

Planning Board
June 6, 2005 Meeting Minutes

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

Present were Board Member Mike Montesano, Board Member Dave Pierro, Board Member Maria DiSalvo, Board Member Shawn Rogan, Rich Williams, Town Planner, and Gene Richards, Representative from Town Engineer's Office, Anthony Molé, Town Attorney, Ted Kozlowski, Town ECI.

Minutes transcribed by Michelle Russo.

Meeting called to order at 7:33.

There were approximately 24 audience members.

Board Member Mike Montesano took the seat of the Chairman in his absence.

1) REILLY LOT 37 - Public Hearing Wetland/Watercourse Application

Present were Mr. Harry Nichols, Engineer, Joe Reilly, the Applicant, and Mrs. Russo, the Homeowner.

Secretary Melissa Brichta stated are you ready for the public notice.

Board Member Montesano stated I'm ready for the public notice.

Secretary read the Legal Notice.

Board Member Montesano stated you want to give us a little run down, Harry.

Board Member Rogan stated Harry you're just going to need to use the microphone.

Mr. Nichols stated Good Evening Harry Nichols representing the Applicant; we are here for a wetlands permit for a lot that was previous approved under the Van Cleef Estates Subdivision that was approved several years ago and in developing this lot we've had to meet certain criteria for both the DEC and the New York City DEP in that regard we have we had received approval from both of those agencies for the variances required to construct a portion of the development within the wetland buffer, the actual wetland line if you can see it here, is this line here that runs across the site. The buffer is a hundred foot strip running parallel to that line and any work that takes place in that area since we are next to a DEC wetlands must be approved by both DEC, New York City DEP, and of course the Town of Patterson Planning Board for a wetland permit. In that regard we have provided certain amenities which normally would not be provided on a conventional single lot development, we have added a planter strip that runs totally across the property separating the developed area from the remaining area that's to act as a filter this was in conjunction with our meetings and the approval previously obtained by a landscape consultant from the DEC and the DEP. We have since made a change to that approval which consists of the residence being relocated from it's approved located which was in this area to a point further to the south which would reduce the length of the driveway going into the premises we have met with New York City DEP, and they have agreed that the new plan is an improvement and the New York DEC is still reviewing this particular modification to the prior approval. We are also providing drainage in Cornwall Hill Rd. There is an existing pipe which crosses at this location and due to its proximity to the proposed septic we are adding additional drainage and inlets to pick up the water running down Cornwall Hill Rd to Rte 311 and we are bypassing the normal route and taking it over and discharging it in a new location which is on the Town of Patterson property this will help improve the ground water condition that currently exists back in this area since the discharge will not take place in this direction the septic system consists of a conventional system with a pump up due to gravity. We have to pump it to get it to the higher elevation and additional treatment has been provided there is an aerobic treatment unit which will treat the affluent before it is discharged into the ground in essence that effluent will be about 95% pure before it is discharged into the ground which is significant additional treatment of the effluent, this was required as an addition by the DEC and the DEP as a condition for them granted their waivers and their approval on the project. Are there any questions that the Board might have or the general public.

Board Member Rogan stated before the public, if anyone has any questions we just want to remind everyone who is here tonight if anyone wants to speak they do need to come up and use the microphone, state your name for the record and speak clearly so we can get anything you have to say for the record please. Any comments from the audience please come up.

Edie Keasby stated Edie Keasby Couch Rd; I just want to know what Ted feels about this.

Board Member Rogan stated Ted you need to.

Ted Kozlowski stated I think I'll wait until everybody speaks.

Board Member Rogan stated any of other comments from the audience.

Board Member Pierro stated does Ted need to speak with an open Public Hearing.

Board Member Rogan stated it doesn't make any difference, he's part of our.

Board Member Pierro stated Thank you for coming up Ted.

Ted Kozlowski stated Ted Kozlowski Town ECI, Edie and members of the public this has been a very hard decision for me personally, had this applicant come before the board at this time on this date in 2005 I would have recommended a denial. The site is a very small site, it's a very challenged site by extensive wetlands, state wetlands, town wetlands, everything on that site, almost everything on that site is at least within the buffer if not in the wetland I think the future owner and any owners beyond that are going to be seriously challenged by the constraints of the site. Everybody wants a garage, everybody wants a swimming pool, everybody wants a garden, and it's tough to say no to stuff like that once you give an approval to something like this; however this is an application that has been before the Board for two years during that time there were many discussions back and forth. The Town required the Applicant, or the Applicants builder to go to the DEC and to go to the DEP for approvals, quite frankly and honestly I'm surprised they got the approvals and never the less they got them, but all this is based on a thirteen fifty square foot house, up until very recently the applicant changed what was before us on the application to include a deck, to include a garage, to include other things that were not presented before the DEC, before the DEP, before the Town, I did meet with the Applicant and the Builder along with Rich Williams the Town Planner, several weeks ago and I have to say that it was very tough to maintain a hard line when you're facing there person and she is in a predicament, a family predicament. There are a lot of things that come into play when you are actually sitting there and deciding the fate of someone's permit application, but with the same respect, this application has been before the Board for two years I promised the Applicant and her builder that I would discuss this with the Planning Board at the next work session along with the Town Planner in which we did. I am going to leave it up the Board, basically it's a Board decision on the wetlands application, after much discussion my personal feeling and it's just my personal feeling is that what was before us and what we worked on for two years was a 1350 square foot house, because it's a very challenged site because the surrounding neighborhood has too, we all have to live together I feel that the house has reflect the size and constraints of the property and also try to as best they can to respect our wetlands and use it accordingly. It was my feeling from after it discussing with the Board that yes there will be a wetlands permit granted for a house if the folks want a garage fine, but the garage has to reflect the 1350 square foot constraint so it's either a smaller house with a garage or a house with a 1350 square foot.

Board Member Rogan stated just to clarify something that Ted said the 1350 square foot, was a footprint of the house not the total square footage of the house, the Board can't control the two floors.

Ted Kozlowski stated I stand corrected, but you know it's a really tough decision and I understand you completely your situation, you also have to understand that, I still, it's becoming, and this is for the public to know it's becoming much more difficult for me and this Board to address wetlands. We are constantly challenged now, steep slopes and wetlands that's what we are coming down to folks and we have to seriously look at each application because it's getting tougher to make these decisions, Does that answer you question Edie?

Board Member Pierro stated I think it is almost unanimous on behalf of the Board to deny the permit as it is now unless you come back with a footprint of 1350 square feet. We understand the predicament you're in we understand you have contract with the homeowner, potential homeowner, but we have dozens of marginal lots in this community that we are going to have to react on in the future and everybody is watching us now and we have to be consistent. We have to limit the size of this house because it is absolutely a marginal lot. I wish there was another alternative but that would be my recommendation or my motive.

Board Member Rogan stated actually Dave at the last meeting, I thought the Board

Board Member Montesano stated excuse me do you want to close the public hearing

Board Member Rogan stated sure, we have one person that wants to

Edie Keasby stated thank you Ted for you very excellent comments, I fully comprehend and respect the position you are in, as is the whole Board and Town. I just hope that we're not getting backed into a corner where everything gets permitted, because our water supply is our most precious thing we have.

Board Member Pierro stated thank you Edie.

Edie Keasby stated one other thing, when and if it ever gets permitted how are you going to enforce these regulations that DEP has come up with.

Board Member Rogan stated DEP should enforce them.

Board Member Montesano stated well they don't enforce their own; their decisions are worse then the weather report for that day.

Board Member Rogan stated that's a great question though Edie.

Edie Keasby stated whose responsibility is it, Ted's? Our zoning inspectors, the Health Department.

Board Member Rogan stated I would hope that it be the responsibility of the owner, because it's in their best interest to maintain their septic system.

Edie Keasby stated there are alarms too

Board Member Rogan stated that has nothing to do with the maintenance of the systems that's just in case it fails for the pumps, if I'm correct.

Board Member Pierro stated I hope there would voluntary compliance.

Rich Williams stated the agency responsible for imposing regulations and restrictions is ultimately responsible for any enforcement action. We can't enforce DEP or DEC standards unless we adopt them as our own.

Edie Keasby stated so it's DEP's position they have to. Thank you

Board Member Rogan stated I make a motion to close the Public Hearing.

Board Member Pierro seconded the motion

Board Member Montesano asked all in favor:

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

Motion carried by a vote of 4 to 0

Board Member Rogan stated come up please, I apologize I should have asked for additional comments.

Board Member DiSalvo stated identify yourself please.

Joe Reilly stated if we can agree tonight.

Board Member Rogan stated your name sir.

Mr. Reilly stated Joe Reilly, I'm the owner of the property, if we agree to the 1350, which we do agree with. Can we move it forward; you know proceed on our building application.

Board Member Montesano stated once you put your plans in.

Board Member Rogan stated we have a plan here that actually is dated with a revision date as the more recent of the two plans that I have in front of me and it does not show the additional garage it shows the 1350 square foot with a proposed deck, we have no objection to the garage as long as it's part of the 1350 square foot and I think quite honestly.

Board Member Pierro stated if you can redesign that.

Board Member Rogan stated I think that 1350 square foot with the additional space up above will still be a very decent size house, certainly for that lot and certainly for any comparable to any house on that road, I understand the concern of resale value, I also understand the Applicant came here saying we were building a house for her parents who don't have any kids and don't need a huge house so the 1350 square foot footprint we are all comfortable with because that is the initial.

Mr. Reilly stated and how about the deck, you didn't touch base on the deck.

Board Member Rogan stated how many posts in the ground for that deck.

Mr. Reilly stated I think there's four.

Board Member Rogan stated four, I personally don't have a problem with the deck either.

Mr. Reilly stated okay.

Board Member Rogan stated given the fact that we're not going outside the 1350 on the foundation.

Board Member Pierro stated what about current, what about reacting to any future applications that may come up like sheds and things like that.

Board Member Rogan stated that's a question I would have for Rich and I think the only thing that we can do in my opinion is to try and put some kind of a letter in the file that the Board recommends, that's all we can do is recommend that if a zoning issue ever comes up that our opinion that it shouldn't be looked on favorably.

Rich Williams stated ultimately anything they do on the lot is going to come back to this Board for a wetlands permit.

Board Member Rogan stated a wetlands permit, okay; I hate the idea of seeing a house that doesn't even have an out building.

Board Member Pierro stated for future Planning Boards Rich, for future Planning Boards, can we put a letter in the file that this Board recommends against any future structures within the buffer. We are giving them the deck we don't want to see any further disturbance in the buffer.

Board Member Rogan stated Anthony, any opinion on that please.

Anthony Molé stated the Board can still make a recommendation.

Board Member Pierro stated it's only a recommendation

Anthony Molé stated but like Rich said anything they want to do further on the property they would have to come back to the Board and get a wetland permit for that particular thing anyway so if they came back to this Board obviously they know they are going to face this Boards decision, if it's a future Board ten years down the road, again the wetlands restrictions may be more strict then they are now.

Board Member Rogan stated that's the situation that we are dealing with currently with this Board. We aren't the Board that approved this lot in the subdivision stage but we are dealing with it ten years later, however many years later.

Anthony Molé stated you can put a recommendation in the file if that's what you wish to do, it won't bind any future Boards but they will see where this Board's intent was.

Board Member Rogan asked for any other comments from the audience please. Then I'll make my motion again to close the public hearing.

Board Member Pierro seconded the motion.

Board Member Montesano asked for all in favor:

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

Motion carried by a vote of 4 to 0.

Board Member Rogan stated Rich we had our public hearing our next step would be a determination. We're not done with it, we just closed the public hearing, and our next step would be completion of SEQRA.

Rich Williams stated you need to make a determination on the environmental significance of the action and when you would be in a position to make a determination.

Board Member Rogan stated Ted is there any additional information that you would like in terms of the impacts of this wetlands.

Ted Kozlowski stated well a lot of the recommendations I had made was as compensation for the impacts to the wetlands and all that, there is aggressive multiflora rose established on the site like that eradicated and replaced with red stemmed dogwood and things of that matter, I would still hold to that you know I'd like to see some mitigation there.

Board Member Rogan stated would the Applicant be.

Ted Kozlowski stated it would actually benefit the Applicant; no one likes to live around multiflora rose.

Board Member Rogan stated to meeting with our wetlands consultant and agreeing to some kind of reasonable planting schedule to take care of that problem.

Mr. Nichols stated my understanding of that it is in areas of disturbance that we are going to do that as opposed to going into the actual wetlands itself where we are not proposing any disturbance to replace those particular varieties. Is that alright Ted?

Ted Kozlowski stated well Harry, I will meet with Joe Reilly, and we'll designate the area that, it's really going to be basically around the back where they want to put the deck and have come useable portion of the back yard. No one is going to want to live there if it's covered multifleur rose, so we might as well replace it with a wetland plant and not something exotic.

Board Member Rogan stated I make a motion on the Reilly Construction Application, Wetlands Application, that the Planning Board grants a negative determination of significance of SEQRA and approves the wetlands/watercourse permit application subject, at least I'm going to reference the plan 02-095.37 Revision date 5/3/05, which shows a 1350 square foot imprint of a house without a garage with a deck, Joe where is the size of the deck, it's 12 by 16.

Mr. Reilly stated it's 16 by 30.

Board Member Rogan stated 16 by 30, so it's a big deck, 4 posts and thirty feet, no it's more than 4 posts.

Mr. Reilly stated 5 posts.

Board Member Rogan stated go out to fifty foot house you got ten foot on each side, again referencing the plan that I just mentioned because the other plan we have shows the garage that is not the plan I'm referencing.

Board Member Pierro stated but does that other plan show the remediation in the front.

Board Member Rogan stated both plans are identical in terms of remediation. Rich I have a concern here, I have a concern with the drainage shown on the one plan, shows the remediation, the other plan is taking it down off the property, which one is the one you've got here.

Board Member Pierro stated there were two different, they were different.

Board Member Rogan stated I think I've covered everything and also to include the meeting with Ted Kozlowski our Wetlands Inspector to resolve the issue of the multiflora rose and the remediation with the plantings to be agreed upon.

Ted Kozlowski stated Shawn I would ask you that I meet with Joe at the site and get all this before he puts a shovel in the ground and that could be as soon as tomorrow but I want to be able to make sure.

Board Member Rogan stated Missy can you add that particular in there.

Board Member Pierro asked are there easements that have to be taken care of with the Town regarding the.

Rich Williams stated yes.

Board Member Pierro stated is that part of the permit or should we make that contingent on.

Rich Williams stated it wouldn't hurt making it a contingent on the permit.

Board Member Rogan stated modification to the motion to include the easement for the drainage to be in place prior to any construction.

Mr. Nichols stated just one comment on that the drainage will be maintained by the County, it's coming from the County Road and an easement through our property or the lot itself would be in favor of the County. There is a piece that will extend into the Town's property is that the portion that you are talking about the easements, you will be granting that easement to the County.

Rich Williams stated we will be considering granting an easement to whoever is responsible for the pipe. I would assume it would be the County. My plans are to discuss it with the Town Board at the next Town Board Meeting. I tried to do it at the last meeting but they had to go someplace else.

Board Member Rogan stated Gene, you had a comment or a question, can you use the mic please

Gene Richards stated the only other thing I didn't hear any talk about was a highway work permit from Harold Gary, and that would have to be a condition.

Mr. Nichols stated we've had discussions, I have a meeting the first of this week with Harold and his engineer and they are reviewing our drainage analysis for the relocation of the pipe, they want to make sure the number are correct and after they complete that review they will process the necessary applications.

Board Member Rogan stated the question Mike had was, does the drainage work need to be completed before start of construction, my inclinations would be to say that before the start of construction of the septic system, yes, because there is obviously water currently directed in that area so that work would need to be done prior, the drainage work would need to be done prior to placement of the septic fill or trenches.

Rich Williams stated that's correct, in fact it would all be contingent on a C.O., everything, that's where everything has to be complete.

Board Member Rogan stated I wouldn't want the septic system before the drainage pipe because you'd have water going on to that and possibly washing out.

Rich Williams stated I'm sure the Health Department would not like that.

Board Member DiSalvo seconded the motion.

Board Member Pierro stated second the motion with all the amendments stated roll call vote Mr. Chairman.

The Secretary begins Roll Call

Ms. DiSalvo	-	yes
Mr. Pierro	-	yes
Mr. Rogan	-	yes
Mr. Montesano	-	abstaining

2) CAPASSO WETLAND/WATERCOURSE PERMIT – Public Hearing

Jack Karrell, Engineer is present

Board Member Montesano stated can we please have some quiet, if you must talk please step outside the door, thank you.

The Secretary read the Legal Notice.

Board Member Rogan stated good evening Jack.

Mr. Karrell stated good evening.

Board Member Rogan stated can you please tell the audience what we've got going on here. Jack, can you use one of the microphones please.

Mr. Karrell stated Mr. Capasso owns a farm on Rte 311 just north of the railroad underpass he wishes to replace two old rotting culverts and he also wishes to clean up an area of now it's a grass swale that he wants to line with riprap. He also wants to eliminate another grass swale, that's kind of a smaller swale and make it into a farm drain so that the area will be flattened out. The pictures represent the culvert pipe that needs replacement. Right now it's a metal pipe which is pretty much at grade, and they have some wood, sheets of plywood over it to keep the dirt in. What we propose to do is replace them with an oval section of high density polyethylene pipe with a foot of cover, item four cover and then place a construction sheet steel on top of it, just to lay it down to give them a little bed. In the drainage ditch he proposes to put stone riprap. Did I say we have a State DEC Permit, for this work, actually the State DEC approved more extensive work, we were originally going to pipe the stream but the Board indicated and Ted indicated that he wasn't so happy with that so we're leaving it open and we are going to riprap it.

Ted Kozlowski asked Jack it's going to be natural rock.

Mr. Karrell replied yes, Fieldstone, yes.

Board Member Rogan asked any questions or comments from the audience.

Board Member Pierro stated one comment for the edification of the audience Ms. DiSalvo stepped down because she's excusing herself on this matter, it's already in our record, and we want you to be aware.

Board Member Rogan stated going once, going twice.

Eddie Keasby asked is this mostly in the front of the property near the road or.

Mr. Karrell stated here's 311 and the state has a pipe or several which discharge on to their property, yes it's in the front this is the stable, this part is in the front and this part is along the side here, which goes out to the back and the pipe, the big pipe which we want to replace is back by where the riding track, the old oval riding track runs around.

Eddie Keasby asked how close are you to the Great Swamp.

Mr. Karrell stated it depends on where you consider the Great Swamp to be, this is a state wetlands, this DP 22.

Eddie Keasby stated that's the Great Swamp.

Mr. Karrell stated it runs across the back.

Board Member Pierro stated this is down gradient of most of the property in the rear it's probably a couple of thousand feet from Kessman's property line.

Eddie Keasby stated okay.

Ted Kozlowski stated Eddie it is DP 22.

Eddie Keasby stated that's what I thought.

Ted Kozlowski stated but it is an existing condition and these are things that they really have to be addressed. The issue that I am most concerned about is piping the stream you're not doing that, the actual condition is the proper riprap and I'm fine with that.

Eddie Keasby stated thank you.

Mr. Karrell stated I think also the riprap will serve to keep some of the soil in the drainage ditch because.

Board Member Pierro stated because in the area where they are placing the oval pipe it feeds into the stream that goes into that O'Hara property where the three illegal pipes were placed a few years back.

Eddie Keasby stated thank you.

Board Member Pierro stated it's true.

Board Member Rogan asked any other comments or questions from the audience please. I'll make a motion to close the public hearing.

Board Member Montesano seconded the motion.

Board Member Montesano asked all in favor:

Board Member Rogan	-	aye
Board Member Pierro	-	aye
Board Member Montesano	-	aye

Motion carried by a vote of 3 to 0

Board Member Rogan stated Rich, it looks like you have a pretty extensive memo here but most of the items here look like they can be resolved.

Rich Williams stated most of the outstanding details are technical I think the largest outstanding item that we have yet to fully resolve is the pipe crossing. It might be beneficial if myself and the Town Engineer and Jack sat and just hammered out the final details.

Board Member Rogan stated I make a recommendation to do that, to please ask you guys to sit down and get this done.

Mr. Karrell asked and to do a resolution.

Board Member Rogan stated I'm comfortable with that but it's purely in these guys laps so it's really up to you guys.

Board Member Pierro stated my only question is that the pipe with the hole in it that is covered with plywood now, Jack had mentioned steel plating isn't there something that would be a little better.

Mr. Karrell stated they don't use that for they don't run, for regular vehicular traffic route, it's mainly for farm vehicles I mean we had, they originally want to do a bridge then that got too involved. I mean the steel plate is just there to give them a little support. It's laid on the ground and I think when Rich and Gene and I sit down, there's not much design here, we're putting the pipe in at the existing invert, the existing pipe it seems pretty simple.

Board Member Pierro stated very good.

Gene Richards stated I think what we can do when we do meet to hash out the details we can look at that one item and see what we can do to provide a little cover over the pipe, so that they don't need a steel plate or something.

Board Member Rogan asked so you're saying you guys are comfortable with that idea.

Gene Richards replied I'm saying we can resolve what issues there might be engineering wise.

Board Member Rogan stated I make a motion then in the matter of Capasso wetland/watercourse permit that the Board grants a negative determination significance of SEQRA and approve the wetland/watercourse permit contingent upon the Planning Board's Memo dated May 26, and the Applicants Engineer meeting with the Town Planner, Rich Williams and the Town's Contracted Engineer, Gene Richards to resolve the piping issue.

Board Member Montesano seconded the motion.

Board Member Montesano asked for all in favor:

Board Member Rogan	-	aye
Board Member Pierro	-	aye
Board Member Montesano	-	aye

Motion carried by a vote of 3 to 0.

3) **FRYER SITE PLAN –Public Hearing**

Mr. Jack Karrell the Applicant’s Engineer and Mr. Dileo the Applicant’s Architect were both present.

Board Member Montesano stated Fryer Site Plan – Public Hearing.

Secretary read the Legal Notice.

Mr. Karrell stated this is an existing building in Robin Hill Industrial Park, Corporate Park, and they are proposing to add an addition to the center of the U. It’s going to serve for office space that’s presently being used in an area that was previously designated for warehouse space so what they are doing is returning the warehouse space to warehouse space and using the offices, constructing offices in here. Rich asked us to look at the drainage system, we prepared an as built plan of the drainage systems and inspected the detention pond and the basins. The basins all have been cleaned out and I think Rich was provided with some documentation to that effect and the basins the catch basins which were deteriorated over the years have all been repaired and we have some pictures of the repairs. One of the things that we noted with the detention ponds was an old pond and there was a problem with short circuiting through the pond. The pond was constructed generally in the same size it was originally approved, we’re proposing to put in a berm in the center of the pond so that the pond doesn’t short circuit, the water will stay in the pond longer. We have a letter from the Health Department indicating that they have no objection to this application and there is no need to do anything with the septic system. We have a letter from the DEC which indicated that this doesn’t come under their upgrade program or the MS-4 for redevelopment, thank you. That’s all.

Board Member Rogan asked any question or comments from the audience please.

Board Member Pierro stated I make a motion we close the public hearing.

Board Member Rogan seconded the motion.

Board Member Montesano asked all in favor:

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

Motion carried by a vote of 4 to 0.

Board Member Rogan stated I was actually at this building yesterday, a separate part of the building and I had said to someone the building is proposing an expansion out front, the first question was what are they going to do with these crumbling walkways out front. I said they are proposed to be redone I'm sure, in concrete. They'll lose a lot of nice plantings out there but it's not a really large area that you're taking out.

Mr. Dileo stated no, we're going to try and save a couple of the special trees. We're also planting new plants and elaborate that walkway with a couple of stone seating areas, basically make it better.

Mr. Karrell asked would it be appropriate to do a resolution on this one also.

Gene Richards stated Jack just so you know Rich did have our office review your plans I did not issue any memo on it but I do have comments and what I would like to do if you're agreeable maybe when we get together on Capasso we can also look at this plan and resolve any concerns we have.

Mr. Karrell stated no problem.

Gene Richards stated I guess from my standpoint I see it to be a very simple project it is a small expansion you're making modifications to the drainage in there and it should be no big deal, for me the real issue is the detention basin, it's not Mr. Fryer's doing but I guess it hadn't been maintained over the years and the silt collected in it. We are just going to look at the aspect really hard and make sure we do the right thing.

Mr. Karrell stated when I compared, what I provided, we had the whole site re-topo'd and we compared it to the existing topo and we're going to take out between a foot and two feet out of the bottom of that basin in addition to putting the berm in that basin, so that, we can talk about that when we meet.

Gene Richards stated that berm is a good idea, that will help.

Board Member Rogan stated there are an awful lot of issues in this, in Rich's memo that I know he'd like resolved prior to doing anything on this. Can we get them resolved and do it next meeting.

Board Member Pierro stated there's a lot of stuff here Jack, otherwise I would react to it here tonight but I don't feel comfortable as well as Shawn.

Board Member Rogan stated I think, I agree with Gene that this basically is pretty agreeable on the project, it's a matter of tying up the issues and getting it resolved.

Mr. Karrell stated one of those issues is just clarification of items of the old site plan.

Board Member Rogan stated if you can meet with Gene in the interim if it's going to happen within the next week or so we can clear it up, we'll be that much better off at the next meeting, we'll take care of it.

Mr. Karrell asked so you'll do a resolution next meeting.

Board Member Pierro stated absolutely.

Board Member Rogan stated sure, as long as everything is taken care of.

Mr. Dileo asked you can't do anything conditional to take care of these things.

Board Member Rogan stated I think there are kind of a lot things that need to be buttoned up, for Rich's edification, if you could when you modify those provide a correspondence that directly relates to the question so that he doesn't have to do a whole review on it again.

Mr. Karrell stated we'll do an answer.

Board Member Rogan stated thank you.

Mr. Karrell stated thank you.

4) **BURDICK FARMS SUBDIVISION – Preliminary Approval**

Ms. Kristina Burbank, Kellard Engineering representing The Applicant. Mr. Conditto, Applicant was Present.

Board Member Montesano stated Burdick Farms Subdivision.

Board Member Rogan stated good evening Kristina. I apologize for the delay. We did have a chance to read through this. I know that the only issue we really, you were at the work session last week, the only issue we were really going back and forth on still for Mr. Conditto's edification, I'm sure he's already heard, is obviously the section around by the barn and I had told Kristina in the time from our last meeting to the work session, someone went off the road and almost went through that silo, they almost moved the barn for you. I think that further underscored the Board's concern about that section of road and so I still feel very strongly about working towards the correction of that for the future, other than that I am perfectly comfortable with the resolution, comfortable with making a resolution. Rich do you have anything you want to add before we take care of this?

Rich Williams stated I do not.

Board Member Rogan stated you do not, anyone from the Board. I will as promised Kristina, make a motion in the matter of Burdick Farms Subdivision that the Planning Board approves the resolution giving preliminary subdivision approval dated April 28, 2005, should I include the special and general conditions. As per the memo including the four general conditions and the one special modification condition. So moved.

Board Member Pierro seconded the motion.

Board Member Montesano asked for all in favor:

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

Motion carried by a vote of 4 to 0.

Mr. Conditto stated the preliminary plan application was into the Board before the April meeting and we had expected action in the April meeting and that didn't happen because Rich was too busy to write the letter, on Patterson Crossing, and then of course.

Board Member Montesano stated we'll try equal try with the delays caused on your end, it's known as a balance sooner or later.

Board Member Pierro asked what is the applicant asking for.

Board Member Rogan stated in fairness I'm only one person on the Board and I was the only person that didn't vote on it, the other four certainly could have, my apologies for the delay but I don't think that would be a Town Board decision.

Rich Williams stated I'm still not clear as to what he's asking for.

Board Member Rogan stated he wants to add one month.

Mr. Conditto stated 2 months.

Rich Williams stated that's a legislative decision it would be in the zoning, we would need to amend the zoning code to do that.

Mr. Conditto stated amend the zoning code.

Board Member Montesano stated that would take use another six or eight months maybe. They would take another 6 or 8 months.

Board Member Rogan stated is Harry still here, I always like that Harry is not afraid to ask the questions, and I don't blame you for asking.

Mr. Conditto stated thank you.

Board Member Rogan stated you need to come up please and speak, I'm sorry Ms. Jensen, but we won't get you for the record at all.

Mrs. Jensen stated my name is Inga Jensen Breward Brown. I am, I have not been Jensen for a very long time. However we do have an interest in this project, as owners of the Jensen Tree Farm, I would like to know what the ramifications would be of extending the grandfathering by two months.

Board Member Rogan stated it's not an option, we don't have that option.

Board Member Pierro stated we don't have that option, it was a request, but we didn't react to that.

Ms. Brown stated it was a request. I would also like to understand what preliminary approval means on the subdivision plan and whether or not that in anyway guarantees them any number of building sites that they've requested.

Board Member Rogan stated I am going to ask Rich to speak to this since he'd probably do a better job then any of us, to explain preliminary approval.

Rich Williams stated for larger projects where an applicant might incur expense with fully engineered plans New York State Law provides that you can have a two step process so that you can do a portion of the design work and get some sort of approval so you can invest right. So essentially preliminary approval does establish a lot count and it does establish a lot configuration it doesn't mean that the Planning Board can't ultimately deny the project based on further engineering data but there are certain rights vested by the property owner.

Board Member Rogan stated this is the point in my mind, a very simplistic approach, this is the point where we get into the nitty gritty of looking at the plan, where we look at the actual house site to make sure there is room for things like a pool and a shed and stuff because we do not want to create a subdivision where then within one year people are going for variances or for wetlands permits. Our goal here is to avoid, what we've seen is the mistakes of the past and try to make sure that those don't occur and that these houses, septic, driveways, wells etc...all fit on these lots as proposed. We will be taking a very hard look at that, it's also when they obviously fine tune the storm water plan. So we are now saying we finally have a concept that we all agree on and one that we believe is viable.

Ms. Brown stated fine, Thank you.

Board Member Montesano asked any other questions.

Gene Richards stated Kristina if you would, please give our office a call so we can set up a meeting, and we can go through the plans and I'll give you comments.

5) D'OTTAVIO SITE PLAN

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

Board Member Montesano stated D'Ottavio.

Board Member Rogan stated well Harry the obvious question is, let us know where we are on this, the Board has been comfortable with this project for quite some time, we really looking for you and Rich and Gene to come to some conclusion on this.

Mr. Nichols stated well basically, the significant changes shown on the latest submission would involve the easements the utility easements were simplified, instead of having so many different cross easements, they were grouped with access to utilities. We have a store easement, and we have a drainage easement and we have an access easement so we've simplified it, and also the pond system is essentially a 3 pond system, the first pond has a four bay which would then flow into the main part of the first pond and then the final filtering would take place in the second pond. We had submitted an additional detail on the handicap access, the one up there, the handicap access to building B, which we have not heard any comments on that yet, but I'm sure that Gene might have some information to add to that.

Gene Richards stated no that design is fine, but I think you have a note on the plan that says that it is going to be part of the building architectural, final design.

Mr. Nichols stated that is correct, other than that the plan is essentially the same as we had previously submitted we have added the correct one hundred foot stream buffer line as opposed to the fifty, it used to be. I think there's one thing missing, we have a small swale coming in on the south side of the building that is also going to be part of the permit to go within the 100 feet of the watercourse and all wetlands that was not reflected on this plan but that will be corrected other than that, any questions from the Board or from Rich.

Board Member Rogan asked the only question I have would be probably be directed to the owner last meeting we were shown some pictures and I think that we were going to do some further work on that on terms of architectural. That will be forth coming.

Mr. D'Ottavio replied yes, absolutely yes.

Board Member Rogan stated thank you, but technical stuff I have no, it's up to our technical people, as we like to say.

Gene Richards stated our office did look at the plans and one thing I did note, I just have some notes here they do still owe the architectural he's going to provide, they still owe a landscape design I guess that will be provided at some point. Harry on this plan it will be important to show that septic design which is a requirement for a site plan anyway, but I think it's also important in this case because you have a defined area easement where they are building a septic on building B's property. We just want to know it physically fits within that easement.

Mr. Nichols stated both septic will be added to the plan.

Gene Richards stated Tom had looked at the easements that Terry prepared and I know he has some comments on them, he issued a memo and I don't know if you got the copies or not, he's going to work with Terry on those and it's just going to be a matter of coordinating her easements with your plan, deviations and then ultimately that plan would have to be filed, because that would be an amendment to the file. When we meet what I would like to do is to sit down with you and just go through our comments and I would hope that we can finish everything up in one plan revision.

Board Member Rogan stated I make a recommendation that the applicant's engineer and our engineer meet to discuss these issues to get them resolved.

Mr. Nichols stated and be on the next agenda.

Board Member Rogan stated sure, let's, we're waiting on you guys. We've got some issues to resolve, we do not have architectural on it, we needs those for a public hearing, and we need to know what it is going to look like.

Mr. Nichols stated the architectural; we submitted some photographs the type.

Board Member Rogan stated we talked about that though, you weren't at the meeting when we discussed it with Mr. D'Ottavio, but he's doing some great research and he's going to have wonderful pictures for us for next meeting, if he can have them to us before, the week before the next meeting which would be the work session and Gene felt comfortable that we were going to resolve, we could set a public hearing for next meeting, but we would need those architectural a week a head of time. Rich we're talking about possible, Gene and Harry are going to meet to discuss some of these technical issues, the owner is going to

get us architectural by the next work session, can we hold a public hearing on this project next meeting if we have those architectural and we have.

Rich Williams stated I think the bigger issue is there is a wetlands permit pending which I know is not complete because there are issues missing from it. It is more prudent to hold off, get that complete, get Ted comfortable with it, then hold the public hearing simultaneously rather than hold two public hearings other than that I would have no problem with it, just the wetlands permit issue.

Board Member Rogan stated the other as you probably already seen tonight that if we have everything squared away and we do the public hearing 2 months from now and everything's done, we're basically done, you could have a resolution for that right after the public hearing, right?

Mr. Nichols stated I'm waiting for an answer too.

Board Member Rogan stated Rich I was asking you a question but I don't know if you even heard it.

Rich Williams stated I'm sorry no.

Board Member Rogan stated I didn't think you did, it was kind of a funny moment of silence because you were talking and we were waiting on you. We were saying that provided that the wetlands permit application becomes complete in the next month and we get those details ironed out the technical issues are done and we get some architectural within the next couple week, we can hold both of them simultaneously, two months from now and have a resolution prepared provided everything's done and finish it up at that point.

Rich Williams stated sure.

Board Member Rogan stated then that's what we're headed towards, the target date for completion is 2 months from now.

Gene Richards let me just mention one thing if I may, on the wetland/watercourse permit that stream that ultimately got piped on this property where it enters that pipe, from that point up hill that regular, that 100 foot control area so just watch your arch, I think what happens is the work down at building C, part of that work is also within the 100 foot control area, so just make sure when you do your permit application.

Board Member Rogan stated I know I don't have anything else, does anybody else have anything on this, and we're comfortable we're waiting on you guys. Harry, can you take those plans outside so we can get on with the next.

Mr. Nichols stated I am the next.

6) FOREST VIEW SITE PLAN

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

Board Member Rogan stated good evening Mr. Hogan how are you tonight

Mr. Hogan stated good thank you, how are you.

Board Member Rogan stated good thank you.

Mr. Hogan stated there were a few issues.

Board Member Rogan stated can you use the microphone; we want to capture every word.

Mr. Hogan stated there were a few issues that were raised at the last meeting one of which was a request to move the, change the primary system to the secondary system and I guess the meeting was had at the Health Department and Shawn was present, we tried it and the Health Department wouldn't let us keep the flow area. We wanted to get a waiver for removing the trees and putting a fill in, and I guess Mike wouldn't go along with it.

Board Member Rogan stated he wouldn't have any of it; I pleaded your case for you and for the property and Ted. I still believe whether it's at the tow of the fill I still believe we can do some type of a buffer planting, we don't need a lot of room here, we're talking about, we can put a planting that is three feet off the buffer. The trees end up growing on to the preserve property then that's fine, the roots will still be on this side. I think we can still kind of achieve it. Ted's main concern was we end up with a open area septic and the kids get up there with their ATV's and then use that as segway into the Clout Property Preserve I think putting in some type of vegetative buffer, not extreme but something, we can do that and I think we'll be fine.

Ted Kozlowski stated and maybe some sort of sign too Jay.

Mr. Hogan stated barbed wire.

Board Member DiSalvo stated no.

Ted Kozlowski stated some sort of sign telling people that this is a public park but it's not open to ATV's.

Mr. Hogan stated we're willing to put up signs and do the plantings in the buffer and anything else you request in that area. There was another question that came up about the drainage flows over to the railroad.

Mr. Nichols stated we went out there, we did an inspection out there, and there is an area under the tracks where there is flow from one side to the other. The only way, you have to be there to see it, but I believe there is a conduit under the tracks, in this location the balance on this side is very steep, it's a one on one slope.

Board Member Rogan stated take it right out there.

Mr. Nichols stated it's a one on one slope but you see, water is coming up out of the ground on the other side and it has created it's own channel flowing into the wetlands, so there is a conduit under it, so the water that does accumulate on this side is being attenuated on this side and release slowly to the wetlands and is acting like another filter.

Mr. Hogan stated I think the bed is mostly gravel isn't it.

Rich Williams stated did you happen to notice, do you know what size pipe it was.

Mr. Nichols stated couldn't see the pipe at all. I think the stone, I think so much stone has been dumped on there and there is new stone there, that it's just covered the end of the pipe.

Rich Williams stated I won't dispute what Harry is saying, as far as there appears to be an area where is moving under the tracks. I did move the stone and I couldn't find the pipe and barring that, I have to assume that it infiltrates through the stone. Harry as an engineer, may say that the stone under the tracks is sufficient to carry water, I don't know and that's basically what I was looking for.

Mr. Nichols stated well the flow I saw coming out was very well confined, so it's coming at a point from underneath, if it was going through the whole balance I think we would see water bleeding out over a considerable distance, it seemed to be coming out at one point.

Rich Williams stated did you happen to check with Metro North.

Mr. Nichols stated no.

Rich Williams stated I bet the course of action, are you relatively comfortable with saying that the volume of water that is going to be discharging to the railroad tracks is not going to be affecting the railroad tracks.

Mr. Nichols stated we are mitigating it with our storm water management facilities.

Rich Williams stated you are mitigating the rates of run off not quantity.

Mr. Nichols stated we can check to find out what is there and see if the railroad would be willing to pull away some of that valance I don't know what kind of luck we are going to have.

Rich Williams stated I'm not looking for that, I'm looking for you to put your neck on the block on the railroad tracks.

Mr. Nichols stated I've put it other places before, so why not. One of the other items was the drainage, we again on this particular we have a three pond system, a four bay before the quantity basin, the final filtration basin in front of it and then it will be discharged into an existing watercourse, and there is a defined watercourse flowing, we've added them to the plan, there are two of them. There was water flowing when I was out there, it probably flows 9 or 10 months of the year, I'm sure in the summer time it will dry up, but the evidence was there the day I was out there. We've also met with the fire department, we've agreed on a total of 40,000 gallons of fire protection.

Rich Williams asked Fire Inspector or Fire Department

Mr. Nichols stated Fire Inspector and Fire Chief, and the location we are going to put them in one location because of the complexity of the controls necessary to the operation.

Mr. Hogan stated he wants them well fed.

Mr. Nichols stated we are going to provide a well, the same as we have for a recent project known as Deerwood. It will be a similar type operation only use, in this particular case we'll have two, 20,000 gallon tanks. We've shown planter beds around the different units, the existing units as well as the proposed units, a specific type vegetation will sit down, by committee it will be determined what will go in there, trees are

being provided along the perimeter of the access road, we've shown those trees, specifically in the open areas and where it becomes very narrow to minimize the amount of disturbance we have not shown trees in those areas.

Board Member Rogan stated if I remember, it might have been last meeting Jay, you had said you were going to look at the architectural design of the new buildings and basically renovate the old buildings and bring them up to date.

Mr. Hogan stated these are going to be box types just like the other two buildings. We just haven't come up with the appearance on the outside yet, but we are going to tailor the two older buildings that are there now to what the two new buildings are going to look like and this is not something we are talking about a quick clip on, I don't really plan on selling this thing until the day I die, it's something I want to be about and something I want to stay in.

Board Member Rogan stated as long as you do it right, I don't care if you sell it three days from now as long as it's done right.

Mr. Hogan stated the concern that I think you should have as a Board is what this place is going to look like five years from now whether there is going to be tires in the driveways or whether there is going to garbage coming out of dumpsters.

Board Member Rogan stated are you referring to what it looked like when we went out there on a site walk a couple of months ago.

Mr. Hogan stated when you were out there previously, I can tell you it's going to look a whole lot different for a long period of time hopefully.

Board Member Rogan stated and I trust you on that.

Gene Richards stated just so you know our office did also review these plans and we have some comments and Harry you can arrange a meeting with us.

Mr. Hogan stated there was an indication the last time we met that I was going to meet with Ed Free at NYSEG to go over easements and that sort of thing, and I kind of needed to know a little more of where we are going before I sit down with him.

Board Member Rogan stated it looks like we are pretty well squared away with the concept, I don't see anything moving, other than design elements, engineering elements but.

Mr. Hogan stated thank you.

7) YONKERS REALTY SITE PLAN

Joe Buschynski from Bibbo Associates was present representing the Applicant.

Board Member Montesano stated Yonkers Realty.

Board Member Rogan stated Mr. Buschynski from one gentleman to the next how are you tonight. We have a review dated today.

Board Member Pierro stated I thought we were concerned about the number of truck spaces we had.

Mr. Buschynski stated we were.

Board Member Montesano stated we were, we were discussing that.

Board Member Rogan stated I think the Chairman remembers counting the number of large tractor trailer type vehicles at the old.

Secretary stated the old Bob's.

Board Member Rogan stated just based on that volume said, we don't nearly have enough large vehicle parking shown on this plan. Quite honestly, he's concerned, I remember that being his primary concern.

Board Member Pierro stated I think what we have laid out there may be another way to stack them.

Board Member Rogan stated Rich is there any kind of a calculation based on repair shop type facilities that would require x number of spaces minimum, I mean obviously it's done general, in a bulk square footage but is it done based on use.

Rich Williams stated I'm sure there are, I mean there's parking generated, parking generation manuals, there are two or three different one, I don't have access to them, if we are getting down to that type of detail.

Board Member Rogan stated what would be easier obviously Joe, instead of us going through these publications is to just try to propose larger vehicle parking.

Mr. Buschynski stated based on what we think their current need would be.

Board Member Rogan stated on the flip side we approve what you have and you are limited and then they end up parking all over the place and we have, this is what we are trying to avoid obviously.

Board Member Pierro stated and we just don't have enough regular vehicles parking because you have the tractor trailers lined up there. That causes another problem.

Board Member Rogan stated and I'm not as familiar with the operation that is going in there, but obviously the Chairman felt rather strongly about that from what I remember. What kind of a cover gets put on the old dump station for the septic. When we were out there wasn't that open. The old bus dump.

Mr. Buschynski stated it is to be modified with a curb around the funnel that the bus backs up over and door hatching over the funnel so that those doors are open and leads the way underground before the bus backs up.

Board Member Rogan stated does that septic tank is that simply a holding tank.

Mr. Buschynski stated simply a holding tank.

Board Member Rogan stated so they fill it and they pump it out.

Board Member Pierro stated will you get something done there sooner then later, because I envision emergency personnel running through there at night and falling in that hole and that would be a rough situation.

Rich Williams stated there is a lid that is supposed to be covered.

Board Member Pierro stated right but based on what we've seen out there in the past with the buses sometimes covers don't get re-attached, I just want to make sure that nobody can be held liable for anybody getting hurt there.

Mr. Buschynski stated I would be glad to bring that to the owner's attention.

Gene Richards stated are you gentlemen talking about the new tank, the holding tank up by the entrance road.

Board Member Pierro stated no, near that and the old one.

Gene Richards stated I thought we were talking about two different things here, Rich and I were actually out at the site yesterday.

Board Member Rogan stated we haven't been there in months.

Gene Richards stated Joe at the, which way is north on your plan, at the south end of the building in the area where you're proposing those infiltration structures as of yesterday there was just a quarter sheet of plywood on the ground, Rich picked it up, and underneath that was just a hole in the ground, there is where the buses used to dump their waster and that's still there.

Board Member Pierro stated used to.

Gene Richards stated it better be used to, the Health Department required that holding tank to be installed, I mean the Board had a site inspection out there about a year ago, 2 years maybe.

Board Member Montesano stated no, about a year ago.

Gene Richards stated at the time they were still using it, you could see evidence of splash on the ground in that area where they were dumping the waste, after that, the tank was put in.

Rich Williams stated we notified the Health Department and the tank appeared.

Gene Richards stated the point being that's still there.

Board Member Pierro stated they never closed up the old hole.

Gene Richards stated and all that is over that hole is a sheet of plywood. We need that plywood over here now. Well that's the area where your infiltration system is going.

Mr. Buschynski stated we do plan on testing this area.

Board Member Rogan stated anything else Mr. Chairman.

Board Member Montesano stated yes.

Ted Kozlowski stated Joe, the southern half of the stream without the northern half, these plans show the northern half but not the southern half, can we have a plan that shows the entire stream please.

Rich Williams stated Mr. Chairman if I might, there are a couple of issues that I would just like to bring to everybody's attention, one has to do with the future parking area, previously I want to reverse a previous position that I had, there had been some discussion about whether we needed to show that and just in case the building ever converted, since we initially reviewed this application, we also now have an application from Eurostyle Marble, on an adjacent piece of property, and it's come to light that there is a wetland out there and the future parking area actually extends into the wetland area and certainly the buffer, so you know, my latest memo, reverses the previous position that we needed that parking and it is suggested that we move it or get rid of it all together, you know which ever, everybody feels is appropriate either way but, I don't ever foresee it being constructed in that area. The second issue is, just a word of caution, we were out there Gene and I, yesterday when we were out there we noticed that the black top in the southeastern corner of the building had been extended new black top all the way up, it appears that the blacktop certainly was not installed in accordance with the details shown on the sheet, which may lead to having it ripped back up and put down properly but while the site plan review is going on until we have a final concept, really the Applicant should be cautioned on doing any improvements to the site.

Mr. Buschynski stated we'll include that in our conversation.

Rich Williams stated that you are going to tear up the blacktop.

Gene Richards stated Joe another item related to the parking lot generally and the pavement Rich had a note in his previous reviews and there's a note on your plan that resulted from our office making out areas of the pavement that needed repair and replacement, whatever. Probably the best way to do this would be to do it jointly, someone from your office and someone from our office do it together, but I'll tell you what, when Rich and I were out there yesterday just kind of looked around quickly and I'm not so sure that the whole rear area should just be repaired and overlaid.

Mr. Buschynski stated it is supposed to be resurfaced.

Gene Richards stated the entire rear parking lot, because it's pretty bad shape.

Mr. Buschynski stated I think we indicated that in our response, to resurface.

Gene Richards stated that drainage that is back there should be looked at the same time. To meet the just graded, clean out the inlets or anything, just take care of it.

Rich Williams stated there are sections of the pavement that are going to have to be saw cut. There are areas that are going to have to be (inaudible)

Gene Richards stated there is quite a bit of pavement out there. Just so the Board knows, our office did review these plans as well. Tim Allen from Joe's office happened to be meeting with us on another project

in Pawling and I use that opportunity to sit down with Tim and go over this plan and gave him our comments on it. He can address those during the next revision. They do not have a formal written memo from us. You might have heard a discussion earlier on wetland/watercourse permit you do need one of those on this project as well. You are doing work within the buffer area, you are aware of that, so just to make things go quicker, if you do both public hearings in one shot, things go better. You need to get that application in, once Ted finds it complete then you can schedule that.

Board Member Rogan stated thank you for the clarification.

Mr. Buschynski stated in regard to the special permit application to the ZBA, would it be appropriate for me to submit it now, or soon.

Rich Williams stated soon, Melissa has nothing to do.

Secretary stated oh I have nothing to do, you missed the June meeting come to the July meeting I'm sure they'll 14, 15 cases again so get in early, if you want to get at the top. That's how ZBA is done, it is how you come in, is where you go, so we're just getting ready for the June meeting, the cut off for the July meeting is probably going to be around July 6th, I want to say. It's the first Wednesday of the month that is going to be the cut off for that meeting.

Mr. Buschynski stated we won't need a recommendation.

Secretary stated if they want to.

Rich Williams stated if they want to, if the Board wants to make a recommendation it is up to them but it is not required.

Secretary asked do you want to do a recommendation to the Zoning Board, on a special use permit.

Rich Williams stated you will be meeting again prior.

Board Member Montesano stated we've got all of July and you not going to have.

Secretary stated July 7th is the Planning Board meeting isn't it.

Rich Williams stated yes but he's not going to be on until after that.

Board Member Rogan stated thanks Joe.

Board Member Montesano stated Rich when you were at Commerce Drive. did you notice that they pulled the sheds out of the side of the roadway.

Rich Williams stated across the street, I did take pictures because of the new material that was placed there especially up against the stream.

Board Member DiSalvo stated this morning I went by to visit Yonkers Realty Site and I could not get down the road because two Verizon trucks were blocking the road and I mean coffee break, they block the road, after that they moved over, I drove up and made the turn coming out, then I almost got hit by the guy on the

fork lift bringing stuff from up the hill down the hill, then I almost got hit by a car coming around the turn because I couldn't see the road because the sheds from the Jungle Gym, more sheds.

Board Member Rogan stated it's ironic because I went down there about a week ago and you couldn't get down the road because they were unloading trucks right in the middle of the road as opposed to on their site where they should be doing it with the forklifts.

Board Member Montesano stated they do not care, they have plenty of road.

Rich Williams stated they do not have a approved site plan.

Board Member Pierro stated we ought to pull the trigger sooner then later.

Board Member Montesano stated why wait for the gun to go off, lets go down there and tell them. Do you want to send them a note or should we just go there.

Rich Williams stated if you want to commence a force of action Planning Board should send a letter to the Code Enforcement Officer.

Board Member Montesano stated lets just put it this way, we might as well just add it to it. You want a motion that we are going to send them a letter. Specifying that they are in violation...

Board Member Pierro stated violation of site plan, no site plan.

Board Member Rogan stated we should be specific as to what the violations are in reference to, unloading trucks in the road, don't you have to be more specific.

Rich Williams stated not having a site plan.

Board Member Pierro stated not having a site plan is just enough.

Board Member Rogan stated and creating hazardous situations.

Board Member DiSalvo stated they are not manufacturing sheds anymore right.

Board Member Rogan stated supposedly not.

Board Member DiSalvo stated so now they are storing twice as many.

Board Member Montesano stated we now they don't have to build them, they don't need the space to build, they just pack them in.

8) COUCH ROAD SITE PLAN

Joe Buschynski, the Applicant's Engineer, Tom Frasca and Vince McGough, the Applicants were present.

Board Member Rogan stated you have made some changes.

Mr. Buschynski stated at the last meeting the Board gave us some direction, the general consensus for a plan that represented the larger lot, with a need to bring the houses forward to take them off the higher elevations of the property. To consider another means of access to the larger lot one that avoided impacts to the steeply sloped area and in general to adhere to a conservation easement plan that would give a lot of protection to the rear of the property as well as the front. As part of the modifications that were made the owners have made arrangements with Putnam Land Trust to dedicate a portion from a 2 acre parcel back, to the Land Trust which adjoins. We have made the revisions for a common driveway, understanding that it is not the Town's preference for a common driveway in general, but we thought this was the ideal condition for one to serve lot one and two from a short common section. The access consequently to lot one is over some very moderate terrain. Basically the lots are four acres and over in size, the land could be placed in easement and dedicated for open space is percent of the property, it is 15 acres. We hope.

Board Member Rogan stated you have such a soft voice Joe.

Mr. Buschynski stated I know. So we are hoping that we are in tune with your thinking, with the appropriate way to develop this property. As I pointed out in my letter, even with a 80,000 square foot concept, requiring individual driveways from Couch Road, those lots would still need to access the lots with driveways in terms of which you're going to see from Couch Road, we are going to see the same thing.

Board Member Rogan stated I'm not particularly fond of skinny lots anyway. You need room for people to be able to do what they want to do. I think that you followed the Board's general direction and I know the direction went many different ways at different points in our conversation but this seems to represent what the Board as a whole wanted. I have to say I'm comfortable with, obviously I wish we were not going through the steep slopes on lot three but it looks like it's negligible, based on the way you've laid it out. It looks like you have it well under 15% for the driveway, in fact you are not even showing the grading, but just in the area you have it, it looks more like 12-13% on the angle.

Mr. Buschynski stated we've evaluated all of the driveways for great limitations.

Board Member Rogan stated overall I think the concept looks pretty good. Go ahead Rich, shoot some holes in it.

Rich Williams stated I think the Board knows my feeling we do have a law and he does need to comply with the laws and maximum percent. This plan does not do that, I did take a look at this plan, I don't have a problem with the general layout but I think we can improve the plan. I did give the Board a memo and I did make a couple of sketches on the back showing I made some changes to get close to the law. Certainly no matter what you do out there you are going to have to go the Board and get a variance, but I do recognize that it's not the easiest property in the world to cluster because.

Board Member Rogan stated Rich you are basically looking to for a larger conservation easement with your dotted line.

Rich Williams stated no I'm still looking for a fee simple property. I do not want a conservation easement.

Board Member Rogan stated a fee simple property.

Rich Williams stated I want a fee simple piece of property. A conservation easement is just a headache. I mean we run into enforcement problems now with the Town where a property owner, new property owner comes in and they buy it, even at the closing, even though they are notified they really don't understand, they next thing we know they are clearing trees and putting up sheds and doing whatever they feel. It's much safer to have just a fee simple piece of property. I think we can do that with the current layout, keep the lot width, keeping the exact house.

Board Member Pierro stated I'm sorry.

Mr. Buschynski stated the parcel would be dedicated to the Town.

Rich Williams stated we've set it up within the law that you have three options, you can offer it to the Town, you can offer it to a Land Trust, or you can place it all within HOA, so it's common by the homeowners.

Board Member Pierro asked if it is held in HOA isn't that defeating the purpose, people that believe that they are part of an HOA, are going to go in there and lop down a couple of trees and start splitting fire wood in any event.

Rich Williams stated generally the people in an HOA aren't going to go clearing the land, they are not going to put the shed on common property, they are going to recognize that it's owned in common and certainly then you have the neighbors looking to enforce it.

Board Member Pierro stated I have an easement with an HOA in the rear of my home and I burned four of their Christmas trees last week that they dumped on my land. You know there's just no respect, maybe I have to ballistic, I don't know.

Board Member Rogan stated that one of the options. This doesn't change the layout it just changes the property line. The layout is still the same.

Board Member Pierro stated there are not some advantages in having smaller lots, to homeowners, to potential homeowners as far as taxable issues are concerned.

Board Member Rogan stated that seems negligible, you're talking about less than a half acre.

Mr. Buschynski stated we thought it was fairly significant.

Board Member DiSalvo stated it does not matter; you are still going to put an 800,000 dollar house on it.

Board Member Rogan stated it's still going to be an assessment of 6 or 7 or 800,000 thousand dollars on those lots.

Mr. Buschynski stated we thought the reduction in land area was fairly significant in that this was a large lot concept, these are not, with this line pulled over 100 feet, lots are significantly smaller.

Rich Williams asked does it affect the ability to develop the lots.

Mr. Buschynski stated no, not in terms of.

Board Member Rogan stated the people buying these homes, they do not know the difference between one acre and two acres, we have people that say they own two acres, I own this whole hillside and we're looking at thirty-five acres, they have no concept. It happened to someone we know, the neighbor said I own all of this, he said well I have a survey that shows they only own 2 acres and they thought they owned thirty, because the real estate person told them, you own all this property. I honestly believe most of the people buying homes in this area that are not from this area don't have any concept of acreage.

Board Member Montesano stated you are not going to be able to build on the acreage behind them.

Mr. Frasca stated Tom Frasca, Couch Road Corporation putting a property in fee simple or an HOA I see as an enforcement problem. How, here at least this individual is responsible for the conservation easements and we have ownership of that conservation easement within the lot. Putting it in an HOA, what do we do, would we have to go after all six homeowners, for some foreign materialist deposit and in addition, if it is fee simple it becomes the burden of the Town, it is still the burden of the Town with the conservation easements.

Board Member Rogan stated what about a Land Trust.

Mr. Frasca stated then it is the burden of the Land Trust.

Rich Williams stated everything being said here, we have gone through a whole legislative process with the public hearing and the Town is determined that this is the appropriate direction we wanted to go. They want to get away from large lot zones, where they are just breaking everything up into large lots and you know, honestly I am digging my heels in on this and we do need to find ways to comply with the law.

Board Member Rogan stated why did they give 3 examples then and not just say this is the way we want it done, why not just say we want it to go to the Land Trust.

Rich Williams stated because we want some flexibility.

Board Member Rogan stated flexibility can be with the lines that are drawn. Flexibility can be with the way that fee simple parcel is held.

Mr. Frasca stated a conservation overlay I think is the good idea in the right setting. I don't know that this is the right setting, this is the problem.

Board Member Rogan stated I can totally understand Rich's concern with these conservation easements. It is just like if we have a project that has a wetlands boundary, we try our darnedest to let the person know that it is a wetland boundary that they should not be going in there, low and behold within a few months, people who own the property, say I am paying 14,000 dollars a year for taxes, the hell with them I'm going to go put a shed in there, let them tell me to move it, the same thing happens with a conservation easement and then.

Rich Williams stated I've been involved in a couple where they have actually gone in and cleared the conservation easement. We have had to seek enforcement action we have had to have them replant and it is just not fun.

Board Member Rogan stated and it really wastes a lot of money.

Mr. Frasca stated that would not that occur, that potentially occurs under almost any scheme, as it seems to me. It is just a matter of help the builder, and again the outstanding issue is the HOA is the worst. Who do you go after, again with ownership, it is our feeling, we have somebody who is accountable for their actions.

Board Member Rogan stated Rich with property that becomes owned by the Land Trust, do they pay tax on that land on an assessment.

Rich Williams stated no.

Board Member Rogan stated but you take this piece of property you assess it based on the build out, again the difference in the Town, the taxes to the Town, is so negligible on taking some property on the back, I really believe it does not make any difference the assessment is going to be what it's going to be, whether they had the entire part of that lot it is not going to change, whether it's a three acre lot or a 2.1 acre lot, it is going to be a 700,000 dollar house either way, and you are going to pay 15,000 a year in taxes. I personally would love to see something like a Land Trust come in and say they were interested in it maybe it is something we could put the bug in someone's ear and see if there is interest, it sounds like that would be something you would agree with also, from what you were just saying.

Mr. Frasca stated well again one of the issues is, it becomes the Land Trust or even the fee. Does the owner of that property have the best use possible relative to privacy.

Board Member Rogan stated passive recreation.

Mr. Frasca stated I put my pool over here so now my neighbor, the adjoining party has access to the property, can put his lounge chair next to my pool. So I see some issues that way and you really can enjoy the property the way they show it.

Board Member Rogan stated I understand

Mr. Frasca stated it is more of a privacy issue then a usage.

Board Member Rogan stated then you can put a fifty foot vegetative buffer conservation easement so they can not clear to the extent of their property and they'll have that privacy, if everybody clears everything. There is not an easy answer on this I think we are going to have to work to some kind of agreement that works for everyone I do not think it is going to be a sticking point, I'm sure we can come to a resolution on this. What do you think Mike, about the layout.

Board Member Montesano stated the layout does not bother me, this conservation easement may. What our restrictions are and what we can get away with, we have three possibilities and the way Rich is talking that's part of what the Town wants. If this is what the direction is going to be, we are going to have to discuss it at length, the direction and see where we can get it.

Board Member DiSalvo stated how much of reduction would there be, we're taking 100, moving the line 100 feet, what would these lots some down to, acre wise. Like look at lot 4, it is 4.4 acres, what would.

Mr. Buschynski stated to the back line, so now it's 2 and $\frac{3}{4}$

Board Member Rogan stated they are all over 2 acres.

Rich Williams stated with what I'm proposing it is working both ways. They are getting larger lots than they normally would get under the strict observation under the course of revision. It is difficult, we all know that, you know they are getting some variation of standards, as far as lot area. But you really need to understand the intent of the law and try to achieve the intent, that I think it what I'm pushing for.

Board Member DiSalvo stated weren't one of you going to be a homeowner, so how do you feel now, you're building on lot six or whatever.

Board Member Rogan stated lot one the big lot.

Mr. McGough stated we got this stuff at the meeting, we were following the last direction but I would certainly like to.

Board Member DiSalvo stated please state your name for the record.

Mr. McGough stated Vince McGough.

Board Member Pierro stated it was our intent by announcing that we were going to use these microphones out in front, not to pass the mic around the audience, please Vince, please, I know you are not afraid of us, step up.

Mr. McGough stated I would certainly like to be able to own it and take care of it, like right now I live in Patterson, I live on a 4.5 acre parcel okay, I take care of all of, I make sure people don't dump on it, nobody rides bikes on, motorcycles, I have the ability to tell them not to. I take care of if you are going to own that size parcel, that caliber house, you're going to take care of your property; you're not going to let people.

Board Member Rogan stated or you can pay someone to take care of it.

Mr. McGough stated no, well.

Board Member Pierro stated before I make a decision I would like to review all three concepts that are in the Town Code.

Rich Williams stated all three concepts in the Town Code.

Board Member Pierro stated they are not in the Code, I thought there was a new, you referred to, alluded to, and three concepts the Town Board went to.

Rich Williams stated yeah, they are in the Code.

Board Member Pierro stated I would like to review all three and get a better handle on that.

Board Member Rogan stated quite honestly Joe, we are at these lines, what we are talking about right now does not have the significant bearing on this subdivision in terms of proceeding with the technically review, that is not going to hold you up tonight, it is something we are looking at, it is something we can be very reasonable on, I think you have got a sense of that already, that we're looking to do the right thing here, the concept is something, that house layout and the driveways, that to me right now is a bigger issue than the conservation easement, in my mind.

Rich Williams stated the problem with proceeding forward and spending a lot of time and effort, well they are absolutely going to have to go to the Town Board, and you don't know what the Town Board is going to do, so it is really an unknown that they are risking. It really needs to be clarified here, it needs to come up with a recommendation.

Board Member Pierro stated there could be a recommendation, does that recommendation have to be tonight.

Rich Williams stated no.

Board Member Pierro stated okay, I think that will let us all get a chance to digest the three options in the Town Code and we'll talk it over at the work session, and maybe make a recommendation at the next meeting.

Board Member Rogan stated for the gentleman that just spoke, I do not remember your name, I'm all with you, I want a fifty acre lot with no neighbors at all, but then I would not buy a subdivision lot, I would not want to be next to any of these people quite honestly, my personal preference. I would not even look for a six acre lot, it is just not something that I would want granted, it would be nice to be able to afford more then that but you are doing a subdivision of land here, you have the opportunity obviously I know this is going to sound silly, but to build your house on this one lot, as it is right now, and you'll have your privacy and you'll be able to meet the code because it's an individual lot and you are not doing a subdivision, when you start applying to break things up, obviously you understand this, we have got codes and requirements and a vision for the Town that was thought out by a lot of people in terms of where we wanted the town to go. I understand you are concern and I am someone like you when I have three acres property, four acres of property, I take care of the whole thing that is the way I am, so I completely understand where you are coming from. You and I are not the average person quite honestly when it comes to taking care of property.

Board Member Pierro stated I like to leave as much as possible in it is natural state and not love it to death, you know.

Mr. Buschynski stated the owners would like a little time too.

Board Member Rogan stated we just got it today also.

Board Member Montesano stated I guess we have to take time to find out what we got involved in.

Board Member Rogan stated hey Rich, can we classify the six lot subdivision, is it six, what is the cut off for minor versus major for the classification, four.

Rich Williams stated five by our Code.

Board Member Rogan stated five, so this would be classified as a major subdivision; we can do that tonight, right.

Rich Williams stated sure.

Board Member Rogan stated I make a motion to classify the Couch Road Development Corporation Subdivision as a major subdivision.

Board Member Pierro seconded the motion.

Board Member Montesano asked for all in favor:

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

Motion carried by a vote of 4 to 0.

Board Member Rogan stated hey Rich, do we have new copies of the code yet, since.

Rich Williams stated probably not.

Board Member Rogan stated are we going to get the bound books like we used to, on that.

Rich Williams stated yes, but I don't know if it will be in your lifetime. Do you want the whole code or just a few sections.

Board Member Rogan stated now I really want the whole thing.

Rich Williams stated I can do that.

Board Member Rogan stated thank you.

9) EUROSTYLE SITE PLAN

Paul Lynch, the Applicant's Engineer was present.

Board Member Pierro stated Eurostyle.

Board Member Montesano stated the floor is yours sir.

Mr. Lynch stated we received a comment tonight. I would like to address most of the comments on the submission before we get into the public hearing. Ted relatively speaking the question offered to one of the wetlands.

Ted Kozlowski stated it is very minor, Paul, because the, I'm not really making a big issue of it, but if you were going closer because the plate should really come out a little bit more here, but you are really not the close. It is not something I would want to hold up this project, it is minor.

Mr. Lynch stated I read through the comments tonight and I'd rather get a set of drawings together on those.

Board Member Pierro stated very well.

Board Member Rogan stated we appreciate your straight forwardness.

Gene Richards stated Paul, really quick on that detention pond, maybe have you done any detest out there.

Mr. Lynch stated we actually going to go out and detest all that, the whole front.

Rich Williams stated all the way down to the corner.

Mr. Lynch stated based on that we'll, we may end up. (Tape Ended)

10) DUNNING SUBDIVISION

Mr. Paul Lynch, the Applicant's Engineer, is representing the Applicant

Board Member Pierro stated Dunning, any new notes.

Rich Williams stated just so the Board knows, today at 4 o'clock, 5 o'clock, late this afternoon we got a whole new set of plans with revisions on this project.

Board Member Rogan stated so you have done a full review is what you are saying.

Board Member Montesano stated so this all done.

Board Member Pierro stated so we do not have those yet.

Board Member Rogan stated so we can set a public hearing for next meeting based on the new plans, we will have time to review them.

Rich Williams stated yes.

Board Member Rogan stated you have them already so we have them well in advance of any other project.

Board Member Pierro stated what we have is the old plan.

Mr. Lynch stated we did something to drainage.

Secretary stated you don't have the plans, we need to distribute them.

Board Member Pierro stated so what do we have to discuss then.

Board Member Rogan stated Maria do you want to do the motion on this.

Board Member Pierro stated come on Maria.

Secretary stated it is just a motion to schedule the public hearing.

Board Member DiSalvo stated I make a motion to schedule a public hearing in the matter of the Dunning Subdivision for the next meeting.

Secretary stated July.

Board Member Rogan seconded the motion.

Board Member Montesano asked for all in favor:

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

Motion carried by a vote of 4 to 0.

11) PLUNKETT SUBDIVISION

Paul Lynch, Engineer, is representing the Applicant

Board Member Rogan stated have I ever been on Plunkett.

Secretary stated probably not Shawn.

Board Member Pierro stated I do not think so.

Board Member Rogan stated I have never even heard of it.

Board Member Pierro stated we did years ago, a couple years ago, I think we were out there.

Mr. Lynch stated actually I was looking for the grading plan.

Board Member Rogan stated I have never been on this site but.

Mr. Lynch stated surveyors have flagged the property, so the driveways laid out, the house and the septic area. The big issue with this proposal is really going to be dealing with the amount of disturbance to get up the hill and deal with new York State DEC and New York State DEP. They have more then two acres of disturbance, we are trying to resolve storm water management issues and come up with viable solution. This is really is the crux of this whole subdivision.

Board Member Rogan stated look at the length of that driveway.

Mr. Lynch stated the driveway proposed on that plan is about 1,000 feet.

Board Member Rogan stated 1,000 feet to go 300, virtually. Obviously there is no other access that would be available.

Mr. Lynch stated no, that is the best location to come up with the site distance you need from Route 164, and it is probably also the best location for trying to deal with the grades that exist.

Board Member Rogan stated that is an unbelievable driveway, especially in the winter. I would like to see the site since I've never been there.

Rich Williams stated I actually talked to Betty Ann Watson who has provided us that it is safe and ready to go.

Board Member Rogan stated great. Anyone from the Board have any comments on this, Mike you have you been up there.

Board Member Montesano stated it has been years, to comment on what was then, it has already changed so much there is no sense in worrying about what's what.

Board Member Pierro stated the property adjoining Guiding Eyes for the Blind is that a vacant parcel. Across the street from the main site.

Board Member Rogan stated with all the vans and stuff, all the vehicles.

Board Member Pierro stated I'm not happy with amount of disturbance we have here.

Board Member Rogan stated enough said.

Board Member DiSalvo stated maybe somebody will buy it.

Board Member Pierro stated it seems like it would be so much easier to buy a piece of that adjoining property in the front from Guiding Eyes. It might be easier to get up there, but the grades are bad there too.

Board Member Rogan stated right across that hill.

Gene Richards asked Paul, what is the slope on the driveway.

Mr. Lynch stated it came off a fairly decent plat, I think we go into a ten percent grade. We go three percent then it comes back down.

Gene Richards stated so most of it is ten percent that you've built.

Mr. Lynch stated yes, you are probably looking at ten percent of the property according to the code, or nine and a half.

Gene Richards asked did you look at any other profile to see if you can reduce it.

Mr. Lynch stated we laid out three or four different actual driveway locations. This one turned out to be the least amount disturbance. There is a driveway layout study that had several driveways.

Gene Richards stated what might help the Board in a situation like this if you could submit a copy of that.

Mr. Lynch stated I can do that, so they can see the other layouts.

Board Member Rogan stated that should be very helpful thank you. Okay, thanks Paul, you are all done for this evening.

Mr. Lynch stated yes.

Board Member Rogan stated have a good evening.

12) CUMPEO SYSTEMS – Sign Application

Secretary stated the application is in.

Board Member Montesano stated the application is in but nobody is here for it.

Secretary stated it is up to you guys, we have done them without the applicant.

Rich Williams stated that only question on the application is the fact that the numbers he submitted don't jive with you know what I review, what I reviewed he is in compliance.

Board Member Rogan stated my notes from the work session say clarify size of sign, actually size appears less then stated.

Rich Williams stated the Board is inclined to move on this tonight, you can grant it subject to a specific size.

Board Member Montesano stated well, how do you go about that.

Board Member Pierro stated I'm fine with that Michael.

Board Member DiSalvo stated fine.

Board Member Pierro stated on the matter of Cumpeo Systems 2974 Route 22, I make a motion that we grant the sign application with the conditions expressed by Mr. Williams that the sign, sizes of the sign be corrected.

Board Member Rogan stated you've got a SEQRA determination.

Board Member Pierro stated go ahead do SEQRA, Shawn.

Board Member Rogan stated I make a motion in the matter of Cumpeo Systems that the Board grants a negative determination of significance of SEQRA.

Board Member DiSalvo seconded the motion.

Board Member Montesano asked all in favor:

Board Member Pierro - aye

Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Board Member Montesano	-	aye

Motion carried by a vote of 4 to 0.

Board Member Montesano stated can we go back to his motion.

Secretary stated you need a second a Dave's motion.

Board Member Rogan seconded the motion.

Board Member Montesano asked for all in favor.

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

Motion carried by a vote of 4 to 0.

13) OTHER BUSINESS

a) Deerwood Lot 6 – Wetland Watercourse Permit

Joe Darnell is present.

Board Member Pierro stated Mr. Gagliardo.

Secretary stated no Deerwood lot 6.

Board Member Rogan stated Mr. Darnell who has been very patient this evening. Is this gentleman here, the owner of the house.

Secretary stated no he is from Wyndam Homes

Board Member Rogan stated good evening Mr. Darnell.

Mr. Darnell stated good evening

Board Member Rogan stated how are you.

Mr. Darnell stated alright, yourself.

Board Member Rogan stated Mr. Darnell when we went out on site to do a site walk. We understand your concern there, now this is the deck and we want to extend the deck out over the patio door.

Mr. Darnell stated a small extension.

Board Member Rogan stated our main concern quite honestly, because I was one who didn't really want to approve this because of the slope of that backyard. The people that were present at that time thought it would be advisable to, if I remember right, pick a line from the visual of the footers of the deck and try to work some kind of third retaining wall so that we can grade that a little better. Quite honestly though, if the owner comes out the back door and is immediately on the steep grade and you really can't even walk from that sliding glass door to the garage, to the driveway without being on a steep grade. We kind of felt we would be willing to approve the wetlands permit for the extension on the deck provided that there is some mitigation in the form of a small, not as big as the ones below, but a small retaining wall with some grading to level that up a little, picking the line of posts and then following the contours around and then tying it back in to the edge of the driveway. Please let us just finish with the other issues then you will have all the time in the world to talk. You need some better erosion control on that steep bank, that's about a one on one or greater slope around the edge of that driveway, the edge of the detention basin, we also saw quite a bit of water coming through those two retaining walls, that were knocking out that rather large chinking stones that were used, that's obviously a big wall, large stones, the chinking stones in that wall were actually falling out because of the poor drainage. The drains from the leaders and footers weren't very easy to stop as they came out, I did stop one but not many of them, I think a lot of your water is coming off that hill and getting to that retaining wall and based on, obviously the house isn't going to move, but based on the mudslides we've seen in California this week, you have a problem there where that wall is going to come down, maybe not now, but maybe ten years from now with the amount of water going through there, so I think you need to look at that.

Board Member Pierro stated there is one rock right on the corner of that driveway there that, if a child sits on it the wrong way it is going to go down the hill.

Board Member Rogan stated I would not let my children, I do not have children, if I had them I wouldn't let them play on that driveway without being there if I was the owner. I would put a fence because, that or somebody coming home after one to many cocktails at the office is going to go right off into the wetlands that is an unbelievable lot. It is not your fault and I am not saying it is, but it is an unbelievable lot.

Board Member Pierro stated even if you were to pour a pad walkway, a concrete pad walkway along the right hand side of the house there, if someone were to step off of that, I don't want to guess on the grade but steep.

Mr. Darnell asked you are talking about the walk out door, from the basement.

Board Member Pierro stated all you would have to do is raise that grade up a little bit.

Mr. Darnell stated that why we wanted to put the stairs in because the yard really is not useable to do anything with, we just want to have some access from the driveway to the deck, that basically, that is what we originally that's what we anticipated on doing but we didn't get the stairs on the original application otherwise I would not have been here last month and I wouldn't be here today, because it would not have been an issue.

Board Member Rogan stated you brought up a good point. You said the idea of this is so you do not have to do any additional grading you get the stairs on the deck and they don't need to walk out, but you have a walk out basement, you have sliding glass doors that in my opinion aren't safe and for my vote, it's going to be some minor remediation in terms of a small retaining wall with a little bit of grading done to level that

out. Now in terms of remediation to the slope, Ted I'll ask you to address the Board, on what you'd like to see out there.

Board Member Pierro stated before you start Ted, not only in the rear of the house but in the front of the house as well. On the left hand side of the driveway, there could be some plantings done there to hold back some of the soil, the grass is not growing and whatever is there will burn up, so I think you may want to look into pachysandra to hold back that slope.

Ted Kozlowski stated this is not beat you up time. This is a site that you have to work with, okay, again as I said earlier tonight had things been different, has this been before the Board, these things would have been laid out a lot differently, but this what we have to live with. Addressing this lot and this permit, I'm also addressing this whole subdivision as a whole, because I am very alarmed not so much with what you guys are doing but you do have a role and you are playing a role in this. This whole subdivision is loaded with ATV's and everybody has cleared right but to wetlands, whether it's you doing it as part of the construction or it's the homeowners but it's quite alarming to me. I've been going to this site, I've been jogging in it and riding my bike and driving it and it is quite alarming how Wyndam Homes, these homes are and this lot in particular and you just said it a few minutes ago Joe, this person has no backyard, and there are inherent dangers built into this lot. I don't see why this lot needs to have mowed grass all the way down to the wetland, it's just inviting problems. So I think as a mitigation I think as much as possible that should be reverted back to natural vegetation, natural woodland, natural conditions, there is really not a very good reasonable use of that rear parcel and to invite a homeowner to constantly mow those steep slopes and having children play in there is not only a safety risk but it is another impact to the wetlands and I really think that should be reverted.

Mr. Darnell asked how do we do that.

Rich Williams stated wait, as I told Ted before, there is a grass swale down in there, that swale has to stay grass there are other storm water improvements down there.

Ted Kozlowski stated fine Rich.

Rich Williams stated Ted, I appreciate you feelings on this, I told you so. If you did not like the lot, you should not have approved it, if you did not like the wetlands permit it should not have been approved.

Ted Kozlowski stated I did not Rich, and I did not have a vote, so. Do not preach to me now because I did not have a vote, I do not sit on this Board I never did.

Rich Williams stated you can not put vegetation in the swale.

Ted Kozlowski stated I'm not saying a grass swale, I'm saying all the other remaining areas up to the wetland and I'll go out with you and we'll figure that out. That is not a problem, that's not going to be a hold up to your permit here. I think you've got to think about remaining portions of these lots that are going to be developed especially on that road that goes around the other way, I see there are some lots being prepared to be developed and we can't just keep clearing right up to the, the rear, I have been back in there I do not know what the name of it is, we are hugging the wetland and again it s not you guys, but all the homeowners everybody owns an ATV and guess where they are going, it's going through the wetlands. You go out there on a Saturday morning and everybody is washing their ATV's out in the middle of everything and I do not know what we are going to about that and it's not kids, it is the parents.

Mr. Darnell stated our rule is we can build perfectly (inaudible).

Ted Kozlowski stated right but you are making it easier for access.

Board Member Rogan stated Sir, can you just use the microphone please what you are saying is important to us.

Mr. Darnell stated we build the approved subdivision plans and we can not disturb the wetland buffer unless we feel that it is absolutely necessary and we appear in front of this Board to do so. As far as people driving ATV's and what not once we don't own the lot, there is nothing we can do.

Ted Kozlowski stated I understand that all I'm saying is that you are making a lot easier for them to access the wetlands by all the clearing that you are doing. I think after a project is done and we have these steep slopes that remain as lawn it is just an invitation for people to access those wetlands because that is all that is remaining now it just wetlands, we have developed everything and the wetlands are quite outline and I don't think that was really the intent of any of this.

Board Member Rogan stated in this particular case we are talking about lot six, not the whole subdivision, from my opinion we are looking at the real steep slope that really can not even be mowed and trying to get some type of vegetative cover that is a ground cover, whether it is something you know, I do not think minor is going to grow in a wide open like that, but.

Rich Williams stated we also talked about a permanent erosion control product that will help support the soil in those slopes.

Board Member Pierro stated I don't see the grass staying there.

Board Member Rogan stated it's just going to wash right out.

Board Member Montesano stated that could be accommodated by matting. I'm sure they've gone through this before and they are well aware as to how to stabilize this. The thing is we are going to give them a direction to get his permit. He has to follow that. He ran into a problem I'm sure he can explain it to you later on I don't think there is that much we can do about it, it has already been done.

Board Member Rogan stated this is probably the most challenging lot in the subdivision.

Board Member Montesano stated it is the people.

Mr. Darnell stated this lot is essentially done.

Ted Kozlowski stated I did not mean to go all over the thing. This is an example of and I just think there are some areas in this that we should just abandon as mowed lawn and go to something else.

Board Member Rogan stated it brings up an interesting point, well actually if you do not own the lot anything we are asking to do. What if the owner, if the owner says no I do not want then we are basically we talking about it being a no go for the expansion on the deck, if they say I don't want a retaining wall there.

Mr. Darnell stated we are strictly an applicant, we are not the owner, we have to go to them and say would they like a retaining wall and an extension of the deck here.

Ted Kozlowski stated it would be a condition of the permit, so they do not really have.

Board Member Rogan stated well that is the point and I'm just trying to make that clear that these types of things are certainly not within your right to force on them, either they want it or they don't.

Mr. Darnell stated we understand but as far as what has been put there is grass either by the grass swale that was part of the storm water system for the subdivision or as part of the wetland permit that was done originally with this lot reverting that back to wild growth I don't know.

Ted Kozlowski stated we can make that a condition of the permit.

Rich Williams stated I want to go on record it's a storm water practice it's required.

Ted Kozlowski stated Richie we're not talking about that, we're not talking about the swale.

Board Member Rogan stated Rich we're talking about this Board, is talking about the slopes right off the driveway, the steep slopes that are a one on one grade that go down towards, that one on one grade up within fifteen feet of the driveway.

Rich Williams stated I don't think, it that what you are talking about, the one on one slopes.

Ted Kozlowski stated I'm talking about the steep slopes affecting the wetland, yes I am.

Board Member Rogan stated we're talking about down inside the basins down there.

Rich Williams stated we can have that conversation, I mean the reality is, what are going to do, I suggested this, and to come prepared to talk about this tonight. Really what you are going to do, are you going to put some sort permanent erosion control map that's going to help stabilize the soils and you have to vegetate it, did you come up with some suggestions.

Mr. Darnell stated well we want to do the matting and what gets planted in there I don't have any suggestions.

Board Member Rogan stated what a good whole sun ground cover.

Rich Williams stated off the top of my head, I'm not sure, I would have to go back and look at the root structure. You are going to want something with a real good deep long root structure.

Board Member Montesano stated put a couple of nice weeping willows in.

Board Member Rogan stated Ted just said that he wants trees; I don't really have a preference. I mean trees are great I just want to make sure we keep that hill the way it is, the owner does not have to go there and maintain it.

Rich Williams stated trees are going to be a problem, on the slopes. At some point they are going to get to a size, they are just going to fall over, now we've got another problem.

Mr. Darnell stated what I'm envisioning is bed fed grass, that will stabilize that grass, the grass is already on the slopes anyway.

Board Member Rogan stated how tall does that grass grow though.

Mr. Darnell stated if you mat it in. You're forcing it to grow. Otherwise it will wash out

Board Member Rogan stated my point is, I understand the erosion control part of it. I'm thinking about the long term, how it appears, you have grass you can not get to mow really because it is so steep even though it is not an erosion problem it is an aesthetic concern, now you have someone who wants to go there and weed whack it because it is two and a half foot tall and it looks ridiculous. You can put a vegetative cover there because of its limited growth.

Mr. Darnell stated this is a comment on how to address a silt problem somewhere else on the lot, I'm not sure what this has to do with.

Board Member Rogan stated it is right within a few feet, our whole concern with getting stairs down to an area that right now is not a viable area. Right now you are showing stairs, you need grading where those stairs land, and you don't have it. Even if the stairs are four foot wide, you do not have four foot of level ground, you have to do grading there to have a landing.

Gene Richards stated in order to have a landing.

Mr. Darnell stated we will put a little bit of material where the stairs land, yes.

Board Member Rogan stated if someone wants to walk from the basement stairs to the garage they have to walk around the back, around the stairs because they can't walk through them, now they are on to the slope already, that's my point that's why I'm talking about some type of a small wall where you can grade that out, where it's a reasonable slope, it's not going to be level, I understand that.

Board Member Pierro stated it does not have to be rough stone, it can be manufactured block.

Board Member Rogan asked how bad do these people want these stairs. I'm trying to be very reasonable.

Ted Kozlowski stated I understand your concern, you're saying, partially your concern, you're here for stairs and we're talking about slopes.

Mr. Darnell stated we are also talking about slopes on the other side of the driveway and what not, that really does not affect the stairs at all.

Ted Kozlowski stated we are talking about.

Board Member Rogan what happens when it washes out, whose liability is it.

Board Member Pierro stated we have an obligation to protect that swale.

Mr. Darnell stated we have an obligation to our customer that their land does not wash away as well. We have an interest in that as well, we do not want a subdivision that is washing out.

Board Member Montesano stated what we are, we starting to butt heads, we are not blaming you. We have the same thing, you're going to keep your client happy and we want to keep the client alive. We feel that it would be easier to grade that out with some type of small wall, to hold that because as we are looking at it they want the stairs where they are located and you are going to have to walk around to get to the sliding glass door. Now this is what we are suggesting, you talk to them and see what they want to do with it.

Mr. Darnell stated we have the same goal. We will look into that. Where do you go from here, do we respond to the letter we received tonight with the plan.

Board Member Rogan stated I would say come up with something that shows what you are proposing to deal with the grading around the stairs like we mentioned, see what you can come up with. I think a dry laid small stone wall I think you can, we're not talking about moving mountains here.

Mr. Darnell stated it's not a big deal.

Board Member Rogan stated I don't think it is.

Mr. Darnell stated can we get this to the point where we can resolve it at the next meeting.

Board Member Rogan stated you can get us a plan that shows what we were just talking about within reason before next work session then it sounds like it's a done deal.

Ted Kozlowski stated and I would like to suggest to that because, and getting back to that, you are here for steps but everything within a hundred feet of that wetland is now open to review because you are for a wetlands permit. There has been discussion of the slopes and stabilization there of and I would like to meet with Rich and anybody on your side and go out to the site to come up with recommendations for what to do.

Mr. Darnell asked when is the next session.

Board Member Rogan stated three weeks from now.

Ted Kozlowski stated but we should meet well before that.

Board Member Rogan stated our work sessions are the last Thursday of the month and meeting are the first Thursday.

b) Gagliardo Lot Line Adjustment

Board Member Rogan asked Rich do we have a, does anybody have a set of plans that show this.

Mr. Gagliardo stated there were eleven brought here I know that.

Rich Williams stated why don't you.

Mr. Gagliardo stated I'm Jim Gagliardo representing my brother Peter, he got called into work.

Board Member Rogan stated does Pete own the house.

Mr. Gagliardo stated Pete owns the house to the end of Allen.

Board Member Rogan stated with the swing set in the front yard, the house being lived in.

Mr. Gagliardo stated yes.

Board Member Rogan stated I know I do this all the time, I'm going to jump in. The concern that I had with the lines was that when Pete sells the house whenever that may be. Never mind Pete selling the house, the owner that buys the house that is under construction right now is not going to be able to use the property he is being given on Pete's front yard, and be considered a good neighbor because let's face it, it's your brothers front yard, there is a swing set right there, it's a rock wall and its grass. The problem I have with it is you giving land, you are taking land away on one side and giving it on another that he really can not use, my recommendation is that you are going to move that rock wall that is right there on the property line.

Mr. Gagliardo stated we were going to put in a berm and put some plants on it just for his privacy part of it.

Board Member Rogan stated I would prefer that stone wall and line get moved over.

Board Member Pierro stated you are going to put a berm in on the property line.

Mr. Gagliardo stated just to make a little privacy thing that's all.

Board Member Rogan stated you were proposing not to move the wall.

Mr. Gagliardo stated as far as I know, I'm not sure, me personally it is no big deal to move it.

Board Member Rogan stated the triangle piece of property if we can just, however we have to adjust on it. We can just lose that corner to the right, go to the right, if you can reduce that whether you have to shift the line that goes through Pete's yard or not, you can basically. Get rid of this, give that back to Pete, clean this corner up right here so we can just square this up.

Mr. Gagliardo stated make this square in other words.

Board Member Rogan stated take this thumb off and put it on the property line.

Mr. Gagliardo stated that's definitely not a problem.

Board Member Montesano stated he really does not have an engineering license, so you will have to go and take this up with Rose.

Board Member Rogan stated only my laypersons opinion.

Mr. Gagliardo stated I do not see a problem with that at all, making that a straight line, I thought that was what was proposed. Originally there was a little job here too or something.

Board Member Rogan stated I do not want see the poor guy who buys that house, I have got property, but it is in the other guys front yard and you know if he used it he would be considered a real poor neighbor, he

would be using property even though he owns it that's in the other persons front yard, I do not really think that is fair to the other person.

Mr. Gagliardo stated well all that stuff is going to be moved anyway.

Board Member Rogan stated I do not want it to be delineated, make the stone wall the property line.

Mr. Gagliardo stated you know what I have. I could do that over night is right.

Board Member Pierro stated you may lose a couple of those trees.

Mr. Gagliardo stated there really aren't that many trees there.

Board Member Pierro stated there are three or four.

Mr. Gagliardo stated most of them are little saplings.

Board Member Rogan stated there were a couple that were small.

Mr. Gagliardo stated the big ones, we will build around them. We will not touch them, and then I know, we talked to him between me and my brother doing something, you know a little berm or something just for privacy.

Board Member Rogan stated you will not need the berm if you do that wall.

Mr. Gagliardo stated then we'll move the wall.

Board Member Pierro stated and it benefits both residences.

Board Member Rogan stated oh it is going to look great; the wall right now is kind of picked away. You know the area that might be a concern Jim, is where that property goes down to the road. I think, that's a pretty steep bank in there and he has got a heck of a planting, your brother, right through there.

Mr. Gagliardo stated there was where the electric, that was all original, when we did this quite awhile ago, he's married, I don't even know how long he's married for.

Board Member Pierro asked anything else we need on this Rich, so we can get this done.

Board Member Montesano stated just remove the corner and move the wall.

Board Member Pierro stated yes sir.

Board Member Rogan stated that new lot looks like it is going to lay out pretty nice.

Mr. Gagliardo stated it's fairly flat once you get past, Peter's driveway. This part right here, once you get past here, this is the steepest part, it really flattens out towards this way.

Board Member Pierro stated okay thank you.

Board Member Rogan stated thank you for your patience.

c) Cornwall Hill Estates – Lot Line Adjustment

Board Member Pierro stated Mr. Boyle, you are busy this weekend, you are moving the pool and the fence.

Rich Williams stated I've never seen such outstanding pergola on anybody's property.

Board Member Rogan stated did Zoning already go out on this.

Secretary stated no.

Rich Williams stated this is the lot line adjustment.

Secretary stated they did not go for a variance, they are going for a lot line adjustment.

Board Member Rogan stated I thought that there was a zoning issue on this that they were going, but it was a different lot.

Board Member Pierro asked do we have a document on this. Do a resolution, do we need a resolution.

Board Member Rogan stated do it based on that.

Rich Williams stated I did not do a resolution.

Board Member Pierro stated in the matter of John Boyle, or is it under BMMD.

Mr. Boyle stated it's under John Boyle.

Board Member Pierro stated it's under John Boyle, it is under both, BMMD, John Boyle, Ed All, Somerset Drive, Patterson, I make a motion that we grant the lot line adjustment for the rear yard area.

Board Member DiSalvo seconded the motion.

Board Member Montesano asked for all in favor:

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

Motion carried by a vote of 4 to 0.

d) Bear Hill Estates Subdivision

Board Member Pierro stated Bear Hill

Secretary stated there is no one, Paul does not represent Bear Hill, Rob Cameron called and there was no way he could make this meeting, he thought that there would be site walk comments.

Board Member Rogan stated and there are.

Secretary stated so that is really what he really thought it was on for, and he was going to call tomorrow to find out what the Board.

Board Member Rogan stated let the record stand that Rob will get a set of site plan comments and we will look forward to seeing his ideas.

Board Member Montesano stated whatever.

Ted Kozlowski stated I spoke with Paul Lynch and he promised me that they would rectify the violation.

Board Member Pierro stated very well.

e) Stanton Fill Permit

Board Member Rogan stated this patient gentleman back there must be Mr. Stanton. Mr. Phil Stanton.

Secretary stated he had nothing else to do but sit here tonight.

Board Member Pierro stated as I explained it is a good lesson to sit here.

Board Member Rogan stated you notice we a little giddy at the end of the night with all the stuff we go through.

Board Member Pierro stated I spoke with Mr. Stanton on Saturday when I was at this site and he had a stone embankment put in on the left hand side of the rear yard, I don't know if you got that far over to the left, Mike, but there is a pretty substantial rock retaining wall, that's holding back a good amount of the fill on the left hand side of the site. It's my understanding that's going to continue, that kind of rock wall is going to continue to the rear of the site in some way.

Mr. Stanton stated if that is feasible, I know there is a slope problem there.

Board Member Montesano stated stabilization is what we need.

Mr. Stanton stated those rocks are pretty big.

Gene Richards stated what we did, Rich had been out to the site he took pictures, he sent me some pictures, and I looked at them. We talked about it in the office, what you are going to have to do is get a licensed engineer to look at it who may have some suggestions to change the side, bring it forward, he may have you re do what's there he may certify what's there. You need to have an engineer look at it, assess it and see where to go from there. There are big boulders; you are on a slope (Inaudible).

Mr. Stanton stated no we do not want that.

Gene Richards stated now you know what is going on.

Board Member Montesano stated you guys have a little ditch down there.

Mr. Stanton stated no, it is all grass.

Rich Williams stated I think it just has to be all landscaped area; the access has to move down and around where it can probably achieve grading without really doing any sort of retaining.

Board Member Pierro stated Rich, you can grade for a potential driveway.

Gene Richards stated (inaudible) that water moves, rain water, goes into the soils (inaudible) we don't want that.

Mr. Stanton stated my neighbor does not want that either.

Board Member Rogan stated his neighbor does not want that either. So I guess the direction is to talk to an engineer and have them take a look at it.

Rich Williams stated there is one other issue, based on what I saw on the site, he does need to file for an erosion control permit, and that is really going to be our primary method of monitoring what goes on out there as far as the fill. You are already tentative a fill permit, we just basically make sure clean fill is being brought in and it wasn't.

Mr. Stanton stated now am I able to bring fill in the back area where we go to the higher grade then to a lower grade just to make those slopes proper.

Rich Williams stated that depends on whether they approve the fill permit or not, if they do approve the fill permit I'm going to ask you to. I am going to work with you, you can still bring some fill on site because I've been out there and looked at the erosion controls they are up, but you are going to have come in, we are going to have to talk about what you are going to have to do as far as showing plans.

Board Member Pierro stated how much more fill are we talking about.

Mr. Stanton stated the exact amount I'm not too sure, but for future potential house just to grade that back lot so it is, so it is nice and flat so we do not have a lot hill, that would be my ultimate goal.

Board Member Pierro stated we would be remiss we gave the go ahead and you did something that an engineer would be completely against. We really think, I have no problem granting the fill permit, but I would like to get an engineer on board as quickly as possible.

Board Member Montesano stated now what if we found a picture, let us say he brings the fill from wherever it is to the property without grading it out until he gets the engineer's report.

Rich Williams stated I would prefer not, that's actually one of the recommendations that I put it the fill permit to carry over with an erosion control permit, you really want to get the fill on the site, grade it off stable so, I mean, the absolute best sedimentation and erosion control is grass. You get something green on there you know it's going to stay.

Board Member DiSalvo stated last week in our seminar.

Board Member Montesano stated the guy that kept spraying that stuff all over the place, what's your feeling.

Board Member Rogan stated I am going to go with whatever you three Board Members decide; I don't have any real strong feelings on this one.

Board Member Pierro stated I am going to refer to Rich's memo and I am going to make a motion to approve the fill permit with the three conditions in section four, A, B, and C, maximum site should not exceed three on one in the event two on one slopes are approved pursuant to the erosion and sediment control permit. A permanent rolled erosion control product must be employed on the side slopes and all disturbed areas that have been filled are to be covered with a minimum of four inches of top soil seeded to New York Standards. And C is at no time should more than 10,000 square feet of exposed or bare soil be exposed. Again I really think it's.

Rich Williams stated just so you under the scope of that 10,000 square feet. The best I can figure is about one third of what you are proposing to do out there.

Board Member Pierro stated I really think it is important we do not want to force you to spend money but you have to, you may be shooting yourself in the foot if you do not have an engineer on board now.

Board Member Rogan stated gang how do we, before you brought on the motion, how do we tie in that an engineer is on basically on site has looked at this. Is that a condition of the permit, so the permit is invalid until that has occurred and how does that occur.

Rich Williams stated what you need to do is clarify why you want an engineer on the site.

Board Member Rogan stated so the clarification for the engineer is for the safety and the stabilization of the fill that is being placed.

Rich Williams stated the retaining wall or for the fill and erosion control.

Board Member Rogan stated well not the erosion control so much because you have already said that, that is in place and that is appropriate so for the retaining wall that is holding back the fill and placing the fill, the other thing you are talking about is a house site, you are not talking about putting a house on this fill are you.

Mr. Stanton stated no not at all.

Board Member Rogan stated because that would be completely different.

Board Member Pierro stated it is almost a two and a half acre site it is a pretty large site, the house site is a good distance away from where the fill is being place.

Board Member Montesano stated it is just, you are going to have discussion with.

Rich Williams stated well again, because he is over a certain area of disturbance, he has to fill out an erosion control permit. As part of that I'm required to go out and monitor and make sure.

Mr. Stanton stated and then after that my next step would be to come to do the paper work on that and then after that.

Rich Williams stated yeah.

Board Member Montesano stated you want to give that a second.

Board Member DiSalvo seconded the motion.

Board Member Montesano asked for all in favor:

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

Motion carried by a vote of 4 to 0.

Board Member Pierro stated you have a permit, get an engineer.

Board Member Montesano stated come in and talk to him.

Board Member Pierro stated get the erosion control permit.

Rich Williams stated stop by and I will give you the application. We will talk about you know what I need to see as far as plans.

Board Member Rogan asked where is the fill coming from.

Mr. Stanton stated down in Brewster, LAWS Construction Company.

Board Member Rogan stated oh that's right, I remember someone saying where that was coming from.

Board Member Pierro stated it is on the application.

Board Member Montesano asked is that number right.

Mr. Stanton stated phone number, that is the house number, unless you want a cell phone, it would probably a lot easier.

Board Member Rogan stated Anthony, gave us a letter. I was hoping that maybe, seeing as how, even though you did it in very nice lay persons terms, that maybe you can run through it with us and just give us you. I just didn't want everyone to run out, that's all.

Rich Williams stated the other thing is we have one maybe two.

Mr. Stanton asked when would be the best time to come see you.

Board Member Rogan stated he is here all the time, anytime you want 10 o'clock at night.

Board Member Pierro stated he is here on Sundays.

Board Member Rogan stated Sunday at 2 o'clock in the afternoon.

Mr. Stanton stated I am going away on Monday, for my bother's wedding.

Rich Williams asked how long are you going to be gone. I'll be around tomorrow, if not.

Mr. Stanton stated okay, tomorrow, I'm off tomorrow, that should not be a problem, do you want to pick a time.

Secretary stated just not between 11:30 and 12, that usually when he usually runs out.

Rich Williams stated just call so I know you are coming.

Board Member Rogan stated good luck to you.

Secretary stated if you can not, if he is not around, if he does not answer his phone, you'll want to hit 22, I can tell you if he is in the building at least. Have a good night.

Mr. Stanton stated thank you.

14) MINUTES – March 22 and March 31, 2005

Secretary stated do you want to do the minutes while we are sitting here with the correction.

Board Member DiSalvo stated there is one correction.

Board Member Montesano stated we already got that.

Secretary stated put it on the record though, so it will remind me.

Board Member Montesano stated okay, the missing Chairman on two occasions.

Secretary stated but yet he spoke so, I did that to Shawn once before too, it's alright, that's all it is, can you just give me the 22nd please.

Board Member DiSalvo stated March 22nd.

Secretary stated I made a note of it, somebody make a motion to approve.

Board Member DiSalvo stated I make a motion to approve the March 22nd meeting minutes.

Board Member Dave Pierro seconded the motion.

Board Member Montesano stated what about the March 31st work session.

Board Member DiSalvo stated our March 31st work session and.

Secretary stated that's all you got right.

Board Member Montesano stated that's all we got.

Board Member Pierro stated we only got two.

Secretary stated still behind I can not help it.

Board Member Pierro seconded the motion.

Board Member Montesano asked for all in favor:

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

Motion carried by a vote of 4 to 0.

15) OTHER BUSINESS

Board Member Montesano stated any other comments or questions or things that they want brought up before we make a motion to close down.

Board Member Rogan stated we are going to hear from Anthony, no, we got a couple things yet.

Board Member Pierro asked do we have to do this on the record.

Board Member Montesano stated well he wrote it on the record.

Board Member Rogan stated we are here as a Board, if we don't do it on the record, they'll think we are remiss. It's just an interpretation that we have asked him to do on the record so.

Board Member Pierro stated very well.

Board Member Montesano stated alright, the floor sir, is yours.

Anthony Molé stated basically what the letter is in response to the Board's concern, or question rather from earlier that would deny the wetland permit to a taking the persons property, would the Town be obligated to provide them for justification for the takings law. There are number of texts that have been applied over the years, the past twenty or thirty years because a Supreme Court decision that just came down that basically got rid of one the texts that did not apply to that issue at all, so I'm not going to really go into that. What the text really boils down to is in a case called Penn Central versus City of New York, I think that's the case that really applies to this situation. Now what it says is that the test is whether the property owner can get a reasonable return on their investment. It is an investment backed expectation, meaning if someone buys a property they are not, it is not the Board's concern, if they can get the highest deal selling that property or the future value of that property or whether they can get a reasonable return on that property, and use it for that purpose, now I want to be clear the Board that when someone appeals a

decision, let's say you deny a permit, and someone appeals that denial they are going to appeal it usually based on the fact that with the evidence that was presented to the Board and the statute that stand with the Town, the Board did not render a proper determination. The other way they can challenge it, is to challenge the actually statute, saying that it was taking, if they go that route, that's where they stand as a plot. The Board's concerns seems to be can we deny a permit, is there, can we is it just too narrow, or limit the disturbance to the wetland or can we just deny it. My opinion on that is that the Board does have the power to deny a wetland permit you would not require a permit if it could not possibly be denied, you can grant it, and you can deny it, if the permit is required then its required for a reason. The most basic example, let us say you have lot that is entirely wetland, someone wants to build a house in there, I would think that the Board, on a case by case basis, depending what all the facts and circumstances are, but in that respect, in that particular case, the Board certainly, I would imagine would be entitled to outright denial of the wetland permit and would have good reason to do so. If someone wanted to challenge the validity of the statute that is sitting in the Town right now, they can certainly do that and that is where the takings really comes into play. The Board is just following the law that is record with the Town and it is on the books and that is where the determination. If you are going to consider any of the factors in regard to the takings it is really whether they can realize a reasonable return on their investment with the minimum disturbance allowed.

Ted Kozlowski stated Anthony, what happens, and two quick examples one is, I'm a guy from New York City that knows nothing of wetlands and some slick real estate agent sells me twenty acres in the middle of Great Swamp, for 100,000 dollars.

Anthony Molé stated it is buyer beware.

Ted Kozlowski stated okay, I'm just saying, okay.

Rich Williams stated can I cut in here, can I throw something in here.

Ted Kozlowski stated Rich hold on, Rich just hold on. He goes and does that and his investment is 100,000 does the Board have to look at that.

Anthony Molé stated no and that is my point exactly, it is a good scenario, because it makes a point. In that circumstance the Board would certainly be within their right to deny a wetland permit for any disturbance whatsoever within the Great Swamp, first of all, with regard to the takings, that would challenge the statute they'd have to be successful in that challenge. The statute be very well unconstitutional, is the Board applying the statute in a constitutional manner or in a reasonable manner. It is really on a case by case basis, your role is the wetland disturbance to a reasonable extent, if you feel someone buys something with the Great Swamp, of course they are not going to be able to build in the great swamp.

Board Member Rogan stated well let us be clear the example was pretty straight cut but also pretty, it probably would not happen, but if that lot had been previously looked at and approved by this Board as a subdivision lot, that changes things a little bit, that's not the same example at all.

Anthony Molé stated if you want to compare it somewhat to a totally different situation but maybe.

Ted Kozlowski stated let us talk about the one that is about to come before this Board, which is the lot on Steinbeck Hill.

Anthony Molé stated let us say someone buys a lot and it is in a residential zone and they bought it for commercial purpose, it was misrepresented to them, it was for commercial purpose. They go and get a building permit to put a commercial building on there, they are not going to be able to. It is going to be a denial because it is against the Code, they can challenge that of course, but there is a reason for having to obtain that permit and that it is similar to the wetland permit, the buy has a burden of realizing what they can do with that property before they buy, if there is something specifically on the books in a town that would tell them that their constructor knows of that and then they are expected to adhere to that or get the appropriate permit.

Rich Williams stated I think it's a decision that really needs to be made here and tell me if I am misquoting this I believe it was the Lucas case where the courts decided that a law that you have on the books that takes away all economic use of the property, is going to be upheld if otherwise it would have been upheld under the public nuisance laws of the state. I think is the important distinction here because basically what that is saying is if I came in as a property owner and want to build in the wetland that would have been other wise prevented under public nuisance because I can not go in and wreck the wetlands because it is going to cause down stream flooding, it is going to affect my neighbors property. That public nuisance law is not going to extend into a buffer area so my opinion is that when it gets down to the proper of the wetlands the Board's absolutely within the context of the takings law is absolutely and clearly on solid ground by saying you can't touch that wetland but it's not so clear when you get into the buffer.

Anthony Molé stated again, also, the role of the Board is limited to what the Town Code says, so if someone is going to challenge a statute, it's really not in the Planning Board's view that we are not going to apply this statue because you know, we feel maybe unconstitutional, constitutional that's a whole separate issue the Board can only work with what is there.

Board Member Rogan stated what you said made sense though that the Board does have the ability and the responsibility to minimize those impacts even though they may not be in the wetland buffer. We do not even have to talk about that house we can say and I'm thinking of Dougie Wallace's lot in this case, we can say we want the impacts to the wetland buffer reduced now that may mean that you reduce from a four to three or a three to a two bedroom house, we don't even talk about that, that's not even our concern. Our concern is the size of the septic, not even footprint, the footprint is not in the buffer, it is the septic, if you want to reduce the impact, you say reduce the impact, we are not taking away the ability to get a return on that, a reasonable return based on the constraints of the lot, you bumped down to a two bedroom house, I have seen some dandy two bedroom houses, that will still see for 600,000 dollars.

Ted Kozlowski stated what about a scenario that's in front of us now, Bear Hill Estates. Correct me if I'm wrong, if this is the same owner, he has the property, 32 acres, developed half of it years ago, now he's got the remaining 16.

Secretary stated it is a new owner.

Ted Kozlowski stated but what happens if that is the scenario where a guy has come along and developed his property and he has a remaining piece that you know far exceeds the minimum.

Anthony Molé stated are you talking about the subdivision of this property.

Ted Kozlowski stated yeah, or of anything. I don't even know if this guy can get a single house on this lot, it's 16 acres.

Anthony Molé stated what the Board should do just for purposes when he does that initial development consider future development.

Board Member Pierro stated this happened years ago. I think that the former Board recognized that with this lot and the other lot.

Ted Kozlowski stated I think this recognized it, because it was so costly, and now real estate is so valuable.

Board Member Pierro stated marginal lots are worth money.

Ted Kozlowski stated and marginal lots are worth money but here it is, he has not just wetlands, which is kind of minor, he has steep slopes access, the whole nine yards, but here it is 16 acres and he may not be able to put a house on it, is it this Boards responsibility to say well he has to have some sort of return on the property, so we have to give him at least one house, does this Board have to think this way.

Rich Williams stated one of the worst decisions I think I have ever seen made by the Supreme Court in this whole ban of taking was the Palizoeo case where the Supreme Court actually said buyer beware doesn't matter. Because someone can buy into a piece of property and they buy all the rights with it, it's not a question of buyer beware.

Anthony Molé stated what are those rights that is what it boils down to, every case is going to be different that is why there are so many cases the Supreme Court decided that they decided in little nuances in different ways, because there were little back patterns to some extent.

Rich Williams stated well here is a guy that bought a piece of property, bought it with existing regulations you know and then sued because he couldn't development after he bought it. The Supreme Court said he was entitled to compensation.

Board Member Rogan stated what a bone head decision.

Anthony Molé stated well there are other cases that say otherwise, it's the case that I feel really applies here is called Penn Central. That's the one that I think really applies here that's the one that says investment back and all that, I think that's the case in this circumstance would be looked upon as it went.

Board Member Montesano stated with all due respect to lawyers that become judges, you do not know what the hell they are going to come up with, they come up with stuff that could be 1,000 years old or could have been a damn good party they went to the night before, and they feel in the mood and they will quote something or they research it and do the work. That is basically what they run into.

Ted Kozlowski stated well we are going to have a real life one with Riley coming up on Steinbeck Hill.

Board Member Montesano stated the question I have is when does the line get cut, we approved subdivision in the 1980's that had no restrictions because there were none per se. Once the law changed and they didn't develop the property that thing still exists.

Board Member Rogan stated they still had common sense to say that some of these lots were ridiculous and should have never been.

Anthony Molé stated well that becomes a question if their rights were vested and that's really.

Board Member Montesano stated this is the thing that I can't understand, if you change the law and you show that, that lot should not be a lot, it's still upheld that he has the right, does he have the right, why, we have never.

Anthony Molé stated that is a question that can not be answered in the general context, I mean that is really got to specific to that application about what was on that subdivision application.

Board Member Montesano stated years ago there were rules or regulations.

Anthony Molé stated recent case out there that deals with vesting your right to develop a property whether it's on an old subdivision map or not. You know it is more strict then it used to be as far as what you have to do.

Board Member Montesano stated this is what the problem is, like these three lots that we, the three lots that are sitting here between Cornwall Hill and Rt. 311, the guy puts a house up and then all of a sudden there is a house behind it. This one tonight that rarely got in, that's a crock, I mean we are sitting here giving him a house we can't say anything about.

Anthony Molé stated just for purposes we are, on the record, I would rather discuss this in general terms, in relationship to specific locations.

Board Member Rogan stated in a situation where we have a lot that is a previously approved subdivision and we probably have lots like this on our agendas if we were to deny the application and say we don't believe you can build, I'm talking wetland buffer situation not wetland, and they appealed it based on the statue, which is what you are saying then the ruling would take effect and they would probably side against us and say as a vacant lot it does not have a reasonable return on that lot, therefore they would probably pout it back to us to re-review, that was my point earlier that we would have to look at minimizing impacts we have every right to say, hey, it is a building lot, it is no the best building lot, but we do not have to even tell them how to do it, we want these impacts reduced. We have the opportunity to tell them to get back to the Health Department and try to get waivers to put it on steeper slopes the septic, and get it completely out of the wetlands, I do not think that's the best choice, but I'm, saying those choices exist. Get the septic out of the wetland buffer do it however you have, I would rather have a well down there. I'm not saying I agree with that but I am throwing it out there as we have options, they can seek waivers from other agencies for thing like slope requirements, that happens all the time on previous lots.

Anthony Molé stated a lot of time on these old subdivision maps there are time limitations on which they have to get these site approved.

Board Member Rogan stated the newer ones; the older ones did not have that.

Board Member Montesano stated the older ones had no limitations at all.

Board Member Pierro stated the Van Cleef lots, have an incredible amount of work done to them as far as engineering for curtain drains.

Board Member Montesano stated well we do not want to go into that one.

Ted Kozlowski stated well Anthony, it is just, and we are just going to get more and more into that as we go along.

Anthony Molé stated there is so much to it.

Ted Kozlowski stated we are going to constantly be challenged.

Anthony Molé stated but my overall opinion is the Board should not fear denial of wetland permit if they feel it is appropriate under the circumstances.

Board Member Rogan stated should not fear. No but I think this is Board that most commonly works towards an approval, you say this is not acceptable the way you have done it and you work towards an approval, what will you accept, really that is what it comes down to on most of these, you can probably count on one hand how many permits we're going to deny on any one of our tenures on this board.

Ted Kozlowski stated but you know we are going to get to a point where we are going to get an application in that is going to; to be so severally challenged that you can't work it out.

Board Member Rogan stated and that will be a great test case, it's going to happen, I can think of some already that have not come to this Board but to other, Health Department.

Anthony Molé stated in that case, we will review that application and we feel there is nothing that can be done that's acceptable to the Board, then it is inevitable to deny the permit.

Board Member Rogan stated Rich said something he has to talk about. And what is the other one.

Rich Williams stated there is another issue that came up, it was an application made to the ZBA, actually Paul missed and I missed also, Melissa picked it up. There is an issue with the parking out there, that the Board really addressed as one of the issues with the residential lot. Our Planning Board.

Board Member DiSalvo asked parking where, what site.

Rich Williams stated a single family home in Putnam Lake; they are proposing to do an addition. They are putting the addition in the parking, in one of the parking spaces and eliminating the parking spaces our code says you need to have three, they only have two. It's pre-existing non-conforming.

Board Member Pierro stated let's go take a look.

Rich Williams stated well maybe Saturday if we are going out, maybe we can swing by.

Board Member Rogan stated we can swing by, but the reality is two spaces are going to look like two spaces it's pretty straight forward really if there is only room for two spaces you're not talking about street parking, you either talking about there is room for them to create another spot or there's not. We can definitely swing by but I don't see how it's going to.

Rich Williams stated is it possible to do with the grade, are there any strange wetlands near by, well actually what they are doing is shrinking up the parking space, is that still going to be sufficient, can they get a waiver.

Board Member Rogan stated I do not support that already, I can tell you.

Board Member Pierro stated well let us see, what were the other measurements of the other parking spaces.

Rich Williams stated that is the problem we have because there really is nothing to go by.

Board Member Pierro stated let's go measure it.

Ted Kozlowski stated what are the other site walks.

Rich Williams stated Plunkett.

Board Member Montesano stated 7 o'clock Saturday morning.

Ted Kozlowski stated I can not make it, it is not a wetland.

Rich Williams stated but you're going to miss Plunkett.

Board Member Montesano stated 7 o'clock Saturday

Board Member Rogan stated motion to adjourn. Motion is out.

Board Member Montesano stated the motion has been made, second?

Board Member DiSalvo seconded the motion.

The meeting adjourned at 10:30 p.m.