harry, not last minute you have got to stop that. Everybody in this audience you have got to stop it.

Chairman Schech stated for the next time Harry I would like to see the well locations for the Maguire house and the house directly across the street in relationship to this septic system located on the map. The land over there is pretty gravelly and I can recall that when Maguire had to point his well when we put the first house across the street his well tasted funny.

Board Member Rogan stated Missy says you should talk to her about the notifications that were missing she has a list of them, make sure they get notified. Missy, do we get the certificate copies, the green cards.

The Secretary replied Tom Reilly had contacted me and given me his list, I went through and did the verifications so either Joe or Tom can call me in the morning and I will give them the list and the new notice and then as soon as the certified's come back they need to bring them in.

3) BEECHTREE CONSTRUCTION WETLANDS WATERCOURSE PERMIT

Mr. Doug Wallace, Applicant was present.

Board Member Rogan stated this lot is the kind of lot that we were just talking about obviously. You know more about this than we do.

Board Member Rogan stated we have a situation where we have a lot that obviously none of us like. I am sure you don't even like it. It is a challenging lot. Again, if it were not a subdivision approved lot we would not be having the conversation because every bit of that septic system is within the buffer. I think Jack moved the design outside the wetland itself it becomes an issue that we say we can't necessarily deny the lot because despite what Edie says I think that with a pre-approved lot, to make a long story short I think we would get sued and I think we would lose. What I do think though is that we have an obligation to mitigate this as best we can just like Health Department would mitigate and issue waivers if you don't meet current codes. I don't know and Jack is not here but are we currently at a four bedroom house on that.

Mr. Wallace replied yes.

Chairman Schech stated the problem that I have with this is if this was the original owner I would say that we have no problem at all approving this but this was purchased recently when the new regulations were in place and I don't know I just don't like it. If you compare this lot to Lot 37 on Cornwall Hill Road the one on Cornwall Hill Road looks like a choice lot.

Board Member Rogan stated I think he means it because of the topography not so much because of the wetland.

Chairman Schech stated and the wetlands.

Board Member Rogan stated they are a little bit different characteristic wetlands on the two lots. I bet you would see the soils are a lot different between this lot and Lot 37.

Board Member Pierro stated this has got the steepness though going down to the house site that the other lot doesn't have.

Board Member Rogan stated it definitely has challenges. I don't like any of the lots on the low side of that road. You are standing at the road you are looking over the roofs of those houses. I didn't approve them, I don't like them. My feeling is to try and mitigate the impacts to the point where we have done the best we can quite honestly and go from there. I don't know what the rest of the Board feels but I would like to see if we can reduce the impacts to that wetland, to the buffer of that wetland now if that means going down to a three bedroom house then I certainly would favor that to try and reduce those impacts.

Ted Kozlowski stated or a two.

Board Member Rogan stated or even a two, a very nice two.

Ted Kozlowski stated I have got to say a few things and Doug, have you seen my memo.

Doug Wallace replied yes.

Ted Kozlowski stated some of the issues that I have raised in the memo still have not been addressed by your engineer. He has identified soils on a revised plan; identified the wetland as Chatfield, Hollis series that is rocky outcrop for the water table six feet below and we know that is a wetland. In addition where you want to put the septic field the soils are still not identified. The Health Department still has not approved that septic design. More importantly Doug, you know it is a very steep lot that winds up in a wetland and I have to think not as looking at the wetlands but also the future homeowner what does that person got to use on that land. It is a challenged site, the children have no place to play, anything he does there is going to have an impact on the wetland because it all goes straight down into it. Just like Lot 37 and some other lots that we are going to talk about tonight this is a very, very challenged site and you really have to think hard about what you are going to put there and how this is going to work because when you are gone we inherit whoever comes in and those people, those future homeowners may buy this without knowing and I am the guy that has to respond to all the stuff. I am really trying to address this with the Planning Board and the applicants, Doug you and I go back a long ways. We go back to the early nineties and you know that whole site has been built out except for a few lots, you own two of them and those two lots are very challenged. They are full of wetlands and full of future problems for me. I can't see how a four, quite honestly and very forwardly I can't see how a four bedroom house is going to work on this site with the challenges that are laying ahead. I think you really have got to look at making this work. Again, somebody has got to look at these soils, which has not been done yet. You have got a slope coming down right to a wetland, you want to put a trench in to divert all the water coming down. The functional analysis really hasn't addressed what does that mean. You are taking a good section of wetland and now diverting all the water from that wetland to another site basically creating a new stream channel. What does that mean to that wetland and that is something that is part of our wetland law. There is a lot of factors, there is a lot of things that go into this Doug and I tried to relay to your engineer several times. This lot goes back for a number of years so you have got to take a good hard look at this. This lot probably tonight is the hardest one of them all. You do have another one I think it is six or ten whatever one that is that is the same situation.

Board Member Rogan asked do you mean the other lot that Mr. Wallace owns on this subdivision.

Ted Kozlowski stated yes.

Board Member Rogan stated only it does not have a slope.

Ted Kozlowski stated no it does not have a slope but it is all wetlands.

Board Member Pierro stated it was filled in wasn't it.

Ted Kozlowski stated the wetland was filled in and piped not by you by Flavio Franco. He did a lot of stuff that you could go to jail for today.

Board Member Rogan stated nobody is blaming you for it Doug don't worry but unfortunately we are going to have to deal with it.

Board Member Pierro asked would it be correct for us to request that soils be identified before we even think about issuing.

Ted Kozlowski stated it is not so much that there are issues raised in memo to you folks and Doug has it that still has not been addressed from the engineer and we still don't know what the Putnam County Health Department is going to do with the septic system.

Board Member Rogan stated I can't say but my gut feeling is they are waiting for our determination. I think they feel somewhat confident where it is proposed. They have done a lot of testing out there.

Rich Williams stated let me make a couple of comments first on the issue with the Health Department, the septic system. If the Board is considering placing limitations on the size of the house or the septic system due to the impact on the wetlands then the Board certainly should be taking action before the Health Department makes any sort of determination not after. I agree with Shawn.

Board Member Rogan stated they won't make a determination until the wetlands permit is issued.

Rich Williams stated it is my understanding that the Health Department won't act until the Town does. The other issue that is kind of an interesting one that Ted raises is the one about the soils and I don't know how the Board wants to address this; in fact the soils shown out there in the wetland area are Chatfield soils which are clearly not wetland soils and yet it is a wetland so I don't know if when they did the original soil mapping, the SCS whether they just missed something or the soils have changed somehow I don't know but they have actually got the soils for most of the site shown according to the general guidelines that we all use but they obviously don't reflect the actual site conditions. I don't know how Ted or the Board wants to act on that.

Board Member Pierro stated I recall from our site walk that the upper portion of that lot where the trench was dug was rocky, tan-ish, brown.

Ted Kozlowski stated there is no doubt that it is a rocky site I mean it is at the base of a pretty steep slope it is just that the soils that are identified is a rocky, dry condition soil type,

Board Member Pierro stated but further down deeper into the lot is deep into the wetlands.

Ted Kozlowski stated there is obviously an error there.

Rich Williams asked I guess the real question is do we want to go with the fact that we know it is a wetland, we have got the wetland boundaries they are flagged out or do we want him to get a Soil Scientist to confirm the soil type.

Board Member Pierro stated that would be prudent.

Ted Kozlowski stated I think the soils that I am referring to would be where the septic is going not so much the wetland. We all know it is a wetland, it is wet soils. The problem that I have is that the septic system is put in the buffer and we don't know what soils they are. We don't know if those soils are going to work for a septic system. We don't know what type of soil it is.

Rich Williams stated I agree but the Health Department does specific testing for soils to ensure that they are going to function properly.

Board Member Pierro asked and the Health Department can't do those tests until we issue a wetlands permit.

Board Member Rogan replied they have already done them.

Rich Williams stated they actually have gotten the testing done. They won't issue,

Board Member Rogan stated that is littered with deep test holes and perc test holes all over that.

Ted Kozlowski stated let's remember that those test holes were probably done after the illegal trench was dug so that to me voids everything.

Board Member Rogan stated I don't know that is the case Ted.

Board Member Rogan asked Doug, how long has the trench been there I am putting you on the spot now.

Mr. Wallace replied six months.

Board Member Rogan asked six months from when we were there right.

Mr. Wallace replied no, no not six months what are you talking about how long the trench has been filled.

Board Member Rogan replied no when did you first open it.

Mr. Wallace replied right away, probably,

Board Member Rogan stated you know what though Rob did say that they saw the trench out there when they were out there doing one of their testing.

Mr. Wallace stated yes probably months.

Board Member Rogan stated but you know the mottling if there is water in there the mottling is going to show. They are going to go with mottling as ground water whether there is water in the hole or not. You can't assume that another agency is not going to do their job. They are assuming that we are going to do ours.

Chairman Schech stated before we issue the wetlands permit,

Ted Kozlowski stated you are not going to issue it because it is not complete.

Chairman Schech stated we said before we are going to get a complete application with a two bedroom house.

Board Member Rogan stated I think we have to look to reduce the impacts what the Board feels and what Mr. Wallace is willing to look at is up in the air.

Chairman Schech stated I don't really think that this property is going to hold anything larger than that.

Board Member Rogan stated the house, the excavation and the grading for the driveway and the house isn't going to be affected regardless of whether it is a two or four bedroom house because you can put in the same size house and meet the criteria for bedrooms and have either or it isn't going to make a difference so it is truly based on how the Health Department looks at the bedroom count, how that affects the septic system so all we are looking at is what the change in impacts would be. A two bedroom septic system to a three bedroom to a four bedroom maybe that is what we should be looking at and quantify that.

Ted Kozlowski stated it is the amount of septic that is in the buffer which is an issue. Don't forget guys this is now a precedent okay. We are putting a septic in the buffer in fact it is touching a wetland. What is it eighty percent of this septic system is in the buffer. How do we get that out of the buffer we reduce the size of the house.

Board Member Rogan stated I agree you reduce the bedroom count.

Chairman Schech stated also the size of the house not only the bedroom count the size of the house.

Board Member Rogan stated I don't think the size, Rich Williams stated the size is relative, Ted Kozlowski stated you have a big house somebody is going to put four bedrooms.

Board Member Rogan stated what I mean is if in other words he can put up a 28 by 50 house and have it a four bedroom or a two bedroom and meet the criteria either way regardless.

Rich Williams stated as long as he is out of the buffer.

Board Member Rogan stated no my point is that the size of the house isn't going to necessarily affect the bedroom count. You can have a two bedroom house that is 2,600 square foot.

Rich Williams stated I agree with you but the size of the house also affects the impacts to the wetlands and is a relevant issue.

Board Member Rogan stated in going along in that process if we were to say we feel that on that lot we don't think you should go any larger 1,300 square foot for a footprint let's just say and that we determine is a reasonable impact or we are mitigating that whether that is a two bedroom or four bedroom house is going to be up to how he designs the house. He can have it either way.

Rich Williams stated you are right.

Board Member Rogan stated so maybe what your point is if we try to come up with an idea of what we think is a reasonable impact is and also look at again quantifying the difference between the septic systems, how that will affect encroachment, distances from the wetlands and see because sometimes the difference is less than what people think. I don't know.

Ted Kozlowski stated I just think that you have to get that septic system as far away from that wetland as possible. That is one of the reasons we have this law and it is just not a good precedent.

Chairman Schech stated do the best you can like if this was a new what do you call it we wouldn't even consider a lot in this place.

Mr. Wallace stated okay.

Ted Kozlowski stated Doug, you need to talk to your engineer and address those issues.

Board Member Rogan stated Doug, just to be fair to Ted he was the one that said we need to take a hard look at this tonight before you spend that money to not basically say hey, we are going to send you down

the road with an application spending all kinds of money and then say we are not approving anything out there.

Ted Kozlowski stated your wetland fee is \$1,800.00 because that is how much square feet you have in the wetland. Get it out of the wetland and you reduce your fee.

Mr. Wallace stated okay I will discuss it with my engineer.

Chairman Schech stated next Capasso Wetland is put off until the end of the meeting.

4) DEERWOOD LOT 6 WETLANDS WATERCOURSE PERMIT

Mr. Joe Darnell, Wyndham Homes was present representing the application

Chairman Schech stated we have to schedule a public hearing.

The Secretary stated just so you are aware Mr. Darnell had handed me these plans and passed them out tonight. That is what I just gave you.

Board Member Rogan stated good evening Mr. Darnell.

Mr. Darnell replied good evening.

Board Member Rogan stated we are getting to use to seeing you every month it seems like, you are gentleman but.

Mr. Darnell stated I have not been here in quite a few months.

Chairman Schech stated we are going to schedule a site walk on this.

The Board agreed.

Board Member Rogan stated can we set a public hearing.

Chairman Schech stated and set a public hearing.

Ted Kozlowski stated hold on it is not a complete,

Board Member Pierro stated it is not a complete application, we just got the plans tonight.

(Unable to hear Ted no microphone, Board shuffling plans around).

Ted Kozlowski stated we made it very clear in the public hearings and the documents that were produced that this was not a given and I have to say Sir, that you approach these permit applications as a given. This is like the third wetlands application that has come in and kind of (unable to hear). It is kind of like I am getting this so I really don't have to fill this all out and here is another application, it does not have the wetland on it, it does not have the wetland buffer, it does not have the soils. It is not a complete application.

These folks that are building these houses that you represent must file a complete, full wetland application for a deck, for a garage, for a pool, for whatever it is okay it is not a given. Now, the first few I have been very flexible with the regulations tonight it stops. This comes in as I said earlier, tonight it was incomplete two weeks ago I believe my memo was sent to you but you come in tonight with it.

Mr. Darnell stated I just got it two days ago.

Ted Kozlowski stated well you expect this to be done it is not. There is a Code it has got to be followed. This is an official document, after you leave, after this application is finished that shows the future ECI, the future Planning Board when these permits were given and how they were given and where they are located. When you hand in an application that doesn't even show the wetland on it how are we supposed to monitor this, how are we supposed to follow this through because we are going to have these homeowners who are building their houses right on top of the wetland. Mr. Dumont said earlier after you are long gone somebody is going to come in and want to put a big barn up or something else we have to have a document. You need to do that so this is an incomplete application as of right now. We don't set public hearings until it is an official application.

Chairman Schech stated I take it back see you next time.

Board Member Rogan stated we are going to do a site walk on it though, Joe.

Board Member Rogan asked just so I am clear did we do a permit for the retaining wall that is already in place.

Mr. Darnell replied yes.

Ted Kozlowski asked is the deck already in.

Mr. Darnell replied the deck is yes.

Rich Williams stated the permit included the deck.

Ted Kozlowski stated Joe I mean there is no wetland there, there is no wetland buffer.

Board Member Pierro stated there is no markings.

Mr. Darnell opened the plan and stated this is the lot.

Ted Kozlowski stated okay so then you address my memo.

Mr. Darnell stated I apologize for it being incomplete. I have the silt fence it is right here, covering the area the only thing that I am doing is disturbing, two piers,

Ted Kozlowski stated Joe it is the way you are approaching these applications.

Mr. Darnell apologized.

Board Member Pierro stated we review these the Wednesday evening before our regular Planning Board Meeting, we sit down and we go over all of them and this information was not on the previous map.

Mr. Darnell stated I am sorry.

Board Member Pierro stated you can't expect us to react to these three minutes before. (TAPE ENDED).

Ted Kozlowski stated Joe, you have got to have the soils, you have got to have the septic's and wells of the nearby property owners whatever is in our law which you certainly have a copy of you have got to follow it. Like I said the first few I let slide but each one is coming in with a little less information.

Mr. Darnell asked so you want the wells on from the adjoining properties.

Ted Kozlowski replied you need to get a copy of the law and it spells out exactly what we need on these plans.

Chairman Schech stated we can't have a class here otherwise we will be here for three days.

5) CORWALL HILL ESTATES LOT LINE ADJUSTMENT

Mr. John Boyle, Applicant was present.

Chairman Schech stated I recommended we do a site walk just for the heck of it before we grant the lot line adjustment.

Board Member Rogan asked Sir which lot do you own Lot 6 or Lot 5.

Mr. Boyle replied Lot 5.

Board Member Rogan asked so the need for this lot line adjustment is for the fencing of the pool setback.

Mr. Boyle replied that is it.

Board Member Rogan asked what was it just a miscalculation when you installed the fence that you went over the property line.

Mr. Boyle replied it is a fu-pa.

Board Member Rogan stated we are all able to make them every so often no one died it is okay.

Board Member Rogan stated we are just going to take a look at it and unless we have any serious concerns I am sure at the next meeting we will take care of it.

Mr. Boyle stated okay.

Board Member Rogan stated it is just a line in the sand I am sure it won't hurt you for a month right.

Mr. Boyle stated no.

Board Member Rogan thanked him.

Mr. Boyle thanked the Board.

6) PATTERSON GARDEN CENTER & SUPPLY SITE PLAN (a.k.a. Poppy's Place)

Ms. Theresa Ryan, Insite Engineering was present representing the Applicant.

Ms. Ryan stated I received your site walk comments. One of them was that you wanted the existing shed further from the stream. I think that is this shed here on the east side. Do you know how far you want it from the stream.

Board Member Rogan asked what do you propose, what can you do for us.

Chairman Schech stated we like them a hundred feet away from the stream this thing is sitting in the stream.

Board Member Pierro stated they wind up storing chemicals and other things that are going to fall through the floor right into the stream.

Ms. Ryan stated on the other side of the driveway she asked the Applicant.

(Unable to hear the Applicant).

Board Member Rogan asked where did you say I am sorry.

Ms. Ryan replied next to the bins.

Ted Kozlowski asked how big is that shed.

Mr. Perenti, Applicant replied eight by twelve.

Ted Kozlowski asked and what are you going to put in it.

Mr. Perenti replied basically right now it is all plastic containers and planters and stuff like that.

Ted Kozlowski asked no chemicals, no fertilizers.

Board Member Pierro stated but it is in the stream Ted.

Board Member Rogan stated he is not saying nothing he is just trying to get a sense of,

Ted Kozlowski stated I am just trying to get a sense of what he wants to do with the stream. No it can't be in the stream.

Ms. Ryan asked over here by the bins.

Ted Kozlowski replied yes by the bins by that area that we all agreed would be the storage area.

Mr. Perenti stated okay.

Board Member Rogan stated the comments look all pretty straight forward.

Ms. Ryan asked what about the GPS.

Board Member Pierro stated Rich was going to be doing that.

Ms. Ryan asked you are going to be doing that.

Rich Williams replied yes.

Ted Kozlowski asked we are saving that Pine Tree correct.

Ms. Ryan replied absolutely. We are moving the bins further away from it on this plan.

Ted Kozlowski asked and you are going to put a was it a post and rail fence.

Mr. Perenti replied across the back right.

Ms. Ryan stated this is all post and rail referring to the plan. I think somebody wanted landscaping instead of the fence.

Board Member Rogan stated we were talking about a vegetated buffer remember Ted.

Ted Kozlowski replied yes but I was talking about the back.

Board Member Rogan stated we were talking about between the existing building and the proposed yard.

Ted Kozlowski stated that is right behind the stream and all that to be landscaped but I was talking about a post and rail behind the Pine Tree.

Board Member Rogan stated right we had said that as well so we are setting the limits of disturbance that is fair. That seems fair right.

Mr. Perenti replied yes that is fine.

Ms. Ryan asked and then there was also a comment that the dumpster should be located on the west side of the stream.

Ted Kozlowski stated well it is just a matter of access for the dump truck going back and forth over that culvert.

Board Member Pierro stated we wanted east on the 22 side.

Ted Kozlowski stated dump trucks can carry a lot of stuff that seeps out so it would probably be better to have it on the west side.

Ms. Ryan asked do you know where you want it.

Mr. Perenti asked behind the existing building.

Ted Kozlowski stated somewhere that it is not an eyesore.

Mr. Perenti stated behind the building.

Ms. Ryan asked the Board is that all right.

Board Member Rogan stated the dumpster issue isn't a deal breaker for me.

Board Member Pierro stated it is not a large dumpster.

Board Member Rogan stated I guess I am kind of thinking I would almost rather see it in the back and closer to the bins but it is a convenience issue for you as well carrying stuff from the front to the back but I understand Ted's concern that these things tend to,

Board Member Pierro stated I don't want to see that pipe get crushed.

Ms. Ryan stated we submitted a letter way back in the beginning of this that the pipe is fine.

Board Member Rogan stated a truck full of gravel is going to weigh more than a garbage truck.

Ms. Ryan stated I mean heavy trucks have been driving through there for years. We did an analysis of that.

Ted Kozlowski stated I would just rather keep potential contaminants as far away from the wetland as possible.

Chairman Schech asked you also have a yard over in Southeast right.

Mr. Perenti replied yes.

Chairman Schech asked that is the neat one with all the lumber and stuff piled in it.

Mr. Perenti asked the neat one.

Chairman Schech replied neat.

Board Member Rogan asked you mean neat as in tidy.

Chairman Schech stated yes the un-tidy one I mean.

Mr. Perenti asked un-tidy.

Rich Williams stated neat as in sarcasm.

Chairman Schech asked you are not going to bring that neat down here are you.

(Unable to hear Mr. Perenti's response).

Ms. Ryan stated there was also a memo from Rich, an earlier memo from Rich and one of the comments was that Ted verify the wetlands I think the vegetation is there. Is that something that you can do.

Ted Kozlowski stated it is where we want to put that post and rail fence.

Ms. Ryan stated we have wetlands delineated on here and we wanted your verification of it and if not then we need new flags I guess.

Ted Kozlowski stated yes we should,

Ms. Ryan stated because we do have wetland flags on here.

Board Member Pierro stated I know Rich is busy but maybe you and Rich can get together and do the photographs and the GPS at the same time.

Chairman Schech stated they should be located on the site plan.

Ms. Ryan replied there are the flags are on the plan we just need a verification. That came up a couple of times.

Board Member Pierro stated I don't think it is necessary do you.

Ted Kozlowski asked Theresa, you have re-flagged the wetland or are you going by your old flagging.

Ms. Ryan replied it was only flagged once and you did not verify it.

Ted Kozlowski stated no good that wetland flagging is unacceptable.

Ms. Ryan stated we were not told that we would have had it done.

Ted Kozlowski stated I said that to you.

Ms. Ryan stated we were told that you were going to verify it first.

Ted Kozlowski stated no that flagging when I went out on the site walk with these gentlemen with my major knee surgery,

Chairman Schech stated he wasn't very happy with

Board Member Pierro stated yes he was not a happy camper.

Ms. Ryan asked did they wheel you around.

Ted Kozlowski replied no.

Ted Kozlowski stated that is why we want that Pine Tree there, that is why we want the post and rail fence because everything behind that is pretty much wetlands and your flagging isn't showing that.

Ms. Ryan stated and we are not touching this.

Ted Kozlowski stated I know but like we said with the previous guy we need a document, a permanent record in case this gentleman moves to Florida or something and somebody else buys this property we want the wetlands there. You know how hard we went through with this whole procedure nobody had a survey, nobody had any idea of where anything was, now we have that established, we have a working document and that is what we need.

Board Member Rogan stated and we are almost done too.

Ted Kozlowski stated the wetland flagging,

Ms. Ryan stated okay I never heard that it had to be re-flagged. That was never delivered to us.

Chairman Schech stated he did say it somewhere along the way.

Ted Kozlowski stated it was at that site walk.

Ted Kozlowski stated if you want I will put the flags up because we pretty much agreed to everything.

Board Member Rogan asked so in other words you are looking at them survey locating your flagging.

Ted Kozlowski stated yes.

Ms. Ryan stated that would be fine because I don't know how quickly they could get somebody out there this time of year.

Board Member Rogan stated Ted is going to flag it you are going to survey it.

Ted Kozlowski stated or we can get you some people to do this really quick. I will see you after the meeting.

Board Member Rogan stated I have no doubts that if this site is run based on the site plan and they keep things nice and neat and we get Edie and her friends to start supporting the local garden centers, right remember we talked about this Edie, the local businesses like this that we like instead of Home Depot for nurseries.

Edie Keasbey stated I shop all the local nurseries.

Board Member Rogan stated we need to support these local establishments. It will be a great place.

Ms. Ryan asked can we schedule a public hearing, SEQRA.

Board Member Rogan stated Rich has been doing such a great job at keeping us up to speed on this.

Rich Williams stated we are trying to work out the issues, we are trying to get a complete application.

Chairman Schech stated get it complete and then we will schedule a public hearing.

Ms. Ryan asked what is incomplete on the application.

Rich Williams replied what is incomplete, they have made some changes tonight, the wetlands I am not saying that drives the level of deeming the application incomplete but these would be the issues that would be considered by the Board in determining whether it is or is not incomplete (unable to hear the rest of his statement too many talking at the same time).

Ms. Ryan asked so the Board does not want to schedule a public hearing at this time.

Chairman Schech replied no let's get the thing complete. We want to get this off the schedule too more than you do believe me.

Ms. Ryan thanked the Board.

7) **BURDICK FARMS SUBDIVISION**

Ms. Kristina Burbank, Kellard Engineering was present representing the Applicant.

Ms. Burbank stated in response to the directive of your Findings Statement we prepared and supplemented the information on the alternative which was supported in the Findings Statement; the plan of the boulevard. The plan includes a fifty-seven hundred foot looped roadway with a single entrance on Bullet Hole Road as we have designed it there is a fifty foot right of way up to the twenty-five hundred,

Edie Keasbey stated we can't hear her.

Ms. Burbank spoke louder into the microphone and stated we proposed a thirty foot wide roadway up to the two thousand five hundred mark. We have forty three lots served by individual wells and,

Board Member Rogan stated thirty seven lots you mean.

Ms. Burbank stated I am sorry, yes individual wells and subsurface sewage disposal areas. We included three fire storage tanks throughout the roadway.

Board Member Pierro asked what capacity.

Ms. Burbank replied three, twenty thousand's.

Ms. Burbank stated I think that is it.

Chairman Schech asked what do we have on that road by the entrance way we had some grading and alignment operations.

Rich Williams stated right consistent with the Supplemental Environmental Impact Statement and the Findings Statement there was a requirement that the Applicant do some improvements along the road and we carried over from the Environmental Impact Statement into the Supplemental Environmental Impact Statement and then into the Findings Statement that they were going to do either OP-1 or OP-2 plans which were prepared by Peder Scott. The Applicant had prepared a third plan based on their site distance analysis

what they felt should be the grading scheme for the project frontage and included that with the subdivision plans. That did not comply with OP-1 or OP-2 which actually were two alternatives really mutually exclusive of each other so the question before the Board as far as the improvements needed along the frontage are which one of those three alternatives the Board considers appropriate at this juncture.

Board Member Rogan asked and to preference those three different plans since we don't have them in front of us.

Rich Williams stated I was going to try to do a memo on it I didn't get a chance I can get the plans.

Board Member Rogan stated you don't have to. Can you just explain the basic premise of each of the three options because one of them I remember was they were gaining site line distance but not necessarily safe stopping distance.

Rich Williams stated it wasn't so much.

Board Member Rogan stated they were not reducing the grade on the hill as far as I remember.

Rich Williams stated as I recall Kellard's plan looked at site distance and not safe stopping distance which is generally a little bit farther, Gene any time you want to pull me out of this one.

(Unable to hear Gene no microphone)

Rich Williams stated OP-1 and OP-2 both showed a vertical realignment of Bullet Hole Road from Ice Pond Road all the way up to McManus Road. One of the two plans showed a more extreme grading which of course extended out further within the right of way. The plan prepared by Kellard Engineering simply showed grading from the project entrance in its current location back towards McManus Road but not going past the pond that is out there.

Board Member Pierro asked my question is are those earlier plans going to cause interference into the wetlands that is along Bullet Hole.

Rich Williams stated I don't believe they caused any I mean certainly there was work and activity within the hundred feet of that pond but it was all within disturbed area of the road right of way so the Board had not considered it a wetlands issue or impact.

Board Member Rogan stated and obviously our first concern is going to be safety, safe stopping distance going down that hill with the grade. You may have the site line distance but not the ability to stop a garbage truck.

Ms. Burbank stated I know we were asked in the Environmental Impact Statement to look at stopping distance. I don't recall our answer to that. I know we had addressed it, I thought we addressed it properly. I don't have the document in front of me to back it up.

Chairman Schech stated we will have to wait until the engineers look at this.

Gene Richards stated I know we looked at site distances and in your most recent plan that was discussed frankly I don't remember stopping distances being discussed.

Ms. Burbank stated I remember it was Rich's comment and I thought that we had addressed it within the requirement of a safe stopping distance.

Rich Williams stated I don't recall the specific response you did respond to my but then your commitments to mitigation kind of just glossed over that.

Chairman Schech stated now that we have you thoroughly confused.

Board Member Rogan stated she doesn't look confused.

Ms. Burbank stated I don't look confused I am not sure how to move this forward.

Rich Williams stated again, this is an open issue for the Board as I talked to the Board about because there is a requirement generally that you do preliminary approval within so many days after you have accepted the DEIS and the Findings Statement. I do have a preliminary resolution for the Board that has been prepared and within the list of drawings that are getting approved it is taking out that one sheet from the set of plans so that the Board would not actually be approving that sheet or making any commitment at this point to any sort of improvements along Bullet Hole Road. It would still be an open issue which really needs to be resolved and then it is up to the Board whether that is an adequate direction or how you want to go.

Board Member Rogan stated we definitely need to do that is a tough stretch of road through there.

Ms. Burbank stated I guess in all fairness we committed through the EIS to OP-1 or OP-2 so.

Rich Williams stated you actually committed to both of them.

Ms. Burbank stated right as well as the plans that we had submitted so I am comfortable with working with the Board.

Board Member Pierro asked was there also a commitment on the lower stretch of that tight corner on Bullet Hole.

Board Member Rogan stated we have not gotten to that yet.

Rich Williams stated there was a commitment to, Board Member Pierro stated by Mr. Conditto, Rich stated within the Supplemental Environmental Impact Statement and the Findings Statement there was commitments on it yes.

Board Member Pierro asked should that be carried over to this discussion as well.

Rich Williams stated a preliminary resolution really is just approving the general layout of the lots and the lot property boundaries. It is not until you get into really the final subdivision plat and all the hard engineering that those issues really have to get worked out.

Chairman Schech stated so we are okay with that the preliminary.

Rich Williams replied yes.

Board Member Rogan asked Rich, let me ask you a question some of the lot placements that may have impact on adjoining property owners through the preliminary resolution if we deem that there are significant I am going to throw out the example of Mr. Noblet with the water drainage that we so recently documented on his property, let's say for the sake of argument that we go forward with the preliminary resolution but one of the lots that border his property we decide based on water runoff can't be resolved and I am just throwing it out there it might sound extreme but what happens at that point. Are we locked into the thirty-seven lots because to be honest I don't think that based on what I saw that it has been adequately addressed. I don't know what you think but you saw the pictures.

Ms. Burbank stated that is an existing condition in all fairness and Mr. Noblet initially asked,

Board Member Rogan stated it is not existing when you have placed curtain drains. You are talking sheet flow versus directional flow that is not fair.

Board Member Pierro stated part of that condition is exasperated by the de-watering system that is draining half of this site.

Rich Williams stated if I might jump in there, the current plans show a swale through most of the rear of the properties picking up the drainage and taking it away from Mr. Noblet's property not in its entirety. There are some sections that have been left opened but there is a swale so based on that swale, I mean we all recognized that we were somehow going to have to take a harder look at the drainage, the runoff because it was going to be altered by the houses and by the lawns.

Board Member Rogan stated can you imagine a hundred year event.

Rich Williams stated so there is a swale between Mr. Noblet's property but a limited swale. It wasn't the large swale that you show.

Mr. Noblet stated you took the swale out.

Ms. Burbank stated we took a portion of that swale out because you asked us to in the area over here but we maintained a swale in this area.

Mr. Noblet stated yes but the major flow right now,

Board Member Rogan stated Mr. Noblet we won't get you on record.

Chairman Schech stated this is not a public hearing.

Rich Williams stated so anyway based on that swale being there in my opinion that issue is addressed. Certainly, we are going to have to look at hard calculations to make sure it all works but specific to your answer if you think one of the lots doesn't work or may cause problems or impacts no, I don't know that I would be comfortable with doing preliminary.

Board Member Rogan stated because I have to be honest with you up until this time we have been looking at the lots as a concept just in terms of the general layout and I really haven't sat down with this plan and taken a hard look at every lot and I have said from the beginning when does that happen in the design phase because I really want to take a look at how these lots layout every single one of them and I mean that in terms of you remember we have spoken many times about how the houses relate to the lot lines, what the

use of those properties. I have very strong concerns not that I think there are concerns in this but just in subdivision review as a whole and I haven't done that yet because I have been holding off from the standpoint of we have not had a concept, this is the first time we have had a concept that everybody has been real comfortable with. So, that is what I am asking when is the time,

Rich Williams stated it is a difficult answer to your question because what you are approving now is a general layout but based on the information that you have. The hard look that you are talking about looking at the exact house location, the exact grading generally it becomes preliminary and final.

Chairman Schech asked the swale that they are going to put in is not installed yet.

Rich Williams replied no it is not in there yet.

Chairman Schech asked and you are going to run out fall of the curtain drains into this swale.

Rich Williams stated one out fall goes over to the south end of Wetland 7 and the other, Kristine jump in if I get it wrong, the other end of the swale goes the other way and goes to the stormwater treatment basins down near Wetland 3.

Board Member Rogan stated one of the most significant impacts that I saw Kristina came from a discharge that was probably the farthest from Mr. Noblet's property line but it followed the rock wall, it followed the big natural curtain drain. Remember also again, a natural stonewall but you are putting a four inch pipe right at the base of that wall within five or ten feet so it is a directional flow aimed at a natural curtain drain. It does not seem to me to make sense to direct that kind of flow right at a natural curtain drain in my un-professional opinion.

Ms. Burbank stated I understand your concerns and I have seen the photographs submitted but the photographs are not key to anything so I have to see the condition in the field. It is difficult for me in isolation to address the concern. I know the existing conditions, I saw the existing drainage patterns.

Board Member Rogan asked Kristina have you ever been on this property.

Ms. Burbank replied yes.

Board Member Pierro stated that was the pipe that was feeding into the vernal pool correct.

Ms. Burbank stated that was (unable to hear)

Board Member Pierro stated alleged vernal pool.

Board Member Rogan stated reputed.

Board Member Pierro stated reputed is that a better term.

Rich Williams stated I think we put that issue to rest.

Chairman Schech asked what is your pleasure gentlemen.

Board Member Rogan asked do we have a resolution. You said you prepared one but I don't have it front of me.

Ms. Burbank asked I have one question, in my notes from the discussions that we had with respect to the roadway it is thirty foot.

Rich Williams stated I did have it wrong. It was thirty feet.

Board Member Pierro stated it was thirty and twenty-four.

Rich Williams stated thirty feet for the first twenty-five hundred then at the loop it will be twenty-four.

Board Member Rogan stated correct. The extra six feet is mitigation for the McManus Road alternative.

Chairman Schech asked did you find the resolution.

Board Member Rogan replied Herb it is not that I have it, it is that I haven't read it. It is in the review memo dated April 28, 2005.

Bob Dumont asked is the Board looking at anything other than Mr. Noblet's issue (unable to hear the rest of his question).

Board Member Rogan stated there are curtain drains that discharge down. There are not those type of drainage issues that I am aware of that I have seen. I have been all over that entire property other than in this case that I have seen and I have checked all of them.

(Unable to hear Bob Dumont)

Ms. Burbank stated I don't believe we have curtain drains over here. I know we have them here.

The Secretary stated Mr. Chairman you did receive a letter yesterday or today do you want to address that letter.

Chairman Schech replied no. Do we have to address the letter.

Board Member Rogan stated I think it would just take a minute and we would be done with it Mr. Chairman. Do you want me to.

Chairman Schech replied sure.

Board Member Rogan stated the letter that we received from one of the adjoining property owners, Mrs. Jensen which is here tonight, I never met her but it sounds like basically a concern that sounds like she was under the impression that we misspoke of some conversations. It is really a very simple mistake. The conversation was that we wanted the Applicant to pursue obtaining the property that has the barn on it so that we could do the necessary improvements in the future if the Town wanted to. We wanted that property acquired. The reason we are so adamant about it is because at one time the Applicant owned that property and sold it while this was all going on as I am sure you are aware. What the Applicant said and the intent of what he said, sometimes the intent doesn't get into the minutes, it is a verbatim account and it does not show inflection in voice was what happens if Mrs. Jensen says she wants a million dollars or five million

dollars for the property. In other words, his concern was what if she makes it impossible for me then what I am to do other than to sue the Board and we said go talk to Mrs. Jensen and see if a deal can be made. That is not our concern. That was the intent of that he wasn't saying we talked about a million dollars and she won't accept or anything to that and that is what your letter seems to indicate.

Mrs. Brown stated I just thought that it was not, the minutes from the work session did not represent reality and I wanted to make it clear that we are not being unreasonable. They had come to us with a specific offer to buy back some of the property.

Board Member Rogan stated you don't have to discuss dollar amounts by the way in front of people, please don't because it is no one's business.

Mrs. Brown stated I was portrayed as being un-reasonable.

Board Member Rogan stated we didn't get that impression just so you are aware. We did not get that at all. No one ever said you were being un-reasonable or not willing to, he actually said I have spoken with the owner and we are negotiating and actually was very positive about it but I think what the Applicant was trying to say what if they hold me hostage. What if they say it is worth a lot of money, this is a big subdivision I want five million dollars in other words if it is a point that it can't be done basically then where are we to go and I think his point was at that point it would be a lawsuit because we said without that property the project can't go forward it is part of the Findings Statement. We have said that from when it was forty-eight lots when I first got on the Board that the intersection and slope is crucial to this project. IT is a real dangerous area. I hope that sets your mind at ease.

Board Member DiSalvo stated he also mentioned about relocating the barn to a spot in Westchester.

Mrs. Brown stated that is total nonsense because there is no place in Westchester that we have access to where we would put a barn. I mean it is foolishness.

Board Member Rogan stated it does not make any difference to us where he decides to move the barn to. We said acquire the property and do a dedication to the Town, an irrevocable offer of dedication. What has to be done with the barn as much as I would hate to see it torn down because of the woodworking and the history in that barn, there isn't a nail to be had in that barn it is all post and peg. I would hate to see something like that lost but for public safety we see the obvious need for the realignment of the road. The worse part and what hurts this Board the most is that the Applicant owned the property and knew that this was a requirement at the time and went and sold it maybe not himself but one of his agents, one of his co-workers. We have held firm on that that we want the property to be able to make the improvements. What your negotiations are with Mr. Conditto is none of our business.

Mrs. Brown stated we were told that he had thirty days to resolve the issue or otherwise he was going to have to sue the Town now I don't know that there has been a lot of talk.

Rich Williams stated he has a certain amount of time to challenge the Board's decision in court.

Board Member Rogan stated it sounds like you are being reasonable again your negotiations with him are none of our business. Thank you for your time I appreciate you coming.

Board Member Pierro asked why are we still calling it the boulevard alternative.

Board Member Rogan stated because that is just the way it was referred to.

Board Member Rogan stated I am not in a position to be honest with you, Kristina I am sorry I have not had a chance to read through this all. I would be very happy if everything is fine make a motion on it at the next meeting but I am not in a position to do a resolution tonight on it.

Chairman Schech stated next time.

Board Member Pierro stated I have read through it and I still have some questions. I would love to be able to take another bite out of this at the next work session.

Ms. Burbank asked could I understand the nature of your concerns so that I can address it.

Board Member Pierro stated this is the first time I am going through a project this large and I want to be sure about the position that we are getting into as far as what issues have to be taken care of now and what has to be taken care of before we get to final, nothing major roadway alignment is certainly one of them.

Ms. Burbank stated the difficulty that I have is I have an end out date in terms of our being covered under grandfathering and,

Boar Member Rogan asked what is that date.

Ms. Burbank replied I think December.

Board Member Rogan asked and what needs to be accomplished by the end out date so I am clear on what Kristina has to do.

Rich Williams stated right now this project enjoys an exemption under our current regulatory requirements. If they wanted to they could submit an application, they can show the lots under our zoning code prior to 2003 right now they really do comply except for a couple of lots with our current code. Those other lots as I have indicated in the memo comply with the code prior to 2003. Their concern is that somehow I guess the exemption runs out and one or more lots comply with the old laws which they are grandfathered in under to a certain extent but it stops them dead in their tracks because it does not comply with the new rules and they would have to basically start over.

Board Member Rogan asked so again to answer my question does that mean they have to have all approvals in place by say end of the year.

Rich Williams replied they have to have a conditional final approval in place by that date and I am not sure if it is this year or next year.

Ms. Burbank stated yes I think it is this year.

Rich Williams stated I don't recall off the top of my head. It was in the memo I believe.

The Board reviewed the memo for a few moments.

Anthony Molé stated it says December 05 it does not have a date.

Rich Williams stated it would be December 25th.

Chairman Schech stated irregardless if the Board feels they need more time they are going to have to take more time.

Board Member Rogan asked let me ask you a question the resolution would get you to what point tonight that you can't be at a month from now. In other words what would you be working on that you can't already be working in anticipation of that resolution being next meeting. We have got road issues that we are talking about. It sounds like it is just a matter of us, what does that one month do to you to slow you down.

Ms. Burbank asked in terms of the design of the project.

Board Member Rogan stated I guess my point being why don't you go back assuming that it has been approved and work on it as if it has been approved. I am just saying that I want to read and digest this document admittedly having seen it. I know Rich gave it to us at the work session. I told you I did not get any of the memos at the work session they were not in front of me.

Rich Williams stated I did my job.

Board Member Rogan stated I know but some of these are dated today so that is not fair either.

Rich Williams stated but they are done today.

Board Member Rogan stated I guess that is my point Kristina that I would proceed as if it was approved tonight because I don't think that anything drastic is going to change between now and next month. Now, you would say that is a reason enough for us to approve it tonight that is not fair either.

Ms. Burbank asked I have a thirty foot wide road.

Board Member Rogan stated that is not going to change.

Ms. Burbank stated and I have a fifty foot wide right of way.

Board Member Rogan stated correct that isn't going to change.

Ms. Burbank stated that would be a fundamental concern obviously.

Board Member Pierro stated we are fine with that.

Chairman Schech stated thirty foot down to the twenty-four foot is no problem.

Ms. Burbank thanked the Board.

8) BEAR HILL ESTATES SUBDIVISION

Mr. Rob Cameron, Putnam Engineering and Mr. Steve Marino, Steve Miller Associates were present representing the Applicant.

Mr. Cameron stated at the work session which I attended with the Board there were some issues which were brought to light. One of which was concerning Mr. Kozlowski's memo about the area on the site which he designated as a vernal pool area and the other thing that we talked about of this segmentation of this whole process if the Applicant wants to develop Lot #2 which is about sixteen acres in size. I don't know if the Board you had indicated that you were thinking about a site walk.

Chairman Schech stated yes we were thinking about taking a look at it but it hasn't happened yet.

Mr. Cameron stated I am here also with Steve Marino and we would like to first of all address the wetlands issue one of which is the area shown on Lot 3. Mr. Kozlowski has indicated that area to be a vernal pool area and in early discussion with the Board I had asked maybe we could drain this area and create another mitigation on the other side and Mr. Kozlowski's memo indicated that is typically not what the Board would consider and at the work session we also discussed that. It is not something that you would like to consider. The area was flagged and I think you did go out there Ted and you confirmed some of the flagging you indicated,

Board Member Pierro asked could somebody go outside and ask them to be quiet, sorry Rob I apologize.

Mr. Cameron stated there are two wetland areas which were flagged. One is on Lot 6 which is on the western side of Bear Hill and then there is the other area which is on the eastern side on an area on Lot 3. They are segmented by the road. My calculations indicated this area to be approximately 20,000 square feet. On the western side and on the eastern side this area is about 6,000 square feet. I guess the whole issue is going to come down to Lot 3 and what I am able to do with Lot 3 depending on the impact the wet area on Lot 3 and how the Board feels about that and really what that area is. I am going to introduce Steve here and he can talk a little bit about what he found out there on the area on Lot 3.

Chairman Schech asked did you find all these little critters having sex out there.

Mr. Marino stated I found some congregation there whether they were, he stated his name for the record and that he is a Wetland Ecologist.

Mr. Marino stated following your discussions with Mr. Kozlowski at that meeting we were brought on, I was specifically brought on to look at this issue of the vernal pool. We had done the wetland delineation I saw there is a memo a couple of the flags need to be adjusted we will be happy to go out there and take a look at those and adjust those flags. The second part though was more important was looking at this wetland on Lot 3 and determining whether it met the characteristics of being a vernal pool. I have been to the site three times, twice in April and once today. The first two times that I was out there were in the evening in order to capture any congregation that may have been going on in this pool. One was on a rainy night when it is typically the best time for salamanders will be coming out and looking to go through their breeding cycle. On that first night it was about eleven o'clock on a rainy night we found two spring peepers and we found a wood frog species, wood frogs particularly that you would see in a vernal pool kind of situations, spring peepers might be in vernal pools or in larger pond situations, didn't see any salamanders that night. The second night we went out there nothing was out there in the pool. What I found most interesting though is that when I went out today the pool was actually dry. I mean dry, crispy leaves in

the bottom of the pool, dry even though it has been an above average wet spring and we did have some significant rain just three days ago the pool is dry now. Under the usual kinds of definitions of what is considered a vernal pool the hydrology in a vernal pool needs to last to late June early July so that following breeding, following laying of eggs, following hatching of the eggs and development of the larvae, the larvae have a long enough period of time in the pool to develop to a stage where they can become more terrestrial, they can climb up out of the pool as it dries out. They do typically dry out, vernal pools dry out early summer until October, November when they start to fill up again for the next year's cycle. This pool as of May I have been out in the field a lot so I am not even sure what day it is today, as of this day in May, May 5th this pool is dry so in most situations that I am aware of and that I have been involved in this pool dries out to early in the season to really create habitat that would be available for the breeding salamanders and some of the other amphibians that might use a vernal pool situation. That is the evaluation of that as a vernal pool. Now we did flag it as being wetland. I haven't been before Patterson in a little bit of time so I am not sure is the definition still a half acre, wetlands greater than a half acre are regulated by the Town and buffers. This one is 6,000 square feet so around twelve, thirteen hundredths of an acre so it would not meet that criteria as being regulated by the Town. I did also look carefully because I know this is always a concern as to whether there is some kind of hydrologic connection between this wetland on this and the larger wetland to the west. There were no visible pipes, culverts anything. What likely happened is that at some point this driveway, road did cross through the wetland and it was a corridor through there whatever that hydrologic connection was it no longer exists from my observations today so while it is a wetland it is a question as to whether it is a regulated wetland by the Town and I don't have any doubt that it doesn't really meet the criteria of being a vernal pool in the sense that we are looking at to consider it important amphibian habitat.

Chairman Schech asked Ted.

Ted Kozlowski stated just for the record I was out there on Saturday, March 26th, Sunday, April 3rd and Wednesday, April 6th and I heard peepers, documented wood frogs and observed spotted salamanders breeding. It is a vernal pool as far as I am concerned. It meets all our Town criteria whether it is dry today or not I can't say because I have not been there today but I consider it a vernal pond. I certainly saw amphibian activity in there. These animals would not be using that area if it was not a vernal pond period.

Chairman Schech asked even if it was dry today.

Ted Kozlowski replied I have not seen it I have got to take a look. As of April 6th there was a lot of water sitting in there so I am kind of surprised it is dry but I will take a look.

Mr. Marino stated I have photographs of it today. I do have photographs of the wood frog we saw and the peepers that we saw on the night that we were out there so certainly it was being used. I did not see salamanders it is possible that they were using it I am just saying as far as the life cycle of these animals go if it is dry today any larvae that may have hatched out in the time I didn't see anything, I never observed egg masses in the pond, in the pool when it was wet. If they hatched out they did not have time to mature to a state where they could survive the dry conditions that are out there today.

Chairman Schech asked Ted would you take another look.

Ted Kozlowski stated gentlemen a vernal pond doesn't happen over night it is something that exists for quite some time. I have been out to Bear Hill Estates over the years on different occasions for different reasons, every time I have been out there that pond has been wet and there has been water sitting in it. I am not disputing this gentleman's observation that it was dry today. I don't know why it would be dry today

considering the season that we are having but I will take a look. As far as I am concerned the vegetation is there, the amphibians are there, the characteristics of a vernal pool are there. It is clear in our rules and regulations Code 154-14. We clearly regulate vernal pools and this has all the characteristics. Again, I am not disputing Tim Miller's observations but whether it is dry today or not does not change my opinion of whether this is a vernal pool or not and again, I am basing this on fifteen years of ECI and of those fifteen years I have been up to Bear Hill Estates a number of times.

Board Member Rogan stated we are planning a site walk.

Mr. Marino stated I would just ask that Mr. Kozlowski then go out if you can tomorrow to see it is dry.

Ted Kozlowski stated I would be happy to.

Mr. Marino stated and the question of whether it meets a vernal pool personally I can't see it and I have been doing this for eighteen years. I can't see it when it is out of water not.

Ted Kozlowski stated I have been doing this for thirty,

Mr. Marino stated I am not trying, this is not a contest.

Ted Kozlowski stated I am just saying it has got whether it is dry today or not that to me is quite a abnormality from what I have seen.

Board Member Rogan stated with the rain coming it is going to be filled in about a day. It is coming tonight or tomorrow.

Mr. Marino stated it rained two days ago it would have been filled. I agree entirely that it looks like a vernal pool. When I was out there in my boots in the middle of the night it looked like a vernal pool which is why we were sifting under every leaf looking to see what we could find in there.

Board Member Rogan stated and just so you know I don't believe that Ted calls everything a vernal pool because we had one that they looked at and that other people looked at and he said was probably not a vernal pool.

Ted Kozlowski stated and I think the Board knows we have been looking at three suspected vernal pools in the Town of Patterson and this winter we have made it a project and Rich has accompanied me on one of them.

(TAPE ENDED)

Chairman Schech stated okay you take another look at it.

Chairman Schech stated we will take a site walk and we will take a look at the other site also.

Board Member Rogan stated Rob I don't think we have answered your question about the way we are looking at this project versus the second proposal. I am not sure that we decided that. I don't remember all our conversations.

Mr. Cameron stated actually I am going to ask you another question, did the Board ever declare a Lead Agency.

Rich Williams replied no we have not come up with a firm plan.

Mr. Cameron stated okay I just wanted to refresh my memory. We are not in a situation that if you did declare Lead Agency on this there would be any impact to the SEQRA process because we haven't even gotten that far.

Rich Williams stated one of the concerns that I don't think has ever been adequately addressed you know we have a four acre zoning requirement out there and we are still talking about breaking lots 3 and 4 into two acre lots and whether the Board wants to go down that road and send them for an area variance or not.

Mr. Cameron stated that also has to do with this whole wetland issue over here.

Rich Williams stated the wetland issue may be moot.

Board Member Rogan stated yes I was just going to say,

Mr. Cameron stated they are both impacting each other if this is a wetland or vernal pool and I have to have separation here what is the impact of either this being a vernal pool and if it is a wetland it is under the Town requirements. I am not going to be required to meet the setback requirements it is only 7,000 square feet.

Rich Williams asked you are not going to be able to,

Mr. Cameron asked if it is under 7,000 square feet it is not regulated.

Rich Williams replied that is correct.

Mr. Cameron stated then there is no control area then.

Rich Williams stated if we say that you are not going to be able to subdivide that lot then there is no reason for you to put a house there anyway.

Mr. Cameron stated correct.

Rich Williams stated I think that issue is an issue that really needs to get worked out. The other issue is a segmentation issue.

Mr. Cameron stated we did talk about this and it seems logical that it should work but if in deed we have a vernal pool here I mean is this going to work at all and I have to have my setbacks am I going to lose that lot anyhow whether or not it is created.

Rich Williams stated I don't disagree but there still is that zoning issue out there.

Mr. Cameron stated I did go to the Town Board it was quite awhile ago now and they had looked at this whole concept the only thing the Town Board didn't see was the division of this eight acre lot into two four acre parcels but otherwise they saw everything else.

Rich Williams stated they did but the Town Board does not have the authority to allow you to subdivide a

piece of property and do it and not meet the zoning requirements. There are two other Boards that you would have to get that determination from.

Mr. Cameron stated because if I lose this then I am down to five lots and what is the major, minor subdivision cutoff is it four or is it five.

Rich Williams replied four.

Mr. Cameron asked so the intention of the Board is to go out there and do a site walk and take a look at this area.

Board Member Rogan stated yes that and the other parcel.

Mr. Cameron stated I don't have any flagging or anything out here at this point. Do you want to just go out there and just take a look.

Chairman Schech stated play it by ear.

Board Member Rogan stated Lot 5 is also under four acres. You have got three lots out there are under.

Mr. Cameron stated Lot 5 is.

Rich Williams stated that is existing.

Board Member Rogan stated by virtue of the road okay.

Mr. Cameron stated on this large lot the sixteen acre parcel there is actually like an A.T.V. trail that was cut through there. I went out there actually today and did some deep tests and we did some percs out there and there is a little wet area in the middle Ted was right the soil does represent that there is something going on out there. The soils are actually very sandy when we did the deep tests. There is a high water table.

Mr. Cameron thanked the Board.

9) **WOODWARD SUBDIVISION**

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

Chairman Schech stated the wetland flagging what do we have to say about that. It was erroneous.

Mr. Cameron introduced himself.

Mr. Cameron stated Woodward is a two lot subdivision. The proposal is to divide the property into two lots. There is an issue about the flagging of the wetland. I spoke to Kyle Kaylor who did the flagging of the wetland and he indicated to me that he believed his analysis was correct. He had flagged it in November of that year of 2004 and the only thing that he was saying that if you would like to either go out to the site or have Mr. Kozlowski indicate where the flagging should be.

Ted Kozlowski stated for the record I was out there, November is pretty much after all herbaceous plants are gone from the wetland area. You will notice this soil right here identified on the Applicant's map, these two soils Fluvocant is a recognized, documented wetland hydric soil and Licaster in our Code wetland soil. I went out there two weeks ago, a week ago whatever obligate, facultative plus facultative, dominated species. What that means is more than fifty percent of the vegetated species in this area are wetland or wetland positive species. We are talking about skunk cabbage, red maple, green ash, elm, skunk cabbage would not be present in November of 2004. It is only present at this time of year and it is throughout this area. Soil was inundated with water. The hydrology is here, the soils are identified here, the vegetation is here, a duck is a duck. It is a wetland.

Board Member Rogan stated if I remember right when we walked that site it seemed like nearly all the maples on the whole front of the property were all buttressed. They were all swollen.

Mr. Cameron asked so you are saying that this line actually comes along,

Ted Kozlowski replied Rob, what I am saying is and what I don't understand and I didn't even look at this area because you are really not going into it but the wetland flagging is just basically following the stream corridor. What I don't understand is right where the driveway is going through you can't even walk through this.

Mr. Cameron stated I haven't walked this site.

Ted Kozlowski stated it is completely under water. I went out there during that stretch where we didn't have rain where it got warm. I was swimming in my swimming pool at that time so there is a tremendous amount of drainage coming down here, look at the slopes, it is all draining right here and then it levels off but the fact that you even identified the soils as wetland soils I am sorry, with all due respect to Kyle Kaylor I do not agree with the wetland flagging.

Board Member Rogan stated if I remember right when we did our site walk we counted somewhere six different intermittent streams coming off the hill not including the major stream.

Ted Kozlowski stated besides somebody has mucked around in there especially with this, you can see Kyle's flagging goes all over the place and I think somebody was in there with a machine years ago trying to create some diversion of the water. Spring is you know what causes a wetland when you have two weeks or more of inundation you are in a wetland, it creates wetland conditions. I also poked several soil samples a lot of (did not hear), low chromo soils, everything out there is meeting a criteria of a wetland. Again if you are going to do the soils in November, soils will always tell you, you could do that in November but going out and doing a wetland flagging in November especially after we have had frost he is missing a lot of indicators.

Board Member Rogan stated it makes it sound like you would be lucky to get the one lot built.

Mr. Cameron asked did you go over here referring to the plan.

Ted Kozlowski replied I think your best bet is in this area. I think this area is completely out.

Mr. Cameron asked so you are saying it kind of comes up into here and goes over,

Ted Kozlowski replied it is coming in here but even in here I am finding spotty skunk cabbage but again that is an obligate species which indicates that you are in a wetland condition. What I would recommend to you is you concentrate in this area and this is going to be out. Go out there tomorrow you don't need a wetland person to go out there, go out there and try to walk this driveway.

Chairman Schech stated just from driving past it on the road you can see that the one on the easterly side looks like a good possibility.

Mr. Cameron stated if in deed it does come all the way up here I don't know what we are going to do. I am not a wetland specialist so I am at a little disadvantage here. I can only rely on the people that do the flagging for us.

Board Member Rogan stated if we have site walks this Saturday we may just swing by there and take a second quick look.

Mr. Cameron thanked the Board.

10) EUROSTYLE MARBLE & TILE SITE PLAN

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

Chairman Schech stated it looks fairly good. We would like to see color renderings if you really want to impress us.

Mr. Cameron stated okay I was out of time tonight.

Mr. Cameron stated I think in the memo it indicated that you wanted to take a look at this site and has the Board declared Lead Agency on this one yet.

Rich Williams stated no.

Mr. Cameron stated you also have made mention that we are very close to doing the SEQRA review I mean if that is the case can we declare Lead Agency tonight so that maybe at the next meeting if everything gets done and you do your site walk that we could start the SEQRA process.

Chairman Schech stated we have done a site walk.

Mr. Cameron stated what was the memo saying I thought it said site walk.

Board Member Pierro asked we needed some additional staking.

Rich William stated I am sorry I forgot to take that line out from the memo.

Chairman Schech asked are we ready for SEQRA.

Rich Williams replied I would not have a problem with doing Lead Agency. They have some issues they need to clean up but.

Mr. Cameron stated I went through the memo very quickly before the meeting and I think most of these can be addressed.

Chairman Schech stated I don't see any big problems with it.

Rich Williams stated Ted had a concern about the wetland flagging right down at the bottom corner. It might affect the stormwater basin.

Mr. Cameron pointed on the plan asked right here.

Rich Williams replied yes he thought it extended out more.

Mr. Cameron stated the grading around the building and I think that is what Ted was saying that this extended out a little bit that we would be grading over there. If we had to put up a wall here or something like that we could do that.

Board Member Rogan made a motion in the matter of Eurostyle Marble & Tile Site Plan application that the Planning Board declares their intent to be Lead Agency and conduct a coordinated review. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Mr. Cameron thanked the Board.

11) FRYER SITE PLAN

Mr. Jack Karrell, Engineer, Mr. Lou DiLeo, Architect and Mr. Fryer were present.

Mr. DiLeo introduced himself to the Board.

Mr. DiLeo stated Mr. Karrell the Engineer is here with us tonight and also Mr. Fryer. We have received the two memos written by the Engineer and Town Planner for the project and we intend to comply with that. There are a few things that we would like to just discuss and also hear questions from you. This is the exterior of the building that is going to be built within the courtyard. We also have the site plan from Mr. Karrell. One of the items in Mr. Williams' memo regarding the existing water tank that we have on the property for the sprinkler system I am not sure how you want to address that. It is part of the building. It was part when the building was built that is my understanding. It got a C of O for this. It is an integral part of the building for the sprinkler system. It is not something new again it is an existing item.

Board Member Pierro asked is there enough capacity to handle the new.

Mr. DiLeo replied we don't need a sprinkler system for the new. This is a pre-existing condition when the building was a different kind of manufacturing.

Chairman Schech asked is it an internal tank, inside.

Mr. DiLeo replied it is not inside it outside it is buried and that is the question that it is actually buried.

Rich Williams stated the issue is one of the Special Use Permit that was originally issued that said you can't have any above ground construction within sixty feet of the rear property line actually it was a hundred feet on the residential property, sixty feet had to be landscaped. For the most part, the tank is below the ground at the time this was going on even though it wasn't shown on the site plan the then Town Attorney gave an opinion to the Board that lawn is landscaping. I think that everybody agrees that that was not the intent of the Special Use Permit and would not go along with anything like that if this was a new proposal but it is not. I had an obligation to bring it to the Board's attention.

Mr. DiLeo stated we are concerned over that one particular item. Are there any questions that we could either try to answer now.

Chairman Schech stated yes get us the size of the tank we must have it somewhere around.

Mr. DiLeo stated thirty thousand gallons is what we think it is.

Chairman Schech stated thirty thousand you are safe, right.

Rich Williams stated it is a good size tank.

Chairman Schech asked and the pond the retention pond needs some work the one down the hill.

Mr. DiLeo replied yes Jack can you address that.

Mr. Karrell stated we have to clarify some of the grades, Mr. (unable to hear the name) has a full topo of that area but we didn't have it on our plan. We have two foot contours in the area of the detention pond and around so we will put them on the next revisions in the plan. We will address the rest of the drainage issues which are relatively minor in nature.

Rich Williams stated if I could just jump in here real quick I think most of the drainage issues are not a big deal. They have some clean up, they have some maintenance to do. The biggest issue I think is the new MS-4 requirements and DEC's policy on re-development and I think the Board just to have a comfort level needs the engineer to come back with a statement whether they need to comply, whether they don't.

Mr. Karrell replied I will do the statement with Rich. One of the things that I pointed out in my engineering the original detention basin was designed based on a certain square footage of impervious surface that they had originally proposed and what was built was a significantly less driveway and in the loading area they had much smaller pavement. When you calculate the impervious that was approved back whenever and the impervious that is there now plus this new building were are less now even with the new building than we were there before but I will check.

Chairman Schech stated just put it in black and white.

Mr. Karrell stated I think the other issues on the drainage are relatively minor and we can do that for the next meeting.

Rich Williams stated there are a couple of issues before the Board I think. One is how you want to address SEQRA normally the Board does a coordinated review in this instance though really the only other involved agency is the Putnam County Health Department and really it may just be a sign off on the existing septic system.

Board Member Rogan stated so we can do it as a Type II and just end the SEQRA process.

Rich Williams stated yes never mind all right it is late I am sorry but yes it is a Type II action and there is no further action taken. The other issue is the plan is relatively complete there is some minor drainage issues that that they have to clean up. They have to actually marry the two drawings together so that they are both working off the same thing but other than that they are not in bad condition so if the Board wanted to set a public hearing and move this along it would not be inappropriate.

Board Member DiSalvo made a motion in the matter of the Fryer Site Plan application that the Planning Board schedules a public hearing for June 2, 2005. Board Member Rogan seconded the motion.

Chairman Schech asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Mr. DiLeo thanked the Board.

Mr. Karrell asked can I ask the Board if we could do Capasso now since that was put on for item four.

Chairman Schech replied while you are here I guess so.

12) CAPASSO WETLAND WATERCOURSE PERMIT

Board Member Pierro stated in regards to Capasso Wetlands Watercourse Permit be it known that Ms. DiSalvo has left the room and his recusing herself from this application.

Mr. Jack Karrell, Engineer was present representing the application.

Mr. Karrell stated Mr. Capasso owns a farm on Route 311 north of the railroad crossing and he has some drainage issues and piped water coming off of Route 311 and proceeding back through his farm, a major

stream at the rear of his barn. We had originally proposed and we received a DEC permit to pipe this stream in this area here and put in kind of a curtain drain or a field drain so that Mr. Capasso could level this area and build another paddock. The DEC permit also included rip rapping this section of the stream and constructing a steel bridge over a double culvert which rotted and collapsed. We received a DEC permit for that but what we are coming to the Town for now is Mr. Capasso after speaking with Ted and Rich has eliminated the piping of this section of the stream which conveys the water off of Route 311. This plan shows a catch basin here,

Chairman Schech asked which is going to leave right.

Mr. Karrell stated which I inadvertently left on. This area is merely going to be riprap in the same manner that this area was going to be riprap. We are still proposing to put the steel deck bridge with the culvert pipe underneath it and I guess I have been advised they are going to eliminate doing the field drain here. Really the only thing that we are going to be doing is rip rapping this entire section of this stream and reconstructing this bridge with a steel deck and replacing the culvert pipes.

Chairman Schech asked why do you have steel decking on top of a culvert pipe.

Mr. Karrell replied he wants to be able to have access to the rear with equipment, lawnmowers, he has horses going back here, he has paddocks up on the hill here,

Board Member Pierro stated if I might Jack, back a few years ago the people from the airplane club cut a hole in the top of that pipe to get the beaver remnants out and they had to put a steel plate just so they could use it and now it is rotting away it is crushing. I took a look at it after our work session on Wednesday, I took a look at it Thursday.

Mr. Karrell stated eventually what he wants to do is just clean this area up, improve the swale, riprap it, right now you can't mow it because the sides are all un-even and the riprap will certainly help.

Chairman Schech stated the only suggestion that we had I believe was river stone right instead of the white.

Ted Kozlowski stated when I went out and discussed this with Maria and Joe the issue here is that it is a stream feeding into DP-22, the Great Swamp and what they needed to do was, it was an issue of aesthetics which I agree and I am glad that they eliminated the whole pipe idea because we need to maintain the integrity of the stream and the function of that stream. That stream is feeding the wetland and its functions need to be preserved in some manner and if you want to preserve it through an aesthetic avenue that is fine as long as its functions are kept in tact. What we want to avoid is not to make this a drainage ditch with White Quartz crushed gravel and such but something that is functional and we spoke of natural rock being placed in and natural landscaping some trees or some shrubs and stuff like that to make it function and look like a stream corridor which will enhance the property and also serve as a function. That is where I left it and we need to really define that in this process.

Mr. Karrell stated that is fine certainly field stone looks a lot better than the white.

Ted Kozlowski stated and I don't mean to put Gene on the spot but he did bring up some points to me which I, Jack you folks did get a DEC permit and that is fine but the DEC generally when they issue a permit on the site plan that they sign off on there is a validation block and the wetlands have to be shown and think of trying to do it in coordination with the DEC and we have to make sure that they are in line not

line but that they know what we are doing and we know what they are doing. It is not jelling and I think that needs to be cleaned up.

Chairman Schech stated this is no great shakes. I don't see a problem since they have purchased this place they certainly have improved this.

Ted Kozlowski stated and Maria and Joe Capasso are not the ones that I am concerned about again it is future you know should they move, or sell and the next person that comes in what plan are we looking at. The DEC plan has a pipe or our plan that has so we need to have that match.

Mr. Karrell stated I have already removed the pipe from the plan and I supplied you with a copy of DEC's approval letter.

Ted Kozlowski stated I think you have Jack and I think there is some technical tidy issues that need to be, Gene do you want to jump in.

Gene Richards stated if you can just give us a plan that DEC signed off on they have a wetlands validation block.

Mr. Karrell stated the validation block is for the delineation of the wetlands.

Gene Richards stated correct.

Mr. Karrell stated I will have to get that from DEC but the plans that DEC signed off on they refer to a plan by me dated, whatever the date was the revision before this and it was two sheets and that is the plan that they signed off on. One of the problems in the original approval letter that I didn't notice that they indicated that they are approving twenty feet of pipe and we really had approved something like a hundred and forty feet of pipe so I have a letter from Scott Sheeley which clarifies that but since we are not putting the pipe in it really does not matter.

Gene Richards stated we just looked at the permit and what the permit included it didn't seem to agree with the plan and what we first reviewed was different than the piping that was shown.

Mr. Karrell stated that was the plan that was approved and we have changed it.

Chairman Schech stated all right now they are going to have to approve this plan. It is no bid deal is it.

Gene Richards stated they would have to revise the permit I guess for what is now being proposed.

Mr. Karrell stated I would have to re-submit.

Ted Kozlowski stated actually I don't think that is going to be an issue with DEC because it is a less intrusive impact.

Rich Williams stated but they have to modify the permit.

Ted Kozlowski stated yes I am sure you are going to have to get some sort of sign off from them because it is still within their jurisdictional review however again, I feel it is far less intrusive than to pipe it. I don't think it is going to be a big issue with the DEC.

Mr. Karrell stated I don't think so either. Basically what you want me to change is make it natural rock and show some landscaping around the slope.

Ted Kozlowski stated and I am sure it is in the Applicant's best interest and that is what they are going to want.

Mr. Karrell stated that is fine and then we eliminate this and the bridge is going to stay.

Board Member Pierro asked what kind of landscaping.

Ted Kozlowski stated again, I am not looking for, we are not looking at a Triple J landscaping. We are looking at using the site that is there, putting some natural stone in. The one thing that I want to make clear Jack is that we don't want mowing right up to the stream edge. That is not the intent here. The intent here is to protect that stream corridor so it has got to look like a stream corridor and function as such. We are not looking to put a lawn in there and mow right up to the riprap that is not what we want.

Board Member Pierro asked have you given the Applicant some ideas on the kind of,

Ted Kozlowski replied we went over that back in I can't remember when we met I am not so worried about that and we can work together on that.

Board Member Pierro stated I just want to give them some direction so we can get this off our plate.

Chairman Schech stated get your approval from whoever.

Mr. Karrell asked wouldn't it be appropriate to get something from you guys on the natural rock, I can submit concurrently. Do we have to do a public hearing.

Ted Kozlowski stated yes we do.

Mr. Karrell asked can we schedule that.

Board Member Rogan stated we can set that for the next meeting.

Ted Kozlowski stated I think though, Jack what you have to do there is this memo that both Rich and Gene,

Rich Williams stated I did not do a memo on it.

Ted Kozlowski stated there are some technical things that have to be cleaned up with your application and we just have to make sure that is done just like everybody else.

Board Member Rogan stated like you said, we just hammered somebody and not let them set a public hearing because there application wasn't complete.

Board Member Pierro asked can we set the public hearing subject to the completion of those technical issues.

Ted Kozlowski replied we can Dave but we have got to remember it has got to be two weeks before so the clock is ticking Jack what is it June 2nd.

Mr. Karrell stated well if I check with the Applicant about the bridge most of Gene's comments are relative to the bridge if the Applicant just wants to replace the culverts the way they are and forget the bridge and just put dirt over the top of it.

Ted Kozlowski stated again that is not important for this application right now those are technical,

Mr. Karrell stated they seem to be to Gene though.

Ted Kozlowski stated no but there are technical things to make the application complete and that is what we want to do that is why to get the public hearing going you have to have a complete application. Whether the bridge crossing is dirt or timbers or whatever that is really not so important right now as to make sure all this together.

Mr. Karrell stated all right I will talk to you guys.

Ted Kozlowski replied talk to me.

Board Member Rogan asked so we are comfortable setting the public hearing contingent upon the application being complete.

Ted Kozlowski stated Gene has a few comments.

Gene Richards stated Jack, if you want you can certainly call our office and schedule a meeting, we can sit down and go over the plan. One of the things that you need to do too is with the wetlands watercourse permit application just make sure that is modified to reflect your latest plans. Can I just ask you to, in our file we have a letter from DEP addressed to DEC and in their letter they indicated there was going to be a permit required from DEP did you in fact get a permit from them.

Mr. Karrell replied no.

Gene Richards stated because it just kind of died there I did not see any follow ups.

Mr. Karrell stated I remember that letter I will have to check the file but I don't know that it said that they needed a permit.

Gene Richards stated a stream crossing.

Mr. Karrell stated I don't think DEC would have issued the permit without DEP but I will check the file.

Board Member Rogan made a motion in the matter of the Capasso Wetlands Watercourse Permit application that the Planning Board schedules a public hearing for June 2, 2005 contingent upon the application being complete by two weeks prior to that. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Pierro - aye

Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

13) FRANTELL SITE PLAN

Board Member DiSalvo resumed her seat on the podium.

Ms. Theresa Ryan, Insite Engineering and Mr. Joe Mansfield, Architect were present representing the Applicant

Chairman Schech asked okay so you adjusted the ponds out of the buffer basically more or less.

Ms. Ryan replied as much as we could but Gene and Rich both had comments that maybe, we put retaining walls in to minimize the grading in the buffer, Gene had a comment that the wall would need some design and Rich,

Rich Williams stated hates the wall.

Board Member Rogan stated I hope it does not look like the one on 22 and 164.

Rich Williams stated regardless I just hate the idea of a retaining wall right down into,

Board Member Pierro stated the buffer.

Rich Williams stated not into the buffer into the bottom of the stormwater pond.

Ms. Ryan stated it is all along the curbing, all along the edge of the parking here and here too so it is just going to be at the edge of the curb.

Board Member Rogan stated I am having a hard time visualizing it.

Ms. Ryan stated that pulls the grading out so it is just the berm right at the edge of the buffer.

Chairman Schech stated if that is what they have to do to get the,

Rich Williams stated I understand that and like I said in the memo I appreciate that and we should make every attempt to stay out of the buffer but in this case the buffer is a disturbed area. It is basically a meadow. I don't know how much of an impact we are talking about as opposed to, I am not crazy about having a retaining wall in a detention pond, in a basin that is periodically flooded.

Chairman Schech asked what do you think about the retaining wall guys.

Board Member Pierro stated I personally don't have a problem with it.

Board Member Rogan stated I can't visualize it for some reason I am drawing a mental past nine o'clock image but do you have,

Rich Williams state you have to take this where it goes and Schoen (unable to hear too many talking at the same time).

Rich Williams stated certainly it does not mean the wall is not going to look that way and certainly for intense purposes you might be able to see this from the back of the A&P but that is about it. It is not going to be visible like Schoen's.

Board Member Rogan asked what is the height of the wall.

Ms. Ryan stated actually Schoen is different because the wall is the exterior of the basin so the basin is down below that so it is coming up. This is going down into the basin.

Board Member Rogan stated so another words one edge of the basin becomes the wall.

Ms. Ryan stated the parking lot is here and the building and everything is up here the wall comes down and then we build the pond around it.

Ted Kozlowski asked what is the wall made out of.

Ms. Ryan replied we haven't decided that yet.

Ted Kozlowski asked what happens if you created a wall with a fieldstone façade on the back.

Ms. Ryan replied nobody is going to see it.

Rich Williams stated nobody is going to see this though.

Board Member Rogan asked what about that residence in the back they will see it behind the place to the right there is a residence back there.

Ted Kozlowski stated the only thing I have got to say if you remember where this started this has, Board Member Pierro stated it has come along way. Ted stated I remember when the wetland was being used. We have repeatedly asked him to reduce, reduce and he has. I feel better a lot better he has gone completely out of the wetlands and has pretty much respected the buffer.

Board Member Rogan stated just going to be a little grading for the building.

Ted Kozlowski stated we are going to do a little bit of grading in it. I just think he has mitigated.

Board Member Pierro stated I think it is time.

Chairman Schech stated I think it is fine.

Ted Kozlowski asked the wall,

Board Member Rogan stated without the wall, Ted is saying without the wall.

Ms. Ryan asked no wall.

Ted Kozlowski stated I am saying if you need to go into that buffer I agree with Rich just like Triple J,

(TAPE ENDED)

Board Member Pierro stated I think Ted's suggestion is they can do a little grading and not build the wall.

Ted Kozlowski stated right.

Rich Williams stated yes but where we don't agree, I think there is a little bit of a difference between three to four thousand square feet worth of grading if it is that much as opposed to ninety thousand.

Ted Kozlowski stated it is just the comment that it is a disturbed buffer anyway. I thought that was the same,

Board Member Pierro stated I would rather limit the amount of grading and put the wall then.

Board Member Rogan stated I would say remove the wall and after the grading is in place put some plantings in there.

Ted Kozlowski stated all I am saying is he is rubbing my nose, Rich stated last remarks, Ted stated and I do love him that is on the record but I just want to say that Louie did the right thing.

Ted Kozlowski stated he kept his promise I remember at the meeting months ago he said tell me what I need to do and I will do it.

Board Member Pierro asked so where are we at now.

Board Member Rogan stated remove the wall, grade it down,

Ted Kozlowski stated it is really not going to add that much more disturbance.

Ted Kozlowski stated however Theresa just to stay ahead of the curve my recommendation to this Board and hope they go with it is that when you we do agree with the final design is they put something up on that buffer that this is it. Like with other Applicants that we discussed tonight this is it and we need to have that shown in the field.

Chairman Schech stated and a color rendering.

Mr. Mansfield stated in response to the comments that came out of last month's Planning Board Meeting we have modified the design to reflect something more appropriate in terms of what Lou had presented to Rich awhile back. We are still kind of toying around with the idea of color. I think what is probably the most appropriate for the area is a red barn primarily because if we go with something that is white it is going to tend to look dirty and dingy. I think red is going to tend to hide a lot of those colors. I think it would be a very handsome structure on that Route 22 corridor.

Board Member DiSalvo asked so we still don't know what we are going to make it out of yet.

Mr. Mansfield replied it will be some sort of barn siding on the barn elements whether that is wood or a p.v.c. product we are still investigating that.

Chairman Schech stated it has to be masonry doesn't it.

The Board replied no.

The Secretary stated no it can't be metal.

Mr. Mansfield stated and as far as the roof it cannot be metal because the roof we would propose as a metal roof.

Chairman Schech stated that is okay.

Mr. Mansfield stated it would be some form of an appropriate barn siding look and the roof would probably be a galvanized look. A little different from what is in the Town now but I think appropriate for a barn.

Board Member DiSalvo asked are you going to put the roof in a color.

Mr. Mansfield replied a galvanized gray.

Board Member Pierro stated I think I would rather see a color but.

Mr. Mansfield stated when you are dealing with red, you know green, copper I think the galvanized is certainly going to be more appropriate. We drive around this Town and many other Towns in Putnam I think you will see most of the barn roofs are that kind of galvanized look.

Chairman Schech stated it looks fine to me.

Board Member Rogan stated it is fine.

Board Member Rogan asked Theresa what are you looking for tonight. We can do Lead Agency right.

Rich Williams replied yes.

Board Member Rogan made a motion in the matter of Frantell Development Site Plan application that the Planning Board declares their intent for Lead Agency and conduct a coordinated review of SEQRA. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Ms. Ryan thanked the Board.

14) KESSMAN SUBDIVISION

Ms. Theresa Ryan, Insite Engineering was present representing the Applicant.

Ms. Ryan stated Rich indicated that the Board can declare this a minor subdivision if they so chose. If you haven't already done that.

Board Member Pierro asked we haven't done that.

Ms. Ryan replied no.

Board Member Pierro asked we can do Lead Agency too, do we have to.

Rich Williams replied if you are comfortable with the layout.

Chairman Schech stated you are going to have to do something with that frontage lot right.

Ms. Ryan stated yes.

Board Member Pierro stated we have to make a recommendation to zoning.

Ms. Ryan stated we actually had frontage over here to try to achieve that but you had asked us to rid of that.

Board Member Pierro stated on the motion.

Chairman Schech asked what motion do we have the on the floor.

Board Member Pierro stated to Zoning, Board Member Rogan stated to make a recommendation to, Board Member Pierro stated to make a recommendation to send them to zoning because of the frontage,

Board Member Rogan asked you are doing a positive recommendation.

Rich Williams asked if I could just clarify, your recommendation is whether it is appropriate or not I mean under Town Law they can go simply because they made the application but within Town Law there is an additional statement that says the Planning Board must recommend to the ZBA.

Board Member Rogan stated what we should include in that recommendation I don't know if this goes but a copy of the minutes from the meeting that we discussed this in quite a bit of length.

Rich Williams asked why is it appropriate to do this.

Board Member Rogan stated correct and we did that.

Board Member Pierro stated I believe our consideration was to clean up lot lines. It was really ridiculous that horse shoe shaped lot surrounding another property owner in order to get a hundred foot frontage and that didn't really meet Code anyway.

Board Member Rogan stated no it was not cumulative.

Rich Williams asked but is it appropriate considering a new lot.

Board Member Pierro stated well it is not really a new lot it is already existing.

Rich Williams stated thank you.

Board Member Pierro made a motion in the matter of Kessman Brothers Farm that the Planning Board recommends to the ZBA to issue a variance for the limited amount of lot frontage fifty-three feet as opposed to the hundred foot required. Board Member DiSalvo seconded the motion.

Chairman Schech asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Board Member Pierro asked why can't we do Lead Agency Rich.

Rich Williams replied one of the outstanding issues that is missing that we need to circulate for Lead Agency is an Agricultural Data Statement.

Board Member Pierro asked I thought that we just got that.

Chairman Schech stated not the proper one.

Ms. Ryan asked you have to circulate that.

Rich Williams replied generally we will include that over to the Putnam County Planning.

Board Member Pierro asked so that was not the correct data sheet that we got.

Rich Williams replied they gave you an Agricultural Certification that is used for placing parcels in the Agricultural District. There are other municipalities, other counties that actually have an Agricultural Data Statement. I talked with (unable to hear) a little bit he suggested being that we seem to be on the cutting edge that we actually create the Agricultural Data Statement and I sent it over with a local representative on the Ag Board,

Board Member DiSalvo asked the meeting next week.

Rich Williams asked is it next week.

Board Member DiSalvo stated Wednesday.

Rich Williams stated that perhaps the Ag Board would approve that as a County wide standard. I may try to make one.

Ms. Ryan asked you mean there has not been one.

(Unable to hear Ms. Ryan)

Rich Williams stated Putnam County or any municipality does not have one as of yet.

Chairman Schech asked in the State.

Rich Williams replied no other municipalities have prepared one based on the State requirements. We don't have one down here specific to this area. You can basically use anything you want but there are specific requirements that you have to have in this Agricultural Data Statement which are no in, in my opinion George Michaud's Certification.

Ms. Ryan asked but is it accurate to say that has to go in the Lead Agency circulation for Putnam County.

Rich Williams replied I think it is all part yes because it is a requirement of the initial submission. What we do for the Lead Agency circulation is we circulate the application, the EAF, and the initial site plan and being as that needs be part of the initial application I would say yes.

Board Member Rogan asked do we want to do the classification tonight.

Board Member Rogan made a motion in the matter of Kessman Subdivision that the Planning Board designates this a Minor Subdivision. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Chairman Schech asked the buildings that are on that five acre site could you mark,

Ms. Ryan asked identify them.

Chairman Schech stated yes what they are.

Ms. Ryan asked you also had a question about the well Rich on this parcel here Parcel "C" that services these three lots.

Rich Williams replied okay just put a note on the plat so we know that.

Ms. Ryan asked and this access it was put in years ago with a permit. They don't have any intention to extend that.

Rich Williams asked how are you getting to the barn.

Ms. Ryan replied we are not.

Rich Williams asked what do you mean you are not you are going to have a structure on a piece of property and no access to it.

Ms. Ryan stated we are going to go over this grass area right here.

Rich Williams asked you are going to tear the pavement out and grass it over and then drive over the grass.

Ms. Ryan replied yes. The pavement is going to come out because it is a requirement that you can't have it.

Rich Williams asked you are creating two separate parcels the only reason you would ever create two separate parcels because you intended at some point to transfer ownership to somebody else, how is that other person, how is that new owner going to get to the barn.

Ms. Ryan replied they will have to get a building permit from the Town for a structure, Rich Williams stated not if they are using it as a farm, Ms. Ryan stated if they are going to put a residence and then they will have to get an access permit.

Rich Williams stated if the Board is okay with not having a driveway to the barn that is fine.

Chairman Schech stated it is fine.

Ms. Ryan thanked the Board.

15) FOREST VIEW APARTMENTS SITE PLAN

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

Chairman Schech stated I have got a note here that says that you didn't make any changes since the last time you were here. Is that possible.

Mr. Nichols replied it is possible but not true.

Ted Kozlowski stated he changed the revision date.

Mr. Hogan stated I will tell you what I think and Dick Clark was here the last time and I put together a bunch of notes from the last meeting and there is a few of them that were not addressed obviously I told you, Shawn that we were going to take your suggestion and put the septic system in the back, go to Mike Budzinski at the Health Department, you were maybe willing to put in a good word for us, and what we

were going to try to do was seek their approval for a waiver from going into what we have shown as the primary system, keeping the trees and foliage in place.

Board Member Rogan stated thank you for reminding me it has been a while and I forgot.

Mr. Hogan stated there was another comment about the drainage here, the railroad track and we are in the process of studying that at this point, back in February I guess it could not have been done because there was snow on the ground. There were three other issues that were raised and done I can let Harry but one of those was to pull a drain pipe out of a wetland buffer for Lot #3 which was done.

Mr. Nichols replied yes we moved the line as suggested we had it going through the buffer area.

Mr. Hogan stated what we are going to do based on the comments that we received so as not to waste your time, we are going to come back with some architectural appearances, something that we think you want to look at whether it is something that you like to see out there. We are going to try to match that with the buildings that are out there. We have to find something we like and then get that approved and then go make the other two buildings look like that.

Board Member Rogan stated thank you for saying that.

Mr. Hogan stated the wetland plantings in the basins we will get together on that issue. Rich Williams stated can I just interject before you do that I took a look at this tonight and I took a look at Steve's plan and we are going to talk about that in a minute. I want to talk to Gene a little bit about it at some point but I took a look at the overall design of the basins but how they are being constructed and I have got some real issues with them; the outlet structures, the maintenance that is going to be going on with them. It is not going to really slow you down or any big hurls.

Mr. Hogan asked it can be engineered though.

Rich Williams replied yes. I just don't see these working right.

Mr. Nichols asked as far as landscaping goes, Mr. Hogan asked landscaping around the units you wanted to see, Mr. Nichols asked you are not talking about landscaping in the basin are you because that basin is way out in no man's land and whose going to appreciate.

Rich Williams replied I am talking about the inlet and outlet structures and how they are aligned and the type of structures. We are seeing it now with similar type of structures and they don't work, they don't work. Tom is having a nightmare with them. I think it is my direction anyway that we are going to get away from that type.

Mr. Hogan asked so Harry you can get together with the engineer on that.

Mr. Nichols replied yes.

Mr. Nichols asked Rich is it you or you and Gene together.

Rich Williams replied I want to talk to Gene. It is an engineering issue really so Gene will take the point on it.

Mr. Hogan stated the next time we show up we will have landscaping shown around the buildings that you requested, and we will meet with Paul Piazza who I think is the Fire Chief regarding the suppression tanks and just the kind of thing that he is looking for and I think,

Board Member Pierro asked doesn't Dave Raines make those recommendations.

Rich Williams stated they work together.

Mr. Hogan stated so the next time we come back we will have a whole lot more done than we have done right now.

Board Member Rogan asked Jay so that I am clear I will admit my memory is fragile these days I am pleading the case for not cutting trees or doing the improvements to the expansion area.

Mr. Hogan stated exactly.

Board Member Rogan stated that is fine I will talk to Mike tomorrow morning.

Ted Kozlowski stated what we wanted to do Shawn, Board Member Pierro stated we wanted to protect, Ted stated we wanted to keep a buffer between the Clout property and we thought it was very important.

Board Member Rogan stated use the expansion area as shown as the primary and use this as the expansion and don't clear it.

Mr. Nichols stated yes.

Board Member Rogan stated see what we can do.

Mr. Hogan stated the next time we come back we will have a lot more done on this okay.

The Board replied good.

Mr. Hogan stated thank you so much for your time.

Board Member Rogan stated Jay, always a pleasure you are a gentleman.

16) D'OTTAVIO SITE PLANS

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

Mr. Nichols stated engineering comments we will certainly address.

Board Member Rogan stated well those sound like just about all the issues. We are happy with it. We are trying to get you to make Gene happy.

Mr. Nichols stated the one comment here which is probably going to become more of an issue with every project is we have a sand filter in the second polishing pond it is not our intent that both ponds are sediment

ponds during construction. We only want to use the first pond as the sediment pond so we will be able to construct the sand filter in the polishing pond. What we have shown on here is a temporary diversion pipe that will during construction will let the fall out of the sediment basin in a different route and at such time as the sand filter basin comes on line we would then cut and cap that pipe. The concern is that if we use both sediment basins to go in there after the fact and construct the sand filter it is going to be very difficult.

Gene Richards stated that is fine Harry, if you can get all disturbed areas to flow towards that single pond,

Mr. Nichols stated the only area that won't will be in the actual walls of that pond itself. I think it makes more sense to try and do that in the dry.

Gene Richards stated I think what we need to do again, is just to have a quick meeting in the office, you, Tom, myself and I guess in the meantime Rich and I will have to talk about the design of the detention basin, get our ducks in a row then we can meet, iron out any of these final issues. I don't think that there is too much left on this. The architecture still have to be resolved, I know you guys have some photographs.

Mr. Nichols asked yes has the Board reacted to those photographs.

Chairman Schech stated I saw them it looks just grand, a little whacked out, we like the brighter colors.

Board Member Pierro asked this material on the upper edge of the building Harry, was it that.

Mr. D'Ottavio replied it is metal on that picture but it will be stow.

Board Member Pierro asked what kind of material is stow.

Mr. D'Ottavio replied stucco because I know the Town does not allow metal buildings.

Chairman Schech stated okay Harry so when you get a free week you have got to get together with Gene.

Board Member Rogan asked so Harry what is your time frame when can we wrap this one up.

Rich Williams stated we have a couple of issues going on. It was initially Liz Hudak who submitted the easements but I think based on the latest plan they need to be updated, has that been done.

Mr. Nichols replied we are combining the easements, do you mean new descriptions.

Rich Williams asked do we have descriptions.

Mr. Nichols replied no.

Rich Williams asked do we have the actual easement documents.

Mr. Nichols replied no.

Rich Williams stated we really need to get those prepared, we need a wetlands application, you need to show a hundred foot buffer not a fifty foot buffer. Off the top of my head, it is late and I am sorry but I don't think we have done Lead Agency yet.

Board Member Rogan asked so what we can do.

Rich Williams stated so why don't we get that going.

Board Member Rogan made motion in the matter of D'Ottavio Site Plan "A" and Site Plan "B" that the Planning Board declares their intent for Lead Agency and conduct a coordinated review. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Board Member Rogan stated there is so much jammed into those plans that they are hard to look at I will say that.

Board Member Pierro stated it hurts my eyes.

Board Member Pierro asked the easements were done for the septic system correct.

Rich Williams stated well there are cross easements for the septic, Gene Richards stated for septic, for stormwater there are cross easements.

Mr. Nichols stated access, we tried to combine the drainage easements and the sanitary easements wherever they are contiguous to make it just one easement instead of two.

Mr. D'Ottavio asked are those pictures acceptable.

Chairman Schech stated yes.

Board Member Pierro stated yes.

Board Member Rogan stated Steve I will stick my neck out here, the pictures are acceptable, they look a little plain to me they kind of look like they do not do much for the property I will be honest with you. They are probably efficient to build but I am wondering whether some different colors,

Chairman Schech stated I think it is because the colors are washed.

Board Member Rogan stated maybe to me it just looks like a box.

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

Rich Williams stated the only thing that I want to caution is it can't be metal siding.

Board Member Rogan stated I am not even talking about building materials just clearly what I am seeing from this that it is going to look like a box and I am thinking that after what we did with Louie over on Frantell trying to get something that is a little bit, what happened is the place that went in across the street from where you are building I am mad at myself for not seeing, quite honestly I think that is one of the ugliest buildings around and I didn't see it on the plans and I am pissed at myself. You want to at least look at a plan and say it looks good but can we do something just minor to dress it up a little bit something to break up the box affect.

Mr. D'Ottavio stated I am not set on that.

Board Member Rogan stated I wish I had a better idea for you because I hate to say that to someone that I don't really care that it looks like a box but then not say what I want because I am not an Architect. It is the difference between putting a box there and putting something that when somebody drives by they say wow that looks nice.

Mr. D'Ottavio asked is that particular thing going to hold me up if I took new pictures.

Board Member Rogan stated it will not hold you up it is not locking you into anything.

Mr. D'Ottavio stated because I can look for something else that I like or see if I can dress that up somehow.

Board Member Rogan stated I don't believe in having people waste money but I think in that case we could probably do just a little better with making look, bottom line it is makes your value in the property better.

Mr. D'Ottavio stated I think that maybe I could take some better pictures of that particular building. It is a much nicer building than it actually appears.

The Board said good night to Harry and Steve.

17) OTHER BUSINESS

a. Regulatory Taking Discussion

Rich Williams stated one of the issues that came up at the work session was regulatory taking I don't know if you want to talk to Anthony or do it some other night.

Board Member Rogan stated based on what Edie was talking about tonight do you have any input.

Board Member Pierro stated we were talking about Burdick Farms.

Rich Williams replied no you were talking about the wetlands issues and all these lots coming in with wetlands and what the Board can do.

Board Member Rogan stated Anthony, it comes up where the Board I think understands that prior approved subdivision lots have some intrinsic value that we can't just necessarily deny them and I know more about this from the Health Department standpoint that I deal with that on a more daily basis with waivers and such and they minimize the impact, make it as close to current code as

possible issues waivers when needed which happens quite often on these lots. We have lots in areas I will say in Putnam Lake but really Roaring Brook and areas in Phillipstown that are from the 1940's and 50's, New York State Health Department approved subdivisions that we approve lots that would never be done with eight, and nine waivers make them as best you can, two bedroom houses. I have said that I believe in some point in time we have to stick our neck out there and just pick the worse one and deny it and see what happens. In this case from a Planning Board standpoint taking some of these lots like the one tonight, Doug Wallace, Beechtree maybe there is worse ones out there to think of.

Rich Williams stated let's just do a hypothetical situation.

Anthony Molè asked when you are talking about taking is it that you are saying, Board Member Pierro stated a denial,

Ted Kozlowski asked what about and Rich brought this up and the Board knows about it with Doug Wallace, here is a lot that was approved before we had a wetlands law and the law comes into affect the original owner sells that lot to a new person, a member of Doug Wallace's family, now they are buying this lot after the new laws are in affect does that change anything.

Anthony Molè replied I discussed with Rich briefly before let's say you had the same owner now that owned it before or a brand new owner I don't think that has much to do with anything because really the question becomes do you have rights vested in that lot. Vested rights there is case law out there that says to vest rights you really have to put a shovel in the ground, invest significant time, money and basically construction in the lot before these new codes are enacted. If there is a wetlands ordinance enacted now that was not enacted at the time of the approval of the subdivision plat you know it is a stronger argument I think from my experience that the new wetland ordinance would apply if they hadn't commenced construction yet. I have seen on subdivision plats and I have discussed this with Rich as well that there is a note on the subdivision plat that says if a building permit is obtained in the future the wetland ordinance or any ordinance in existence at the time of the application of a building permit will apply to this lot so in other words it is kind of covering,

Rich Williams stated he is going to get me the note.

Anthony Molè stated I know this because I had a case in Carmel where I represented the Applicant and there was that note on the old subdivision plat which was a subdivision twenty, thirty years ago.

Board Member Rogan stated yes the old ones from the Health Department we changed the way they read because the old ones did not expire in two years. If you started construction they were open ended and we had some that were out there for fifteen years that had started, put the septic in and never did anything else.

Ted Kozlowski asked what happens with a lot that is in the middle of the Great Swamp that back in 1910 it was called swamp and you could fill it in and they got an approval for a lot there now it is totally submerged because they got an approval in 1910 do we still have to honor that even though there is no physical way that you can get a house on that lot.

Anthony Molè replied it is really case by case.

Ted Kozlowski asked are we obligated to give them a house.

Anthony Molè stated it is really case by case, you have to look at the subdivision plat, what is written on it, surrounding circumstances then, what the regulations are now as compared to back then. I think in that case you are mentioning just straight forward you have a good argument to deny the wetland permit.

Board Member Rogan stated but in that case,

Chairman Schech stated these two guys are specializing in grabbing these lots that nobody else will dare touch.

Anthony Molè stated they are also capable of bearing the burden of trying to find out before they invest in the lot whether they can build on it.

Ted Kozlowski stated but you see with Doug Wallace and this is where it really you know this guy was informed by me before he bought these lots about the law and I have documentation to that. He was notified that there is a wetlands law and restrictions and blah, blah, blah yet he went ahead and bought it. Reilly, is the same thing this Lot 35 at Steinbeck Hill, he didn't buy it when he was first before the Board a month or two ago, he has now bought it when I told him and Rich told him you have site distance issues, you have got streams and wetland and everything but he still bought it. They are coming in and expecting,

Board Member Rogan stated he is probably buying it contingent upon drawing a building permit so he is not losing anything.

Board Member Pierro stated he is buying it fifty thousand dollars below market what he believe is market value there is no lots on the market in our community.

Ted Kozlowski stated and when you look at what is left and Bear Hill Estates too what two lots are not developed the ones with wetlands. Steinbeck Hill they went like hot cakes, they were all sold, they were going for seven hundred, eight hundred thousand dollars the only lot that is not developed is the one that Reilly bought which is all wet. Van Cleef now those people are going to come out in force they are dead against this and that old man, the polish guy or whatever he was he had a very, valid point,

Chairman Schech stated Hungarian.

Ted Kozlowski stated when Reilly puts his backhoe in that ground he is going to hit high water table and I don't know how the hell he is going to do this.

Board Member Pierro stated we had to pull it up the hill at least he has got a chance at where he is at now.

Board Member Rogan stated getting back to what you said about the individual lot in the middle of the Great Swamp at some point in time we need to do a real good inventory of the lots that are out there vacant, individual lots.

The Secretary left the meeting at this point in time, 10:38 p.m.

(Tape Ended)

Boar Member Rogan stated the assumption that they will be able to do something with a lot now it does not mean that it makes a legal building lot or that there is a vested interest but at some point in time the Town has to recognize the limits of a lot and adjust their assessment and not collect taxes.

Rich Williams stated again, this is my concern and this is my problem, did you get a chance to take a look at those Anthony.

Anthony Molè stated there is some cases that Rich has on takings and there is some cases I have in a file on takings, I am going review all that, do some research on that so the Board has some kind of guidelines in which permits to grant and which permits to deny.

Board Member Pierro stated one developer today, one developer from Westchester showed up at our office nine o'clock this morning we had a company meeting and he said I need building lots, he went to Sherwood Hills on Route 22 in Dover and bought every lot, every available lot, one guy spent like two million dollars.

Ted Kozlowski stated I don't want to tell you what is going on in Amenia.

Board Member Pierro stated I know what is going on in Amenia, I have a home in a Copake.

Board Member DiSalvo stated I buy hay in Amenia, the man is going to sell the farm now.

Ted Kozlowski stated they are buying up those sites.

Board Member Rogan made a motion to adjourn. Board Member DiSalvo seconded the motion. All in favor and meeting adjourned at 10:50 p.m.