

**TOWN OF PATTERSON**  
**PLANNING BOARD MEETING**  
**August 5, 2010**

**AGENDA & MINUTES**

- |   | <b>Page #</b> |   |
|---|---------------|---|
| 1) <b>Lea Rome Amended Site Plan – Public Hearing</b>           | 2 – 4         | Public Hearing opened and closed.<br>Amended Site Plan granted.                     |
| 2) <b>Wireless Edge At Quail Ridge</b>                          | 4 – 7         | Site Plan granted with conditions.  |
| 3) <b>Watchtower Education Center DEIS – Set Public Hearing</b> | 7 – 8         | Public Hearing Scheduled for 9.2.10   |
| 4) <b>Schoen Site Plan – Opinion of Attorney</b>                | 9 – 20        | Discussion of site issues. Request for application in order to have public hearing. |
| 5) <b>Dog House of Gourmet Franks – Site Application</b>        | 20            | Applicant did not appear.   |
| 6) <b>Patterson Auto Body Site Plan – Discussion</b>            | 20            | Amendment grated at 7.29.10 Work Session  |
| 7) <b>O’Mara Wetland/Watercourse Permit</b>                     | 20 – 28       | Amendment Granted.<br>Discussion of DEP Approval.                                   |
| 8) <b>Other Business</b>  |               |   |
| a. <b>Field &amp; Forest Apartments As-built</b>                | 28 – 35       | Discussion of as-built, dumpsters, site discrepancies.                              |
| b. <b>Planning Board Policy</b>                                 | 35            | Discussed at Work Session   |
| c. <b>Zoning Code Amendment – Fox Run Phase II</b>              | 40 – 46       | Discussion of age-qualifying housing.   |
| d. <b>Zoning Code Amendment - Clubs</b>                         | 35 – 36       | Changes requested to Code.  |
| e. <b>Zoning Code Amendment – R &amp; D Facilities</b>          | 36 – 40       | Recommendation to Town Board.   |
| f. <b>Resignation, Maria DiSalvo</b>                            | 1             | Chairman thanks Ms. DiSalvo for her service.  |
| g. <b>Levine Fill Permit</b>                                    | 46 – 51       | Discussion of Fill Permit   |
| h. <b>Patterson Corporate Park</b>                              | 51 – 57       | Site Plan Waiver for fence granted.   |
| 10) <b>Minutes</b>  | 29 – 30       | June 24 <sup>th</sup> and July 1, 2010 Approved.                                    |

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**TOWN OF PATTERSON**  
**PLANNING & ZONING OFFICE**

**Planning Board**  
**August 5, 2010 Meeting Minutes**  
Held at the Patterson Town Hall  
1142 Route 311  
Patterson, NY 12563

**ZONING BOARD OF APPEALS**  
Howard Buzzutto, Chairman  
Mary Bodor, Vice Chairwoman  
Marianne Burdick  
Lars Olenius  
Gerald Herbst

**PLANNING BOARD**  
Shawn Rogan, Chairman  
Charles Cook, Vice Chairman  
Michael Montesano  
Thomas E. McNulty  
Ron Taylor

**APPROVED**

Present were: Chairman Rogan, Board Member Cook, Board Member Montesano, Board Member McNulty, Board Member Taylor, Rich Williams, Town Planner, Ted Kozlowski, Town of Patterson Environmental Conservation Inspection, Joseph Dopico of the Town Engineer's office Maser Consulting, Laura Roberts of the Town Attorney's office, Curtiss and Leibell.

Chairman Rogan called the meeting to order and led the Salute to the Flag.

The meeting was called to order at 7:30 p.m.

Michelle Russo was the Secretary and transcribed the following minutes.

There were approximately 10 members of the audience.

Chairman Rogan stated thank you, okay before we get to the agenda, I wanted to actually pull forward one item from the bottom end of the agenda, 8 f, we have on our agenda Resignation of Maria DiSalvo, we've already mentioned this a previous meeting. I'd like to say on Maria's behalf despite an article that I read today that I think is unfortunate and I'm disappointed about, that doesn't paint the Planning Board in a great picture, I don't agree with the article but I do want to at least say that Maria did serve the Town of Patterson residents for 8 years and it does take a lot time and I do appreciate her efforts in that regard despite what the article had said. I would also like to welcome our newest member to the Board, Ron Taylor, Ron will be filling Maria's position for the remainder of her time that she had left on the Board. Ron is anything you would like to say, not to put you on the spot or anything.

Board Member Taylor stated yea, I've prepared some (inaudible – white noise) oh yes, I'll have to get used to this. On the record I wish to publicly thank those who supported my appointment or those who have wished me well in the position or offered their condolences. I will continue to provide the Board with historically-documented information relevant to its deliberations and hopefully I can contribute to the members' reasoned consideration and resolution of some very difficult issues that are now or will be before the and being faced by the Town. With no disrespect intended to the other members of the Planning Board and with great appreciate for the very difficult work they have been doing, I believe planning should not be only reactive, waiting for developers to approach with what they want to do to our Town. Planning should also be proactive and it should be proscriptive and prescriptive. For example Planning should include

taking initiatives to stimulate and guide preservation, development and beneficial and productive uses of our Town's resources, be they natural, cultural or human. For my education and preparation as a Planning Board Member and as one of the first initiatives I will undertake a review and evaluation of existing planning guidelines and their enforcement and implementation, the Comprehensive Plan, Town Code and development approvals and waivers. I know there is a great deal to be learned from the other members of the Board, Mike, Shawn, Charlie and Tom and the professionals who advise is, Rich and Tim and those of the safety and Building Department and the Town Engineers and Lawyers and I ask them to please teach me, thank you.

Chairman Rogan stated well done.

Board Member Taylor stated thanks.

### 1) **LEA ROME AMENDED SITE PLAN – Public Hearing**

Mr. Robert Cameron of Putnam Engineer was present.

Chairman Rogan stated that's a hard act to follow. Thank you Ron, that was very nice. Do we have the public...we do, okay, could I please ask the Secretary to read the public hearing notice for Lea Rome.

The Secretary read the following legal notice into the record:

**NOTICE IS HEREBY GIVEN** by the Town of Patterson Planning Board of a public hearing to be held on Thursday, August 5, 2010 at 7:30 p.m. or as soon thereafter as may be heard, at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider an application entitled **Lea Rome Amended Site Plan Application and Wetlands/Watercourse Permit Application to allow disturbance within the wetland buffer, as well as changes and improvements to allow additional outdoor storage area.** The property is located at 64 Commerce Drive, Patterson, New York. All interested parties and citizens will be given an opportunity to be heard in respect to such application.

Chairman Rogan stated do I have any representative here for Lea Rome.

Mr. Cameron stated good evening.

Chairman Rogan stated good evening.

Mr. Cameron stated Robert Cameron from Putnam Engineering, I'm representing the applicant Lea Rome. This site is located in the industrial zone in the Town of Patterson on Commerce Drive, it is approximately 4 acres in size, the site as far as set backs, coverage and all zoning criteria conforms to all the requirements of the Town of Patterson. The application is here before the Board tonight as an amended site plan application, there was a previous site plan application granted and an amended site plan application granted thereafter in 2002, I believe for a septic system but the purpose of us being here tonight is the applicant had done some additional work on the site and requested some additional areas for parking as a result of the work that he had done on the site, some material was placed in a buffer and that is the reason for the application tonight to amend the site plan and deal with the issue of the material placed within the buffer.

Chairman Rogan stated do I have any questions or comments from anyone in the audience, going once, going twice...

Board Member Montesano stated move to close the public hearing.

Board Member McNulty seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

Chairman Rogan sated okay Rob, we have a resolution prepared, did you get a copy of that tonight.

Mr. Cameron stated no.

Chairman Rogan stated you can have my copy. Any discussion from anyone on the Board before we proceed, no, okay, Charles.

Board Member Cook stated I will paraphrase the application since the applicant has a complete copy. Whereas the Planning Board has considered the application of Lea Rome Inc aka Patterson Machinery Inc for an amended site plan approval pursuant to Chapter 154 of the Town Code and final site plan entitled Lea Rome amended site plan dated January 22, 2008, last revised July 14, 2010. Whereas the Planning Board opened at duly noticed public hearing on the subject application and final site plan at its meeting on August 5, 2010 and closed the public hearing on that same night. Now therefore be it resolved that in the application of Lea Rome Inc for final site plan approval pursuant to Chapter 154 of the Town Code, the Planning Board finds that the subject application and final site plan as modified in accordance with any applicable conditions, set forth in this resolution complies with all the requirements of Town Law and Chapter 154 of the Town Code, and hereby grants final site plan approval subject to the applicant's compliance with 5 general and 3 specific conditions with 62 days of this resolution. Further be it resolved that in any event this site plan approval shall expire pursuant to section 154-87 of the Town Code, 1 year from the date that the plat is signed by the designated representatives of the Planning Board, unless a building permit has been obtained in complete compliance with the terms and conditions of this final site plan approval. Be it further resolved in those instances where this approval has been granted and will not require the issuance of a building permit that this approval shall expire 1 year from the date that the plat is signed by the designated representatives of the Planning Board unless a valid Certificate of Occupancy has been issued in complete compliance with the terms and conditions of this final site plan approval.

Chairman Rogan stated I want to add into that, we mentioned 1 amendment, I'm not sure if it's contained Rich, the field staking of the fence prior to installation, where...

Rich Williams stated that is in there.

Chairman Rogan stated it is in there, okay, also roll into that motion, if I can add into that, a negative determination of significance of SEQRA...

Rich Williams stated what I would suggest you do is modify the second paragraph to recognize the Board has reviewed the EAF and issued a negative determination of significance.

Chairman Rogan stated so moved, well said.

Board Member Montesano seconded the motion.

Board Member Montesano stated you did it.

Chairman Rogan stated I did it.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	abstain
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 4 to 0.

Chairman Rogan stated Ron...

Board Member Taylor stated I am going to abstain because I don't feel familiar enough with this application.

Chairman Rogan stated thank you, okay.

Mr. Cameron stated thank you very much.

Chairman Rogan stated please notify Rich when that has been field staked for the fence, so we make sure we're not going waste any money putting it in the wrong spot, thanks.

Mr. Cameron stated thank you.

## 2) **WIRELESS EDGE AT QUAIL RIDGE**

Mr. Neil Alexander of Cuddy & Feder and Mr. John Arthur, principal of Wireless Edge were present.

Chairman Rogan stated okay, we have Wireless Edge at Quail Ridge, number 2 on the agenda. Ted, our issues with wetland delineation have all be resolved, correct.

Ted Kozlowski stated yes.

Chairman Rogan stated okay, we have a resolution prepared on this application, do I have anyone who would like to introduce that resolution.

Board Member Cook stated I'll do it. Whereas the Planning Board has considered the application of Wireless Edge Westchester Group LLC for site plan approval pursuant to Chapter 154 of the Town Code and a final site plan entitled, Site WEC-NY-07 Telecommunications Facility Quail Ridge, last revised May 17, 2010. Whereas the Planning Board opened a duly noticed public hearing on the subject application and final site plan at its meeting on June 3, 2010 and closed the public hearing on that same night after receiving comments from the public. Now therefore be it resolved, in the application of Wireless Edge Westchester Group LLC for final site plan approval, pursuant to Chapter 154 of the Town Code, the Planning Board finds that the subject application and final site plan as modified in accordance with any applicable conditions set forth in this resolution complies with all requirements of Town Law and Chapter 154 of the Town Code and here by grants final site plan approval subject to the applicant's compliance with 5 general conditions and 2 special conditions within 62 days of the date of this resolution. Be it further resolved that the final site plan approval shall be deemed null and void if the applicant fails to comply with all conditions stated above within a time period set forth above such compliance unless such time period is extended by resolution of the Planning Board for good cause shown. Be it further resolved that in any event this site plan shall expired pursuant to Section 154-87 of the Town Code 1 year from the date that the plat is signed by the designated representatives of the Planning Board unless ad building permit has been obtained and complete compliance for the terms and conditions of the final site plan approval.

Chairman Rogan stated can I have a second.

Board Member McNulty seconded the motion.

Chairman Rogan stated discussion.

Board Member McNulty stated no discussion.

Chairman Rogan stated discussion, Charles do you want to start or do you...

Board Member Cook stated after you take roll call.

Chairman Rogan stated I thought we would have the discussion, take the roll call and be done with it, so if you want to...

Rich Williams stated Shawn, just real quick, add one thing in, there has been no bond required on this, so we may want to scratch condition number 2.

Chairman Rogan stated okay, let the record show that condition number 2 under general conditions is non-applicable. Okay, well I'll start, before we do a roll call vote on this, I would like to say that for the record that the applicant and the Board have worked diligently through the process on this application. I think that some ideas were thrown out that we had worked on in good faith and I think that the site itself lays out very well. The questions about access to the site, while I think the current application is a viable one I think it is unconscionable that one set of neighbors would not be willing to accept impacts but be willing to impose those on their neighbors. Having said that, you know I think that the application meets the requirements of the Town Code but I am not happy about the way that things occurred and I think that people should be willing to accept impacts if they are willing to put them onto the neighbors, so that's my statement on this.

Board Member Cook stated this application has many facets which the Planning Board has no control over, this might mean being placed between a hard place and a rock, the Planning Board process was handled in a expeditious, transparent and thorough manner that took into account the overall impact on all concerned parties, so as President Harry S. Truman once said, the buck stops here so with little recourse my vote is aye.

Board Member McNulty stated I have some comments as well, I would like to add something to the conditions, I made a final review of the site plan and I say nothing with limitations to the fuel storage that could possible happen with back-up generators. Also, lighting, there were no conditions on lighting as far as shielding and timers as was discussed in previous meetings, other than that I would like to, my sentiments are equal to Shawn's, I don't like the way the access was laid out to the site although I think the site appears to be a good one from what I know about the project so far and for the greater good of the Town and the community of Putnam Lake together I vote in favor of this application.

Chairman Rogan stated does anyone have any other discussion on this or can we get a roll call vote.

Board Member Montesano stated just do it.

Chairman Rogan stated can I ask the Secretary for a roll call vote on this application Wireless Edge at Quail Ridge please.

UPON ROLL CALL VOTE:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	nay

The motion carried by a vote of 4 to 1.

Chairman Rogan stated motion carries.

Rich Williams stated Shawn.

Chairman Rogan stated yes, sir.

Rich Williams stated can I get some clarification from the Board here.

Chairman Rogan stated yea, I think the fuel storage issues we spoke about, I think what Tommy was referring to was we just don't want bulk fuel stored on site, it should be in the machine or it shouldn't be stored at all.

Board Member McNulty stated there should be at least a note on the plan somewhere about limitations to fuel for temporary usage or something.

Rich Williams stated no bulk storage on site.

Board Member McNulty stated no bulk storage.

Chairman Rogan stated and the lighting issues were ones of security and then maintenance for the generators and such. They had stated they would bring the lighting source in for maintenance so the main issue was security lighting, whether it was going to be on some kind of electric, none was shown and I think that issue never was resolved...

Board Member McNulty stated time or electric shielding...

Board Member Montesano stated shielding.

Rich Williams stated you have hours of operation.

Board Member McNulty stated it's a 24 hour operation is it not.

Rich Williams stated you want to just leave it that way, okay.

Board Member McNulty stated I don't know how else you can, you can't deny them maintenance at midnight if it goes down, can you.

Rich Williams stated well it's, there's, yea.

Board Member McNulty stated it falls under utility as we discussed.

Chairman Rogan stated okay.

Board Member Cook stated I would like to make a motion that these comments that just have been stated, be incorporated into the resolution, the approved resolution.

Board Member Montesano seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

Chairman Rogan stated okay...

### **3) WATCHTOWER EDUCATION CENTER DEIS – Set Public Hearing**

Mr. Richard Eldred of Watchtower Bible and Tract Society, was present.

Chairman Rogan stated Watchtower Education Center Draft Environmental Impact Statement...

Mr. Alexander stated thank you.

Chairman Rogan stated thank you, we have set a public hearing for the September meeting. Good evening Mr. Eldred how are you sir.

Mr. Eldred stated doing good, thank you.

Chairman Rogan stated great, Rich do you want to speak, I was thinking that we would be in a position the DEIS is at a point where we can deem it complete, you're waiting you said on copies though correct.

Rich Williams stated no, I believe we deemed it complete, subject to the findings of the Planner and the Engineer that all the comments have been addressed. That has occurred so essentially the document is complete.

Chairman Rogan stated okay.

Rich Williams stated at the work session we talked about some dates, having the public hearing in September meeting and a written comment period going until October 7<sup>th</sup>, those dates have been noticed in the paper and the notice has been sent into the Environmental Notice Bulletin...

Chairman Rogan stated.

Rich Williams stated we are anticipating that Mr. Eldred and his people over at Watchtower are going to provide us with copies of the DEIS both electronically and hard copies as well, any day now. Then we are going to circulate them and get them out.

Mr. Eldred stated okay do you want the dates exactly that we are going to provide them.

Chairman Rogan stated sure, if you know them.

Mr. Eldred stated this coming Tuesday.

Chairman Rogan stated fantastic, so they will be available to the public through the website, we will have the public hearing in September and then have, I think we had mentioned the availability of written comment on that until the October meeting, is what we were speaking about because it is a rather large document to have at least 2 months time to review and have comments to the Planning Board. Anything else Mr. Eldred tonight.

Mr. Eldred stated no, that's all we have.

Chairman Rogan stated thank you sir.

Mr. Eldred stated thank you sir.

Chairman Rogan stated appreciate your time.

Mr. Eldred stated yes.

**4) SCHOEN SITE PLAN – Opinion of Attorney**

Chairman Rogan stated okay, I don't believe we have anyone here for Dog House Gourmet...

The Secretary stated you missed one.

Chairman Rogan stated oh I'm sorry, they're here and I was thinking we are going to get to them next, I jumped ahead. Schoen Site Plan, we have an opinion from the Attorney that in essence, as you may recall, the application is for having one dog grooming operation which is considered within the personal service/retail zone added to this site which was not originally approved. We had asked the Attorney for the opinion of whether or not we could approve a specific use or should we be looking at the use of a dog grooming being just personal services/retail, in other words reviewing it as that, as opposed to the specific use that is being applied for. The opinion of the Attorney was that we should definitely be looking at it as a whole, in other words whether it's dog grooming, any other personal service, a small deli could be retail and there are various opinions on the Board, I think we need to talk about those tonight. We had talked at the last meeting and I believe at the work session, one possibility for the site is to consider approving an area of the building, a bulk dimensional area for example, 1 store front or in my mind 10% of the available square footage within the building to be used for this retail use completing the work to the parking lot that has not yet been completed which is striping of some spots and some ADA compliance issues and requiring certainly greater an additional improvements on any subsequent application, in other words more than 10% of the available space. I believe as does the Town Planner, I know, that the site is not very well set up for retail, the internal driving area, safe turning radii, loading docks et cetera, and we have this documented from previous discussions that we've had over the last 3 years. I'm not a fan of this site being opened to retail but I can certainly sympathize with the owner at having empty store fronts in this difficult economy, so I for one am willing to take the risk of allowing 10% of the building to convert to retail. One question I might throw out to our legal counsel, although I would expect not to get an answer tonight but possible at some later would be is the Planning Board able to make a change that would allow just what I have said on a time, on a scheduled time frame, in other words say 2 years and it doesn't, if there have been documented problems, be able to withdraw that approval. It would seem that that be something that would allow a use of the site consistent with what the applicant is looking for but also enable a more easy way of reverting the site back to its initial or original approval. Rich, do you have any, a non-legal Planning opinion on this...

Rich Williams stated I do have a Planning opinion on this, if you are going to make a determination it is appropriate to have retail or personal service uses out there you are saying the site is set up for that and can handle that, you can't then go back and say whoops, we made a mistake.

Board Member McNulty stated but can we limit the size allowed within the building.

Rich Williams stated yes, yes you can do that.

Chairman Rogan stated that we can do, we have that in...

Rich Williams stated absolutely.

Board Member McNulty stated on counsel's notes here, it said it would be problematic and should a court challenge and sue...

Chairman Rogan stated no, that Tommy is referring to us saying we are approving this because it's just a dog groomer versus personal service/retail, that is what's that referring to.

Board Member McNulty stated oh okay, I was confused, okay.

Chairman Rogan stated the other aspect that came up back when Anthony Molé was counsel, representation, was the idea of possibly have the Town Board split the Zoning Code to differentiate between retail and personal services and that started I believe from this application, did it not.

Rich Williams stated there was discussion along those lines, yea.

Chairman Rogan stated and I think the thought process behind that was because we were thinking personal services has clearly different impacts than retail, in terms of delivery for instance. I think that was one...

Rich Williams stated see that's, it depends on the type of personal service you're talking about, equally the type of retail you're talking about...

Chairman Rogan stated sure.

Rich Williams stated you know what the traffic generated is, you know what the delivery mechanisms necessary to support that use are, so not necessarily are there substantial differences in general between retail and personal services. From a Planning perspective, if there are any, they are incredibly minimal, same amount of waste generation, same amount of traffic generation, same parking demand, basically you go right down the list and you're still going to come with the same impacts regardless of retail and personal services. One of the other concepts that others have looked at is splitting personal services into 2 classifications...

Chairman Rogan stated I see.

Rich Williams stated difficult to do, difficult to quantify as they are coming in the door which group does it fit in but it is conceivable to do and others have done it.

Chairman Rogan stated yea, well certainly a dog grooming facility that is by appointment only or an accountant who you know does taxes by appointment only is going to generate different impacts that a deli or in my opinion...

Rich Williams stated absolutely.

Chairman Rogan stated so I think that would be a common sense appropriate way to, I realize that our legal counsel says it's not with current Code, it's not advisable to do just that within the context of our decision because it's, correct.

Laura Roberts stated yes.

Chairman Rogan stated based on the legal opinion.

Laura Roberts stated right.

Chairman Rogan stated because it leads down a road that we would probably create problems rather than solve them.

Laura Roberts stated you're limiting the particular tenant, is what the problem is.

Chairman Rogan stated I understand. Conversation from Members of the Board.

Board Member Cook stated well I, this is an approved site plan for office space...

Chairman Rogan stated correct.

Board Member Cook stated how do we legally change to allow 10%, 20%, 50% to be designated to be retail and personal services.

Laura Roberts stated but my understanding from the Board is you want to put a condition on that.

Chairman Rogan stated well.

Laura Roberts stated was your original question posed...

Chairman Rogan stated I think let's just stick with this question for a minute.

Laura Roberts stated okay, all right.

Board Member Cook stated because I'll be honest, my feeling is that half of that building should be designated for retail and personal services...

Chairman Rogan stated assuming the site can handle it.

Board Member Cook stated right with certain improvements to the site et cetera, so I think that we have to have the right resolution to change the prior approval given by the Planning Board way back when. You know, then just to go forward and say 10%, 20% or whatever and after we get through the legal mechanics, I think we can then debate how much we want to do it. I think that the site is hurting, so I've heard, I'd be in favor of helping it out the zoning for the area includes personal services and retail and I think that you know, in this economy I'd rather see some help given to allow or to give a chance for this site to make it. So, again I think we need the legal wording to approve any changing to the prior approval and my humble opinion I go with 50%, pick the top, pick the bottom, I don't care with all the conditions that are necessary to make that site workable or hopefully workable.

Chairman Rogan stated in other words it sounds like you're saying with the conditions to make it the best of a worst situation because I think many people would agree that the site probably can not be made to address, if we were looking at a blank property right now, we wouldn't be able to with the current site plan approve 50% retail because of the traffic circulation, because it empties out on to a residential road, if it emptied out on [Route] 164 or Route 22, we would be having half of these conversation.

Board Member Cook stated right, I just think that the applicant is having difficulty with the site, if we say 10% and are we going to you know...

Chairman Rogan stated the only reason I was mentioning it was because that's what's before us...

Board Member Cook stated 3 weeks from now...

Chairman Rogan stated and I thought we could potential do some minor adjustments today, allow the use and then put in writing what we already have from our Town Planner over the past several years of discussion and debate on this are areas that we've identified that absolutely need to be resolved and we can say hey we realize today we got the 10% but just know if you'd like to bring in more, you know here, you're going to have to talk to your engineer and you're going to have to address these issues and it kind of gives you something for today and you work towards the future on it, towards that 50% let's say or 30%...

Board Member Cook stated but what, how do we do that, how do we...

Chairman Rogan stated we just did it with Lea Rome, we did a site plan modification.

Rich Williams stated try to...

Board Member Cook stated okay, you're talking about all the changes to the site.

Rich Williams stated try to amend the site plan without an application to do it.

Board Member Cook stated I'm talking about how do we...

Board Member McNulty stated how do we break the space up.

Board Member Cook stated right.

Chairman Rogan stated want to jump in Rich.

Rich Williams stated sure, I would like the opportunity to address you at some later point but let's stay on topic here...

Chairman Rogan stated sure.

Rich Williams stated you know, to do this, essentially you are looking to amend the site plan application, they need to make a site plan application, you need to have a public hearing and then you can make a motion to allow to 10% of the use of the site to be personal services, you can also within that resolution designate you know where that is going to occur, whether its on the top floor or it's on the bottom flood, if it's in the middle of the bottom floor. I believe you have the ability to designate exactly where the location is going to be, it needs to reflect somewhat the improvements that are supporting that area, so but it's a simple resolution, it's a simple motion.

Board Member Cook stated all right but can, even though there is this previous approval for just offices, we can do that.

Rich Williams stated correct, you can...

Board Member McNulty stated we can amend it.

Rich Williams stated but again there was a previous resolution very specific as to why it was office...

Chairman Rogan stated what the difficulty is...

Rich Williams stated there is a second resolution, let's not forget that there is a second resolution out there the last time the applicant came in and made a similar request, which was denied so the Board also has that hurdle to get over.

Chairman Rogan stated but that denial was based on a more impacting request than the one before us right now, even though we don't have a formal application, the one that we are discussing now, it wasn't for one use, it's was for 10% of the building.

Rich Williams stated it was for a limited portion of the lower level to be used for personal services, it wasn't even the whole lower level.

Chairman Rogan stated it was, I think they were going to combine 2 I thought...

Rich Williams stated 2 store fronts.

Chairman Rogan stated so there you go, you have a greater impact if they are looking for 50% of the previous approval, they have reduced their impacts by 50%.

Board Member Cook stated so can we approve what our Chairman is saying about 10% tonight...

Chairman Rogan stated no.

Rich Williams stated no.

Chairman Rogan stated what he is saying is, file a site plan, amended site plan application, we can set a public hearing for September contingent upon receiving that application in a timely manner, set the date, have the public hearing and then approve it right after, so it could be done September 2<sup>nd</sup>.

Rich Williams stated yea, it could be, if you wanted to set the public hearing tonight on an application you don't have...

Chairman Rogan stated it would have to be contingent upon that application but given the...

Rich Williams stated correct.

Chairman Rogan stated you know in fairness we started discussing this last month and we could have gotten an application then...

Rich Williams stated absolutely.

Chairman Rogan stated so...

Rich Williams stated and I think it is fair to do it that way if you want to do it that way.

Chairman Rogan stated I agree.

Rich Williams stated and it would be that mechanism, the site plan where you be establishing the improvements that are necessary to support the use.

Chairman Rogan stated and I will say once again for the record, I don't like the way the site lays out, I have serious, every time I go in there with my truck I don't like getting in and out of there but given the climate, given that this application is much less impacting than the last one, I'm inclined to allow this use assuming again that contingent upon striping the parking lot to the way it was supposed to be done, putting in the striping for the ADA compliance. Those are minimal things and also clearly documenting or adding into the record, giving the current owner of the property the previous document that we have worked so hard on, to say here's what we found wrong, here's what we found, we didn't even decide on all the solutions because the loading dock area was difficult but basically anything forward of this 10%, you're going to have to come back and we are going to have to work these things out and I guess I beat that dead horse.

Board Member McNulty stated not yet, I have some comments.

Chairman Rogan stated I apologize, please.

Board Member McNulty stated I agree with Shawn, I would be in favor of allowing some portion of this site to become personal services/retail just because obviously it doesn't seem like it's ever worked as strictly business office, has it ever had full occupancy...

Rich Williams stated I don't know it ever has.

Board Member McNulty stated so I think it would take some work to amend this and I would think maybe make the lower level that area, maybe spilt the store fronts so they are not next to each other so that maybe spreads the parking out and also to bring, what Shawn said to take the current site plan, incorporate the previous changes that were suggested and also bring those changes or the original site plan approval, being all those specifications in play and put them in place, the striping, they should be in place already, correct...

Chairman Rogan stated there are only 2 issues, right, striping with spots and the ADA, I thought that was what we spoke about that were lacking.

Rich Williams stated there was the striping then with the last application you wanted to do the, you wanted to provide some 10 foot wide spaces on the side.

Board Member McNulty stated but they were not approved, correct, it wasn't on the plan...

Rich Williams stated no, that was never an approved plan.

Board Member McNulty stated I'm saying at least the...

Chairman Rogan stated let's just get it striped now and get it back to what was approved.

Board Member McNulty stated what the original site plan shows, bring it up to those standards.

Chairman Rogan stated right.

Rich Williams stated I hear what your saying Shawn, one of the issues was the applicant didn't exactly build, the original builder didn't exactly build what was out there which left you ability to have some 10 foot parking spaces, I don't know that you want to...

Chairman Rogan stated on the west said I think we said.

Rich Williams stated yup, the south end.

Board Member McNulty stated the south end.

Chairman Rogan stated oh, not the west the other...

Rich Williams stated the south end.

Chairman Rogan stated the south of the west, okay.

Board Member Cook stated how many times have you been to Mexico...

Chairman Rogan stated Ron, Mike, you guys have been kind of quiet, I know we've been doing all the talking, what are you guys thinking.

Board Member Taylor stated I think, I think one of the things we have to do in Town is we have to develop a process of feedback, we can't just set something, things change over time and there needs to be a process we realize that this site is not working as it is, if there is a way to make it commercially viable then it should be done. I think we should, if we could work out an incremental change in this site but we are saying these are the conditions for you getting 10%, these would be the conditions if you want another 10% and eventually bring the site, if it's possible as close as we can to what would a work-able site, given that it's not now, so that the owner can phase things in and not have to bear all the cost at once and can also what there, what is viable at the site. So, I think we should add to your list of conditions a way that we might be able to phase those conditions in, what would be the priority ones, what would come later on and areas that we should look at that maybe should be changed, given the change in usage.

Chairman Rogan stated great, Michael.

Board Member Montesano stated well right now we're giving him another opportunity to set the record straight and give us...

Chairman Rogan stated not him...

Board Member Montesano stated the owner, excuse me, make it that way, we are trying the best we can to work with everybody including here, if we can proceed with getting the application in and moving ahead and setting the public hearing, this is up to your end, we are offering you the olive branch to do it but you've got to get in here, if we approve a meeting for public hearing next month, we expect you to come in with the paperwork, that is how I feel on it.

Chairman Rogan stated okay and if I could ask of counsel, I think the original question that I was gearing towards was, if we are going down this road for next meeting, if we could have this response for next meeting would be can we do this the way we are moving forward and set a time frame on it so that because we've said so much on the record saying that the site doesn't work for retail. Now, we are saying well let's finish the site the way it was originally approved and allow a small amount of retail on almost like a, recognizing of course that 2 years from now, even if we've had some complaints, it's hard to throw a tenant out, so understand that is where I think the difficulty would be but is there a way upon written notice to the owner of documented problems i.e. tractor trailers backing up a residential road, causing an accident, whatever you know, I mean, it sounds crazy but we had tractor trailers backing into Guiding Eyes for the

Blind off a residential road, many, many times delivering dog food so things happen. So that would be what I guess I would be looking for.

Laura Roberts stated yea, we are going to have to research that issue and I will have Mr. Lodes provide a written opinion to the Board, if you want a written opinion or do you want a verbal one...

Chairman Rogan stated either would be fine but I think it always good to have something in writing.

Board Member McNulty stated (inaudible) in writing.

Laura Roberts stated and you want to know a time frame, I just want clarification so over time if you have issues you want to, if you have issues...

Chairman Rogan stated if the issues are so much that we think that we made a mistake or that the use for the retail is not working on the site, would we have an action to be able to pull back that approval.

Laura Roberts stated to revoke it so to speak.

Chairman Rogan stated correct, the other way of looking at it is make it a 1 year approval that it has to be renewed every year I suppose, where you have to come back but you know, there has to be a nexus between things that have gone wrong on the site and revoking that approval...

Rich Williams stated there is no provision in Code to allow you to do that.

Chairman Rogan stated well that is why we are getting a legal opinion, you just saved us that we are going to put that, tell Carl to call Rich. So would I be, would it be agreeable to the Planning Board if we set a public hearing on this application for the September meeting, contingent upon the applicant submitting a request for a modified site plan, that is probably not right the terminology...

Rich Williams stated an amended site plan.

Chairman Rogan stated amended site plan within 2 weeks of today's date, that gives more than enough time, right.

Rich Williams stated well we need to notice soon...

The Secretary stated it would have to hit the paper...

Chairman Rogan stated well whatever you day is for notice, I mean that would be...

Board Member McNulty stated is the applicant here, can we ask them if they can have it in...

Chairman Rogan stated yea...

The Secretary stated she is not here.

Chairman Rogan stated no but the people who are looking to use this but we can get this information to the Applicant...

The Secretary stated yes.

Laura Roberts stated if we come back of the opinion that you can't revoke it do you want to still go forward with the public hearing...

Chairman Rogan stated sure, no, I'm just thinking I want to go forward with it regardless, I'm just thinking this is one way of allowing the Board to respond to the, an air ball, bad decision.

Laura Roberts stated my gut instinct tells me you can't revoke but obviously we will do the research to...

Chairman Rogan stated I'm thinking that 10% of this site being retail isn't going to amount to such travesties in that neighborhood nor on the site that we would be...

Board Member Taylor stated Shawn, a way around this perhaps, can we approve an amended site plan based on certain conditions and if those conditions are then violated, what does that effect...

Rich Williams stated my non-legal opinion you can only impose conditions that are related to the activities on the site if you're approving it, you've already made a findings that it is appropriate to have that particular use on the site. The conditions then can mitigate potential impacts but they can't...

Board Member Taylor stated they can't back...

Rich Williams stated bring a threshold up that says it doesn't work anymore you've got to leave.

Board Member Taylor stated can we say you can't back up tractor trailers from the private street as one of the conditions...

Rich Williams stated sure.

Board Member Taylor stated and if we find they are backing up tractor trailers from the side street, then that is the kind of situation I'm talking about.

Rich Williams stated sure but the remedy there is to issue a violation that they are doing something in contravention of the conditions, not to remove things from that site...

Board Member Taylor stated okay.

Chairman Rogan stated okay.

Rich Williams stated which is you know, my concern.

Chairman Rogan stated mine as well but we could put conditions on there that say additional improvements and list them, may be required at such time, like for instance, Mike had the idea about the height restriction implement, whatever you call them that restricts vehicles from a certain height getting into the site. I realize that Rich's concern is then they sit out on the residential road instead of entering the site, we see that all the time...

Rich Williams stated I'm trying to stop that.

Chairman Rogan stated it doesn't, it is really just the intent that there might be certain conditions, improvements that could be used as conditions to say hey, if certain things are observed, you can kick into those conditions to mitigate the problems, right.

Rich Williams stated right.

Chairman Rogan stated okay. So why don't we, whatever the date is for noticing the public hearing make that the date that the application has to be in, one day prior, if it's a week from now, it's a matter of them sending an application in, in proper form, so whatever that is, that's the, I mean really, I'm sure these ladies can get sense we are trying to do everything we can and if that can't be pulled together then unfortunately we lose a month but let's communicate to the applicant that they would need to send in the amended site plan application 1 day prior to the notice date for public hearing.

Rich Williams stated and what are you looking for other than an application for being submitted.

Chairman Rogan stated well we already have the existing site plan, so we don't need anything else, right...

Rich Williams stated okay.

Board Member McNulty stated you don't want to add any of the improvements that were outlined in the...

Board Member Cook stated (inaudible – too many speaking) resolution.

Chairman Rogan stated in the resolution but the original, the striping, the things Rich was talking about, they are on the plan.

Board Member McNulty stated okay.

Chairman Rogan stated so it would be the plan that was supposed to be finished.

Rich Williams stated and a short Environmental Assessment Form.

Chairman Rogan stated and a short EAF.

Board Member McNulty stated and is the Board of Health involved at all in the dog grooming and the use of water...

Chairman Rogan stated you know, that's a great question because it's retail, it's a change of use on a commercial building and I would absolutely say yes we should also ask the applicant to get a letter from Mike Budzinski...

Rich Williams stated at a minimum I would have called Mike and asked...

Chairman Rogan stated yea, I mean either one because dog grooming, hair salon, heavy water usage, small septic system on this lot, big problem. We have other small septic systems, they require no public bathroom for the same reason, you know. We wouldn't want to put you in a situation where your business ruins the other 90% of the facility.

Board Member McNulty stated you may want to do that before you go any further with anything.

Lori Gilligan stated can we do that ourselves.

Chairman Rogan stated I don't, I think you may be on behalf of the owner of the building, if you are authorized to do that, sure. I mean I don't think its going to matter to Health Department, they are looking at the use, I don't think they are going to ask you to prove that you're the owner, I think it's just...

Rich Williams stated thanks a lot...

Chairman Rogan stated I'm sorry. I think that would be a great first step, tomorrow is to make a phone call over to Mike Budzinski to see, at least we have, at least we know what we're dealing with, with the septic system, it's not an unknown, we have the as-built on it, so at least there is a design flow and hopefully there is a water meter on the place and we can see what kind of water usage they are using.

Lori Gilligan stated what are we asking them when we call.

Chairman Rogan stated well I think, would it be more appropriate Rich for you to reach out since you understand what's going on and just explain it to Mike and see what would be required if anything and then if something is required, we can relay that information to the applicant or the owner.

Rich Williams stated I certainly can that's not an issue but to answer the question, you know it's very simple, you're going to call the Health Department, explain that you are going to occupy a building, identify the building and explain to them, the area that you're going to use and what you're going to be doing in the building and based on that they'll determine design flows.

Chairman Rogan stated because in essence if the building was approved for office, they just have bathroom usage for the people that are there, so that was accounted for potentially when they designed the septic system for the place. Now you're putting a dog grooming place in and that uses significant, you'll probably use more water in that 1, 10% of the building than the rest of the building, so they would just want to know about that and make and obviously we would be remiss in approving and not getting approval from the Health Department. I started with a motion and we went way around the mountain, let me just rephrase it in a motion to set a public hearing for September 2<sup>nd</sup> for Schoen Site plan, contingent upon a completed application and EAF for an amended site plan, one day prior to the notice date, so moved.

Board Member Montesano seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

Chairman Rogan stated thank you ladies.

Lori Gilligan stated thank you so much.

**5) DOG HOUSE OF GOURMET FRANKS – Sign Application**

Applicant did not appear.

Chairman Rogan stated is there anyone here for Dog House, okay...

**6) PATTERSON AUTO BODY SITE PLAN – Discussion**

Applicant did not appear.

The Planning Board met with Mr. Byron at the July 29, 2010 Work Session to discuss an amendment to his approved site plan.

**7) O'MARA WETLAND/WATERCOURSE PERMIT**

Mr. Harry Nichols, engineer, was present.

Chairman Rogan stated O'Mara wetlands/watercourse, hello, how are you Harry.

Mr. Nichols stated good evening.

Board Member Cook stated good evening Harry.

Board Member Taylor stated is that the sign.

Board Member Montesano stated that's the sign, the plans are...

Chairman Rogan stated yea, we'll get back to it, I just want to get Harry out of here.

Board Member Taylor stated do they have (inaudible) sign. It's too big...

Board Member Montesano stated well if you look at the rest of it (inaudible).

Chairman Rogan stated okay Harry, so the DEP wanted a rain garden.

Mr. Nichols stated DEP, yes...

Chairman Rogan stated and where do we stand now, you and Ted have talked...

Mr. Nichols stated well Ted I understand had a conversation and I did speak to Mary [Galasso] afterwards and I am of the opinion that she suggested or you suggested the use of a swale...

Ted Kozlowski stated no, no, the conversation was that I relayed to her the Board's and mine and Rich's concerns about a rain garden on a private residence and all the implications of maintenance and you know

taking care of this in the long run and enforcement and all that and she agreed, in fact she said that DEP is having that internal discussion now that you know if the future homeowner buys into and takes care of it, that's fine but what happens when you have a homeowner that doesn't care. Then she suggested a vegetated swale and I said look just work you know as long as you guys are not married to a rain garden and you want to switch it to something else, either which is a drainage swale or whatever works for the Board, that's fine with me. So I didn't agree to anything other than say that the rain garden doesn't have to be there.

Mr. Nichols stated okay, we talked about a swale, she suggested a length of about 50 feet and vegetated, she more or less indicated that grass would be okay.

Ted Kozlowski stated that's, again I told her that design, come up with something that the Board can live with, other than a rain garden.

Mr. Nichols stated no rain garden.

Ted Kozlowski stated yea, so Rich is shaking his head so...

Rich Williams stated yea, I mean we're going from dumb to dumber, my opinion and I don't have a problem telling that to Mary. What was there were a couple of drywells put into to attenuate the increase in flows of stormwater off the site with conversations to the DEP the drywells that are placed in some fairly, what appear to be some fairly good soils for infiltration was replaced with a rain garden which obviously was problematic, now we are going to get rid of now a rain garden that was there to attenuate the increase in flows and put a swale so that we can move the water as quickly as we can down that slope into the wetland.

Mr. Nichols stated it's not a swale with slope on it, it's a level swale, it actually is a depression.

Rich Williams stated where's it going.

Board Member Taylor stated it's a dam.

Mr. Nichols stated it builds up and anything in excess of the volume of the swale spills over and the rest percolates into the ground.

Rich Williams stated so we are back to the rain garden, that was the whole concept with the rain garden.

Mr. Nichols stated without the vegetation that has to be maintained.

Rich Williams stated right, okay, so where are you going to put it.

Mr. Nichols stated it can be mowed.

Rich Williams stated and where are you putting it.

Mr. Nichols stated it actually would basically in the area where the rain garden is, it would stretch across the rear starting approximately in this location...

Chairman Rogan stated is that using up more of these people's backyard.

Rich Williams stated yea.

Mr. Nichols stated be a swale that is about a foot deep at maximum, three foot wide such slopes that could be mowed.

Chairman Rogan stated mowed but probably not used for activities in a backyard...

Board Member Montesano stated (inaudible).

Chairman Rogan stated I am trying to think of a significantly limited backyard and don't forget I was willing to let you go all way down to the stonewall on this one so, it just seems like there is such little room...

Rich Williams stated you can do a lot things out there, you can do 2...

Board Member Montesano stated how long do you think it will be before the pool goes in.

Chairman Rogan stated a couple of month.

Board Member Taylor stated Harry can I get a clarification, did they say they required a rain garden or they preferred a rain garden.

Mr. Nichols stated preferred.

Board Member Taylor stated that means we can do something else. Can we go back to the drywell and just say that's our choice...

Ted Kozlowski stated Ron, they are not married to the rain garden, the rain garden is out, they have doubts about the rain garden, so let's just drop the rain garden period. It's not on the board anymore.

Board Member Taylor stated can we go back to a drywell.

Board Member McNulty stated when you say they, you mean the DEP.

Ted Kozlowski stated the DEP as well as us.

Board Member McNulty stated and the DEC though...

Ted Kozlowski stated DEC is not involved.

Rich Williams stated DEC approved the drywells.

Ted Kozlowski stated so some reason Mary brought up the drywells, they are opposed to drywells and she said it's too close to the wetland and the drywells will plug up, she had a problem with the drywells.

Board Member McNulty stated the DEP likes the drywells, DEC doesn't like it.

Ted Kozlowski stated no, DEC is...

Board Member McNulty stated DEC likes it, DEP doesn't like it...

Ted Kozlowski stated fine with everything, the world is great with the DEC. DEP doesn't want the drywells and they are not crazy about the rain garden, they I guess want a swale, so that is where we are.

Board Member McNulty stated Ted your opinion...

Chairman Rogan stated but that didn't answer Ron's question though was can we at this point say we want to go back to the original drywell and would the DEP when push came to shove would they say okay, fine.

Ted Kozlowski stated do they have say on that, the drywell issues, do their rules...

Rich Williams stated yes they do because there is impervious surface within 100 feet of the wetland.

Chairman Rogan stated okay.

Ted Kozlowski stated they don't want the drywells.

Mr. Nichols stated State wetland.

Rich Williams stated State wetland, yes but...

Chairman Rogan stated yes, can you just use the microphone please.

Joe Dopico stated a suggestion, I just said to Rich a suggestion to utilize the drywells but to have an overflow into a swale, the same swale. So it would likely never see any water.

Rich Williams stated also not a bad idea, you know the difficulty in this is that I'm looking at is that swale is going to be right in the backyard, they are going to have less of a backyard than they have now, they have 17 feet between the back of the house and the edge of the usable area, not a big area and now it's going to be encumbered by a swale and then I'm also concerned about the set back from that swale from the building foundation. If Harry, you're talking about a 50 foot swale, is that what you said, 50 feet...

Mr. Nichols stated yes.

Rich Williams stated you're going to run that right up to the back of the house.

Mr. Nichols stated no, no, it's running parallel to the house.

Rich Williams stated right but you're going to run it right up behind the house so it's going to collect water...

Mr. Nichols stated yes.

Rich Williams stated all right, the water is going to seep into the ground, into what, footing drains, right.

Mr. Nichols stated no.

Rich Williams stated there's no footing drains.

Mr. Nichols stated the slope in the backyard is away from the house, okay, it's sloping downhill.

Chairman Rogan stated Harry what would the closest distance be from the swale to the...

Rich Williams stated yea...

Chairman Rogan stated foundation...

Board Member McNulty stated the bottom edge of the swale to the foundation...

Chairman Rogan stated regardless the closest distance to the swale...

Rich Williams stated yea but (inaudible) you've got a gravel trench...

Mr. Nichols stated the closest distance would be about 7 or 8 feet.

Chairman Rogan stated oh.

Board Member McNulty stated oh so the swale would be beyond the 17 foot...

Mr. Nichols stated yea, no it would be part of the 20 feet, it would be the last 3 foot, making it gentle so it could be mowed and we are also going to be putting up a fence at that point too, right at the 20 foot.

Board Member Cook stated is there any consensus of what will...

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

Board Member Cook stated fit here, DEP, DEC, ECI, TP, help...

Rich Williams stated I'm going to, I'll throw something out there, under the current stormwater regulations, he's not required to put anything in there.

Chairman Rogan stated apparently not if they are, what somebody's required to do under the current regs and what somebody is being pushed to do sounds like 2 different things.

Ted Kozlowski stated well if they are not required then why are listening to DEP.

Board Member Montesano stated come out to here...

Mr. Nichols stated we need a permit from them.

Chairman Rogan stated that's Ron's question.

Mr. Nichols stated individual stormwater permit.

Board Member Montesano stated which is pushing it.

Rich Williams stated from the DEP.

Mr. Nichols stated DEP.

Board Member McNulty stated and they won't approve a permit unless you install a swale.

Board Member Montesano stated see (inaudible – mumbling).

Mr. Nichols stated feature that provides treatment in some form.

Board Member McNulty stated and they don't like the drywell idea.

Board Member Montesano stated the thing is you're here...

Board Member Taylor stated yes I see that.

Board Member Montesano stated then there is going to be a shed and a pool...

Mr. Nichols stated well I tried to, I told them the soils seem very good in the area of the septic but Mary seems to think there is a change in the soil by the time we get to the other side of the site, I don't how she can tell it's a change in the soil and they will insist that test holes be dug out there and they want the bottom of rock and/or groundwater to be 3 feet below the bottom of a 6 foot drywell which means we would have to make sure that the rock and/or groundwater is more than 10 feet in depth.

Board Member McNulty stated so what is the process is the owner of the property go forward with those test holes and items to satisfy DEP or they just have to guarantee that they'll do it for the DEP.

Mr. Nichols stated no, well, if we are going to go with a pith, we would have to a program out there to test, to prove out to them that we have the clearances that they are saying we must have.

(Side 1 Ended – 8:22 p.m.)

Mr. Nichols stated the swale is just another feature that's used when you run out of ponds or other ideas of what to do. We have done this on sites where we have a roll in the ground and that area will pond water during the significant rainfall and then the soils are decent underneath which I believe they are, they will percolate into the ground in a relatively short time. These soils are almost at the point of being too fast over the septic area.

Chairman Rogan stated of course it depends on what the perc rate is of the top soil that's on top right, it could end up being a smeared layer that regardless of the sandy soils below doesn't really absorb to well but you wouldn't have that problem this summer, don't worry.

Board Member McNulty stated don't worry.

Board Member Cook stated Ted what is your recommendation.

Ted Kozlowski stated this is a challenged site with a small house, I think we are going around and around

and around, just put a damn hole in the ground with cat tails and call it a day. I'm really, this is mind boggling how much we are all spending on this thing, it really is, it's just incredible.

Board Member Cook stated believe me, I agree with you. Now what is the sophisticated name for a hole in the ground with cat tails.

Board Member McNulty stated swamp.

Ted Kozlowski stated a detention pond, let's put a little detention pond in there...

Rich Williams stated it's a rain garden.

Ted Kozlowski stated rain garden.

Chairman Rogan stated it sounds like a rain garden, it just sounds like it's not going to be maintained.

Ted Kozlowski stated we'll call it a rain garden, just fill it with cat tails, cat tails absorb a lot nutrients, a lot of bad stuff...

Chairman Rogan stated boy I would rather have a (inaudible) in my backyard than that, crazy.

Ted Kozlowski stated you know, it's, to me this is crazy, this is like...

Mr. Nichols stated the one advantage of the rain garden for Shawn, it's only 8 feet in width and it's behind where the parking turn around is, it's a small area in there, it will fit right behind it, it won't be in the area behind the house...

Chairman Rogan stated I think there are that it's taking up, isn't the issue, I think that's appropriate, it's the...

Mr. Nichols stated yea, that would be a better area for it, if we are going to go with a 50 foot long swale as Rich pointed out we would be extended that swale behind the house...

Board Member Montesano stated you want the, excuse me, you want the cat tails in there and those red wing black birds are going to have a ball making a nest in every one.

Ted Kozlowski stated gentlemen, just, I would say just get this going and put, if DEP doesn't want this and that and the other thing, if it's the rain garden that's going to get this approved and that off your table, then just go with it.

Chairman Rogan stated you said rain garden.

Ted Kozlowski stated it's not going to work, over time...

Chairman Rogan stated so but no body wants that...

Ted Kozlowski stated unless the homeowner buys into it but...

Board Member Taylor stated why don't we do the swale...

Chairman Rogan stated I agree.

Ted Kozlowski stated what are we going to go the next month now when DEP comes back with something else, it just keeps going around and around.

Chairman Rogan stated why don't we go back to our original, we already approved something out there that we liked, which was the drywells.

Board Member McNulty stated that's what I thought, we already approved it.

Ted Kozlowski stated but they are not going to give you a permit.

Rich Williams stated DEP is not going to approve it, not without a year's worth of testing.

Chairman Rogan stated wow.

Ted Kozlowski stated which is just incredible.

Board Member Cook stated a rain garden with cat tails.

Rich Williams stated they are not going to approve it...

Mr. Nichols stated now these rain gardens, I have one in my backyard right now and it's been there about a year and the growth that was planted in there is really taking off, we are told by the experts that after 2 or 3 years its self sufficient, the material that you plant in there will just take over the whole area. It does not require a lot of maintenance.

Ted Kozlowski stated Harry, I'm just going to tell you from 20 years of experience, no landscape plan is maintenance free, ever, ever, even cactus requires maintenance. So they can tell you all they want, I know first hand, let's put the rain garden in and let's call it a day with this because to me it's ridiculous.

Board Member McNulty stated how does that work if we've already approved the plan.

Chairman Rogan stated we're just making an amendment to a wetlands permit to change the set of plans that we currently have.

Board Member Montesano stated so moved.

Board Member Taylor stated (inaudible) for vote.

Chairman Rogan stated upon recommendation of the Wetlands Inspector, we have a motion to approve the amended plans as presented by Mr. Nichols, I'll second.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye

Board Member Cook - aye  
Chairman Rogan - aye

The motion carried by a vote of 5 to 0.

Mr. Nichols stated thank you.

Board Member Taylor stated I think we should add that as required by the DEP.

Chairman Rogan stated thank you, amend my motion to include as recommended by our ECI and as recommended, required by the DEP, so moved. Okay, you're right we did take an inordinate amount of time on that unfortunately but okay...

## 8) OTHER BUSINESS

### a. Field and Forest Apartments As-built

Mr. Harry Nichols, the engineer, was present.

Chairman Rogan stated we have for Field and Forest Apartment, the Board may recall, except for Ron, Ron you have an out on this one. That on this application we went to a letter of credit with Mahopac National Bank I believe to allow a temporary C of O, or no I'm sorry a C of O to be issued, the letter of credit conditioned the submission of an as-built by June 24<sup>th</sup>, we are beyond that date, we don't have the as-built...

Rich Williams stated you have a letter of credit, you have a temporary C.O...

Chairman Rogan stated we do not have the as-built that was the condition of the whole approval of the letter of credit.

Rich Williams stated correct.

Chairman Rogan stated so at this point we are looking at what action does the Board want to take, if I recall and by reading the minutes from the Town Board meeting, in essence the Town can call the letter of credit which in essence, it doesn't mean that the Town is taking that money, it means that it's no longer, well maybe I'll let you guys tell me what calling the letter of credit specifically means, rather than me guessing at what I think it means, no, I can only read on...

Rich Williams stated I believe calling the letter of credit is putting the bank on notice that they have not completed the site plan or improvements shown on the site plan and therefore it requires further action. It is just basically putting everybody on notice...

Chairman Rogan stated but doesn't it also allow that now any expenditure that the Town encumbers by going after the applicant to complete the work is paid out of that, ultimately out of that letter of credit, reimbursed to the Town...

Rich Williams stated that I'm not sure about.

Chairman Rogan stated I think Tim might have said on the record, we'll let's regardless the Board is basically placed with what do we do, I think we should kick over to the Town Board and say you know...

Board Member McNulty stated I have a question Shawn...

Chairman Rogan stated Rogan stated sure.

Board Member McNulty stated I have a question Shawn, Rich has there been any response from Mr. Reilly or Mr. Hogan since Maser went out and surveyed the property.

Joe Dopico stated yes, we went out, we issued a memo for some issues we found, they are actually meeting next Wednesday at the site to review those issues so hopefully we'll start to see some resolution.

Rich Williams stated Mr. Nichols is the engineer by the way on that site, if you have any questions for him.

Mr. Nichols stated I'm meeting with Andrew next Wednesday, there is an issue on the striping that we need to straighten out, the only other item I understand that was open was the settlement in the (inaudible – not using microphone) in one of the trenches, right in the middle of the parking area and that's going to be taken care of shortly, I happen to know that, it's just a small amount of blacktop to get in there, they have a project close by that they are going to have that crew come over and put the patch in the way it should be put in.

Board Member McNulty stated is the patch the problem or is it just not backfilled properly.

Mr. Nichols stated well it was a trench that was probably 6 or 7 feet deep and there was settlement, it was, it was dug in through a parking area that had been in place for many years and the fill went in, apparently it wasn't compacted sufficiently and subsequently the rains came it settled, decided, it's very well defined what has to be filled in and raised to grade.

Board Member Cook stated Rich, let me ask a question, from June 24<sup>th</sup> on, any expenses occurred by Maser time wise, billing wise and yourself...

Rich Williams stated I haven't done anything but go ahead.

Board Member Cook stated Maser, can that be deducted from the letter of credit, can that money be given to the Town, we're past the date, we passed the date, so what's the...

Rich Williams stated yea I believe there would have to be further legal action for that to occur, possibly, yea, we would have to call on the letter of credit.

Board Member Cook stated why don't we deduct the legal cost involved in that.

Rich Williams stated having said that I don't know that we can't start charging for compensation against that letter of credit from the date that it's called, we can't back-charge.

Board Member Cook stated but he was supposed to do everything by June 24<sup>th</sup>.

Chairman Rogan stated we can change the Town Code, we can request or recommend to the Town Board that they change the way we set this up because whenever you make something new, there are problems

with it, that says that if we accept the letter of credit and put conditions on the use of that letter of credit like having an as-built by June 24<sup>th</sup> that any costs encumbered by the Town after that date would be sought in some manner.

Rich Williams stated that's actually part of a whole code change of bonding that recommended, not as specific but that is where we would include that in.

Chairman Rogan stated but that maybe in this case, this might be the impious for making it that specific to just cover the Town. I agree with what Charlie is saying, that once you get to this point, the Town is already going out on a limb, we're saying we understand that there are things that can't be done in certain times of year, give us the letter of credit, which is in essence a cash bond and complete them within the time frames set by the Board, by the Town Board I understand, we make the recommendation they set the criteria. So the Town Board says okay, here is your temporary C.O. go do these additional things and have an as-built submitted by June 24<sup>th</sup>, if you don't do that any costs that the Town encumbers after that date are going to have to come out of that letter of credit however it legally has to work but I think that is appropriate and that protects the Town and it also is another kick in the right direction for the person to do the work and the time frame they've already agreed to, so.

Mr. Nichols stated (inaudible).

Chairman Rogan stated sure.

Board Member McNulty stated also...

Mr. Nichols stated you're talking about an as-built, my understanding is that as-built was delivered by the day it was promised, however it was sent to the Engineer and not to the Town. So the as-built plan itself that came from the surveyor was submitted.

Rich Williams stated he is correct, the as-built was submitted but the site improvements weren't completed and...

Chairman Rogan stated so they did the...

Mr. Nichols stated this is like a punch list.

Chairman Rogan stated did the as-built show it, as, even though its not really built, it's on the as-built in essence...

Mr. Nichols stated it's a depression, you can't show (inaudible).

Chairman Rogan stated oh well, that is just a thing, that's a maintenance issue almost, it wasn't completed to the specifications of the site plan.

Rich Williams stated let me ask a question, is that the only issue that's out there.

Mr. Nichols stated that's the only issue I know of other than the striping issue, the stripes may be too long, I have to go over this with Andrew, we talked about it over the phone.

Rich Williams stated is all the landscaping in and in good condition.

Mr. Nichols stated the landscaping is in, they've been watering it...

Rich Williams stated in good condition.

Mr. Nichols stated yes.

Rich Williams stated the dumpster enclosure has been completed, the dumpster enclosure has been completed, gates on the front.

Mr. Nichols stated dumpster, can I talk now.

Rich Williams stated go ahead.

Mr. Nichols stated okay, my understanding is that it was looked as a, to put in gates as long as would be required to close those, are going to be very cumbersome and they are going to have to be opened every, whenever people come down to empty them. My experience with putting gates on, it provides a closed pig pen is what it does because people will throw stuff over the fence, you don't see if stuff has been spilled and it doesn't get picked up...

Board Member McNulty stated but is it...

Mr. Nichols stated but if they are left open and kept clean it is a much better condition all together.

Board Member McNulty stated are gates part of the approved site plan.

Mr. Nichols stated yes they are.

Board Member McNulty stated well that's what we're looking at having done now...

Mr. Nichols stated I understand but that doesn't mean we can't something if it's for the better.

Chairman Rogan stated Harry, we've gone, because I agree with a little bit of doing it each way because in one case you are shielding it and you're keeping it enclosed so it doesn't, the problem is the wind blows the garbage, it's out of the dumpster, nobody goes out to check it, the debris blows around, at least by enclosing it, now I'm not saying that this gate is going to do this unless it's a full fenced replicating the rest of the enclosures. The other way and I agree with you is at least if you can see it, you know when it needs to be maintained, we see it, mostly we see them fully enclosed around the County.

Mr. Nichols stated there is a condo unit near by, it's a matter of fact right on Route 55, Valley, Cedar Valley it's called...

Chairman Rogan stated okay.

Mr. Nichols stated they have dumpsters in there, they are probably 20 feet across the opening, they are on a concrete pad, they have enclosure on 3 sides and it looks nice and clean all the time because the residents don't want stuff blowing around where they are living.

Board Member McNulty stated but that's a condo verse an apartment, they have an investment there.

Mr. Nichols stated no, I understand that but you'll notice it as it starts to build up not after its built up so much that when you open the gates everything blows out.

Chairman Rogan stated I mean the fact of the matter is that if there is really good maintenance on site, you don't even need the enclosure, go ahead please Joe.

Joe Dopico stated yea, we issued a memo to Rich on July 12<sup>th</sup> of about, actually 7 items that needed to be addressed and one of them is the depth of the parking stalls which was a concern that Andrew had but there were 7 items and a couple of them Rich has just mentioned about the dumpster and a couple other so.

Rich Williams stated if I could just chime in, Harry the dumpster, is the dumpster fully enclosed on 3 sides by the gate or is it sticking out, before you answer, I'll go get the pictures because I'm a little tired of this.

Mr. Nichols stated the, the front of, the ones they put in there, they are not vertical face, they are sloping face, it does stick out.

Rich Williams stated by about 3 feet.

Mr. Nichols stated what they're doing, what they're doing out there...

Rich Williams stated are they covered.

Mr. Nichols stated yes, I believe there's a covered, you have to look.

Rich Williams stated really, if there's a cover, it's going to be a very heavy cover because it's a very big dumpster.

Board Member Taylor stated are these enforcement issues or site plan issues.

Rich Williams stated they are site plan issues, they are enforcement issues as well, that is another issue.

Board Member McNulty stated Rich I have a question, if this has only been granted a temporary C.O. things don't move along, is there a way to pull that temporary C.O. on any apartments that have not been rented at this point.

Rich Williams stated that I can't answer...

Board Member McNulty stated is that a legal question.

Rich Williams stated I believe the C.O. is for the building but I don't know how you would not, how you would limit it to an apartment.

Chairman Rogan stated alright, so, how do we get beyond this to let's face it we want to get the site finished we want to allow them to get their letter of credit back, we want to protect the Town's interest and make sure we get this done, you know...

Rich Williams stated well it sounds like they have meeting next...

Joe Dopico stated yea, from our end we have a meeting, Andrew is meeting you at the site on Wednesday.

Chairman Rogan stated okay, all right.

Mr. Nichols stated I see.

Joe Dopico stated to hopefully begin to address these issues.

Chairman Rogan stated I would say if we don't have a positive report from Andrew's office, from your office, based on that meeting before the, by the work session, recommend to the Town Board that they call the letter of credit and move this along. Do whatever we have to do, I mean I don't doubt that Harry is out there trying to resolve things and I know that you know that things have to be done, let's just resolve these issues and be done with. Nobody wants to go through all of this.

Board Member Taylor stated and if we need an amended site plan, submit an amended site plan, I mean if there are issues like that then, don't come to us saying the site plan is in adequate and therefore we haven't finished it.

Mr. Nichols stated I'm not saying that.

Board Member Taylor stated what you said was it is inappropriate or whatever the wording you said, you didn't think the gate was appropriate as specified on the site plan. Now if that's the case, then you should come to us with an amended site plan with those arguments so we can move along on this rather than using it as a, it seems like it's a delaying tactic which might not be intended but...

Mr. Nichols stated no, these items have been discussed, I have discussed them with Andrew and I thought I saw a memo and I'm not sure where I saw it but it suggested that the gates not be put on. Do you remember seeing that memo at all, like that (inaudible), you...

Joe Dopico stated no, I don't and in Andrew's comments he mentions that the dumpsters have not been fitted with doors as shown on the approved plans, he's making it seem like they are not built by the approved plans.

Chairman Rogan stated it's pretty straight forward.

Rich Williams stated yea that was my understanding from Andrew's memo.

Mr. Nichols stated (inaudible) discussion when we were out there a few weeks ago.

Chairman Rogan stated Harry, how wide is the dumpster enclosure across the front.

Mr. Nichols stated one of them across the front, the big one is about 21, 22 feet across.

Chairman Rogan stated so they are 10, 11 foot each, wow that is a big span.

Board Member McNulty stated and the parking stalls are an issue then...

Chairman Rogan stated it looks like those 2 dumpsters, we should have a center divider to split even though it's one enclosure, make it 2 separate enclosures, 2 separate doors, then you would have a hinge point in the center.

Rich Williams stated I might throw out to the Board that we need to start thinking, at least I need to start thinking about more closely is that when we are having these dumpster locations that are so big, having a side entrance so you have a little 4 foot area people can duck in, rather than having to open the big front doors...

Chairman Rogan stated sure, the front doors are only for pick up, only for, plus the dumpsters are so small compared to the size of the enclosure, it looks like you can fit 3 of them in there.

Rich Williams stated I'm not even suggesting putting a door on it, you've got the dumpster enclosed so it's screened off 90% of the way...

Chairman Rogan stated it looks like the dumpster could have been smaller...

Rich Williams stated and in one little area you're not going to get much debris blowing around you can leave the door right off.

Board Member Taylor stated we should have required cuts or something so that they could show the dumpsters they were going to put on that site.

Board Member Cook stated that's what we have at Cornwall Meadows, that same thing.

Rich Williams stated yea.

Board Member Montesano stated the practical end is...

Board Member Cook stated it works.

Chairman Rogan stated one person at a time.

Board Member Montesano stated all right, the practical end is you start putting those dumpsters in with dividers, they are not going to last long because with all due respect to the ability of the driver. We have these large forks that come down and they sort of smash anything in site, including cars, garage...

Chairman Rogan stated I understand, its just that I think Ron was basically talking to this though that the enclosure looks much larger than what should have been required for the 2 dumpsters that are there in, unless there is the idea that the dumpsters were either going to be larger...

Mr. Nichols stated the dumpsters were obviously put in last, I assume, they are not the size I thought they were going to be.

Chairman Rogan stated is it possible though that because the buildings aren't fully rented, they don't required larger dumpsters yet but they will and then you would need this larger enclosure because the enclosure looks big enough to have at least 1 more dumpster in it.

Mr. Nichols stated what do they, do the show just one pod in there instead of 2...

Chairman Rogan stated you're in the pictures though but they are barley taking up, you could fit 3.

Mr. Nichols stated I don't know how many I...

Chairman Rogan stated okay.

Rich Williams stated the dumpster enclosure is built too big.

Chairman Rogan stated yea well that is another...

Board Member McNulty stated or the dumpsters are undersized at this point Shawn said, maybe (inaudible).

Mr. Nichols stated well there could be a 3<sup>rd</sup> one, if it's open they could have 3 in there instead of just 2.

Board Member Cook stated Shawn, if I may, I think we've summed it up a couple minutes ago...

Chairman Rogan stated yea I think we did.

Mr. Nichols stated the up near the end of building 4, is only wide enough for 2 of them I believe, not 3, the one that see in the picture there that's big enough for 3, that has to cover 3 buildings.

Chairman Rogan stated all right, you guys are meeting, we'll look for a good positive report back from that, let's get this wrapped up, do the best we can, thanks Harry.

Mr. Nichols stated all right, good night.

Chairman Rogan stated okay...

**b. Planning Board Policy**

Chairman Rogan stated Planning Board policy, we have on the agenda, we discussed at work session, we're all set on that.

Board Member McNulty stated I just want to make sure, Rich did you incorporate lighting into that policy.

Rich Williams stated I did, I hope you I gave you the amended copy.

Board Member McNulty stated I haven't seen it yet, I think maybe in here I didn't see it, okay.

**d. Zoning Code Amendment – Clubs**

Chairman Rogan stated on the Zoning Code Amendments, I saw specific comments from Charlie that he circulated around to everybody, a couple of take this out type comments, changes, Charlie doesn't like quiet bows and arrows I see...

Board Member Cook stated you know what my point is...

Chairman Rogan stated you cut me deep.

Board Member Cook stated no, this, remember this Shawn, this as it relates to Clubs, not you in the backyard having a grand old time at 5:30 in the morning...

Chairman Rogan stated I understand.

Board Member Cook stated this is a club that could have 25 members and guests firing off whatever they're firing off, bullet, bows, arrows whatever. So, that's the context of my comments.

Chairman Rogan stated I understand.

Board Member Cook stated of course you skipped over Fox Run.

Chairman Rogan stated I did.

Board Member Taylor stated yes you did.

Chairman Rogan stated I'm having a little bit of dyslexia tonight on these agenda items, I just saw Zoning Code Amendment and I saw clubs.

Board Member Cook stated and Richard, I do not have any comments on R & D.

**e. Zoning Code Amendment – R & D Facilities**

Board Member McNulty stated R & D I had a question in regards to distance, I didn't get a chance to put anything in writing to you...

Rich Williams stated do you have the section.

Board Member McNulty stated Section E, Planning Board shall have the authority to establish such additional set back requirements from the property line for those outdoor activities as they deem appropriate under the circumstances regarding, work exterior testing, is that going to conflict with Section C in the 65 foot set back in anyway.

Rich Williams stated no, one has to do with the building parking areas, C has to do with building parking areas, E has to do with testing...

Board Member McNulty stated testing.

Rich Williams stated outdoor activities, now that may include structural improvements as well and then the Planning Board then would have the ability to set further back, they couldn't come in and say well parking areas, we want to set that back 200 feet because the set back is 65 feet but outdoor testing activities.

Board Member McNulty stated I could just see that testing could easily be done in a parking lot and I know we would set the limit where they have to be but I didn't know if there was a conflict there, running through it tonight but I follow what you're saying. So it would be a remote section where they could test exterior outside the building and they would just have to meet the set back we determine, okay.

Chairman Rogan stated procedurally, in keeping with the time frame that the Town Board had spoken about and hoped to achieve on this, on these 2 Zoning Code Amendments, Clubs and R & D Facilities. Was it the intent that this Board would be able to make a positive recommendation tonight in furtherance of the...

Rich Williams stated a recommendation to adopt them, a recommendation not to adopt them or a recommendation to adopt them with modifications.

Chairman Rogan stated and the only comments that I remember seeing other than what had been spoke tonight were from Charlie. Does the Board want to make a recommendation on the proposed newly modified Code with the changes that Charlie had referenced, so moved.

Board Member Montesano seconded the motion.

Chairman Rogan stated Ron, any discussion before we vote, do you want to...

Board Member Taylor stated I've got some typos, I don't think that's important I'll just give them to Michelle.

Rich Williams stated it is to me.

Board Member Taylor stated but I'm saying in terms of this, my only questions was when you say screening, that implies visual screening.

Rich Williams stated yes.

Board Member Taylor stated so we don't need to make it more specific.

Rich Williams stated I certainly can, where are we.

Board Member Taylor stated in 2 places, you're on Section 2 B, any such building or parking area shall be effectively screened...

Rich Williams stated you said D.

Chairman Rogan stated B as in boy.

Board Member Taylor stated page 2, B.

Rich Williams stated got it.

Board Member Taylor stated if screen means visually but that's what you're after, visually screened.

Chairman Rogan stated you can just simply state visually screened or define screened within your definition section to be a visual...

Rich Williams stated you'll know it when you see it or don't.

Chairman Rogan stated yea right, that's good.

Board Member Taylor stated in research and development, the same thing, section 2 research and development, page 2, in this case it's C, any such building or parking area shall be effectively screened.

Chairman Rogan stated so I'll make, I'll...

Board Member McNulty stated I have 1 more item, this might be a technicality but in section 1 of research and development item 2, motor testing laboratories are banned but then we have possible out, in section 2, item E, we can have outside testing, does that create a grey area, it could be a number of machines that have motors to them so how could that be read into the Code. In other words you can have a pump motor, I mean they are not part of the research and development of that machine but we ban motors...

Rich Williams stated correct.

Board Member McNulty stated so could that be like...

Rich Williams stated so the first one is a control, you can do outdoor testing but you couldn't do outdoor testing involving motors.

Board Member McNulty stated but we are saying we're banning any research and development facility of motor testing, period.

Rich Williams stated right.

Board Member McNulty stated so anybody that's got a motor involved with a research and development technically could be denied.

Rich Williams stated yes.

Board Member Taylor stated but if they are not testing the motor, if the motor is part of something else, it's, I mean...

Board Member McNulty stated but what if the motor is part of the equipment that is being developed, everything has motors...

Board Member Montesano stated can we limit the size of the motor.

Chairman Rogan stated (inaudible) a motor that pumps the water...

Board Member McNulty stated I guess if it's quiet I don't think anybody is going to object but what if somebody did, where does that, that seems to be a broad ban and there are motors used for everything and again if its going to be a loud motor or a, like I'm working over at the sewage treatment plant and those pump motors are like a jet engine taking off, over there...

Rich Williams stated scare the heck out of you.

Board Member McNulty stated they do when they kick on in the middle of nowhere but now you have a motor like that on some kind of piece of equipment that's being developed, how does that tie into this.

Board Member Montesano stated another point that I would like to clarify, is there a difference between the word motor and engine that has a different nickel terminology.

Board Member McNulty stated machinery.

Rich Williams stated you know unless you define it within the Code that there is a difference, they are pretty much the same term.

Board Member McNulty stated because we have a pretty explicit ban, motor laboratory, motor testing laboratories.

Rich Williams stated okay, would you be more comfortable if we changed number 2 to motor vehicles testing.

Board Member McNulty stated not necessarily because a motor could be, well that would be more specific but then again you could have somebody having some kind of a research and development of a pump system of some sort, they could have a motor much louder than a motor vehicle motor.

Rich Williams stated right, they could.

Board Member McNulty stated that's what I'm saying.

Rich Williams stated in that case, the decibels would kick in.

Board Member McNulty stated I don't have a suggestion for a solution, I wish I did, as an area that it's a broad ban, it kind of contradicts each other because then you can also test outside based on Planning Board parameters.

Rich Williams stated so why don't we make the recommendation over, you know and that's over an issue, basically this conversation gets thrown into the...

Board Member McNulty stated into the Town Board for review.

Rich Williams stated and we'll kick it back to Les Steinman and see what he has to say.

Chairman Rogan stated yea...

Board Member McNulty stated great.

Chairman Rogan stated basically saying the rest of it with the comments noted tonight, seems expectable, this one issue needs to be a little further explored, okay. Amend my motion to include that information, so moved.

Board Member Cook seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Taylor - aye

Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

**c. Zoning Code Amendment – Fox Run Phase II**

Chairman Rogan stated okay, Zoning Code Amendment for Fox Run Phase II, we had some discussion back and forth about a potential traffic impact study that I think we are correct in saying we did not specifically ask for but based on the conversation we've had about traffic impacts being such a significant concern, it sounds like they've moved to start acquiring this impact study. I agree with the comments that Ron made, whole heartedly that that impact study is going to be critical to our review of any site plan or construction of the site that may occur in the future but I think that we've fairly well explained our concerns with the other alternatives that we've looked at with our previous determination which was using pros and cons that we found with the single-family zoning that currently exists, the R-4 zone and the multi-family that they were looking to propose. Did we end up crafting a resolution or a...

Rich Williams stated we did not.

Chairman Rogan stated okay.

Rich Williams stated for a couple of reasons, one is I posed the question and nobody responded so I let it go...

Chairman Rogan stated I responded.

Board Member Cook stated I responded.

Rich Williams stated to do a resolution.

Chairman Rogan stated yea, I did, Charlie did and Ron did, the 3 of us did, out of the 5.

Rich Williams stated I'll go back and check, my apologies then.

Chairman Rogan stated it's all right.

Rich Williams stated but having said that, one of my other concerns and we'll pose this to Laura, aren't you glad you're here. The applicant is committed to provide the Board and is currently preparing additional information to address one of their principal concerns which has to do with the potential traffic impact of multi-family housing on this road if the Board were to do a recommendation that the applicant did not find favorable, whether it reduced the density to a point he was not comfortable with or outright denied the use of the site, prior to him supplying the Board for information he has already put you on notice that he is providing which may somehow influence your decision, that may put us into some sort of quandary.

Chairman Rogan stated okay, what formal notice have we been put on that we are getting this.

Rich Williams stated just that he had notified you that he's doing this traffic study.

Chairman Rogan stated he notified you, because I don't remember seeing it on the record.

Rich Williams stated he notified the office.

Chairman Rogan stated no I am just trying to be clear because I don't remember any...

Board Member McNulty stated we did get an e-mail that said...

Rich Williams stated from me or from them.

Board Member McNulty stated from you.

Rich Williams stated yea.

Chairman Rogan stated I agree with the thought process because I certainly in conversations we've had with the attorney for the applicant and we've said on the record many times, we have existing zoning that we know he could potentially build X number of homes we've said on the record a typical single-family home is considered as a 4 bedroom residence and we extrapolated out the number of bedrooms that we thought the existing zoning could support and I think he did feel that that was going to be restrictive and possibly not advantageous to his applicant to build under those circumstances. So I agree that I think if we made a decision based on what we've all been saying or thinking that he would find that to be a restrictive decision.

Board Member Taylor stated but I don't see how the traffic study is going to influence this decision one or way or not, we are not basing this decision on the traffic, we are saying that would be a consideration later on. We are simply saying you asked us for a zoning change, we are giving you the parameters under which we are willing to give you a zoning change and then if you come before us with a proposal we will evaluate the impacts of that proposal and one of those things we will evaluate is traffic. In terms of the zoning the traffic it doesn't seem to make any difference...

Rich Williams stated does the Board intend to make a recommendation on the appropriate density of the site, why.

Board Member Taylor stated the history I gave in the note.

Rich Williams stated and was part of that due to traffic concerns.

Board Member Taylor stated no.

Chairman Rogan stated I think it was because we've expressed so, maybe not with what you wrote but we've expressed time and time again that traffic is one of our big concerns with this site...

Board Member McNulty stated as a Board.

Chairman Rogan stated as a Board.

Board Member Taylor stated yes but it doesn't effect whether it is multi-family zoning or single-family zoning, traffic is still going to be...

Chairman Rogan stated based on the density that it's built at.

Board Member Taylor stated yes, the conditions we were applying, I thought were that we're simply saying this is the zoning that exists now, if you want to change it, you have to be bound by the same considerations. Some of those considerations are traffic but we are not denying you a zoning change based on traffic...

Board Member McNulty stated but at previous meetings we did ask the applicant to come back with some numbers for us to justify the traffic impact based on this 55 and plus housing, at last months meeting, didn't we ask him that.

Rich Williams stated let me try to approach it this way, currently our Code allows a certain density of multi-family housing on the site, we are going to reduce that...

Chairman Rogan stated from what the Code would normally allow.

Rich Williams stated right, what is the basis for reducing that, simply because it's approved for 9 houses.

Chairman Rogan stated well the basis would...

Rich Williams stated much (inaudible).

Chairman Rogan stated be the same reason we denied the application previously, I mean so...

Rich Williams stated which was based on traffic...

Chairman Rogan stated among many other things.

Rich Williams stated in part.

Chairman Rogan stated in part, right. So what's you're saying between the lines is let's get this traffic study and then make our decision but take into account this information. What is their time frame on the traffic study.

Rich Williams stated the middle of September.

The Secretary stated they are waiting for school to start.

Chairman Rogan stated let the record show that we're not holding up the applicant that we are waiting on information from them.

Rich Williams stated and Ron, I want to go on record as saying you know what you wrote I thought was very appropriate and very well written and ultimately, probably is going to make a good final decision on the Board.

Board Member McNulty stated I would also like to comment, Ron I didn't get to respond to your comments but I was in agreement with them too. I just raised a question, raised a question in your notes, it's item 2 about a criteria for R-4 zoning, what is the criteria other than 4 acres zoning.

Rich Williams stated I'm not sure I follow.

Chairman Rogan stated you mean to be able to build a house.

Board Member McNulty stated well the criteria is R-4 zoning defined is it just, is it defined as 4 acre zoning per residence.

Rich Williams stated basically R-4 zoning is you need a minimum of 4 acres to have a legal viable lot, if you don't have 4 acres and you are in that 4 acre area, there is a provision within our Code that says you're still allowed to build if you meet certain other requirements, such as frontage, set backs...

The Secretary stated Health Department.

Board Member McNulty stated my point, what I'm trying to get at is, I want to be careful we don't set a precedent here for future R-4 zoning amendments or changes, if we make any kind of recommendation to the Town Board now, based on this traffic or what not, whatever impacts we have, are we setting any kind of precedent for future R-4 requests...

Chairman Rogan stated you mean from our...

Board Member McNulty stated Zoning Code changes from R-4 to something else, down the line. I want to be careful we don't set some kind of precedent that...

Rich Williams stated you're not setting any precedents...

Board Member McNulty stated okay.

Rich Williams stated you know the R-4 zoning was established on an analysis of the carrying capacity of the land, in general of the Town essentially, that's what established that. If somebody wants to change that to a different type of use or a different density, they would need to undertake a similar analysis.

Board Member McNulty stated I understand I just wanted to make sure we weren't setting a precedent here on a future request to change.

Chairman Rogan stated yea I don't think so.

Board Member McNulty stated okay.

Board Member Taylor stated if there is a precedent, what I was trying to say is the precedent is the R-4 zone conditions will be the ruling conditions which means what you're saying about multi-family would allow more than the R-4 would...

Rich Williams stated under our current...

Board Member Taylor stated right, under our current.

Rich Williams stated yes.

Board Member Taylor stated okay.

Chairman Rogan stated but in this case they are requesting a change in the zoning and Ron's point was, there was reason why this was zoned R-4, it was to reduce density in the Town and now that the Town has taken that stance that this property now should only have a density of X of R-4 zone. If we are looking to change it to something other than that, we should remember the intent of why the Town changed it to R-4 and honor that density regardless of what it is zoned as, I think that is basically what you're shooting for...

Board Member Taylor stated that is what I was trying to say.

Rich Williams stated and I agree with that.

Board Member Taylor stated I have no objection, I was trying to move it along because I don't want to hold people up but if they are not urging us to go ahead, there is no reason for us to go ahead, let's wait for them to come back with a traffic study.

Chairman Rogan stated on a side note of what Ron actually spoke about at the opening of this meeting of being proactive, we, Rich and I have had so many conversations over the year and really never had time to invest into them about. For instance R-4 zoning, maybe its time now in the next couple of years to revamp their zoning to instead of saying R-4 you say you need so much buildable area, so much area that isn't wetlands or 30% slopes, et cetera, maybe it's the time to start looking at those sorts of qualitative features to say you may need a bulk area of 4 acres but with that 4 acres you need to have so much acreage that meets then start looking at building envelopes. That is the way they do it in other areas, they don't necessarily look at the bulk area but making sure you have a building envelope that has, think about O'Mara and what we had tonight even though that's a previously approved lot, on new lots we wouldn't be able to say yes we have 3 1/2 acres of wetlands and a half acre of buildable property, we can change the way we look at that. We've talked about ridgeline development, I think it's time we really start looking at some of those things.

Rich Williams stated I would agree with that, the other issue, performance based Zoning, I took a hard look at that way back in 2000 when we did this current Master Plan and Zoning and you know my concern at that point was, you know everywhere I looked, everybody's Code that I looked at and everything I ever read, it was so subjective the way they had it laid out. I was trying to keep it where people could walk in the door and be able to pick the Code up and have a clear understanding of what they were going to be able to do with their property rather than having, like Rich Williams sitting there saying well it looks like you know you have a little wetland over here, you have a little slope over here and maybe I'll give you 2 blocks...

Chairman Rogan stated but I think it would be certainly easier if you specifically stated you know, anything over 25% grade as, have it surveyed, anything over 25% grade pull off your plan, anything that is a Town, already a Town delineated or noted wetland pull off your plan or a wetland that is delineated by the ECI. You know you can certainly pull off certain things, exposed ledge for whatever and then say that you need area for septic for well, for house for use of property which we've talked so much about, maybe that sum is only a third of an acre, maybe it's a half acre, I don't know but it's not 4 acres.

Rich Williams stated and that is the way we did it in the subdivision Code when we did the mandatory clustering.

Chairman Rogan stated okay but I think that's something that you know, we definitely would, especially with some new energy, I think maybe Ron can kick us in the butt a little bit and we'll start looking at some of those issues.

Rich Williams stated while we are the subject...

Chairman Rogan stated sure.

Rich Williams stated the last time we revised the Master Plan, we started off with a community wide survey...

Chairman Rogan stated right, we have to re-do that.

Rich Williams stated look at Michelle.

Chairman Rogan stated oh, I thought you were looking at Tommy, that's a lot of work.

Rich Williams stated because we've been having this discussion in the office, we are currently taking a look at that, we are currently looking at the cost for re-doing that again because I thought it was a great way to step off, send it out, get the communities opinion, that survey is up online...

Chairman Rogan stated we should definitely have that able to be completed online and submitted electronically.

Rich Williams stated well I'm saying the old survey with all the results is up online with all the questions so the first step that we are going to take is we are going to take a look at all the questions, are the questions asked right, are all the questions that need to be asked there, are some of the questions that are not relevant and all the results are up there posted as well, you know how people respond, what all the responses were and the conclusions that were drawn out of that.

Chairman Rogan stated is there a way when we do that survey or the way they did it last time to prevent or to limit the amount of time somebody fills that out.

Rich Williams stated I don't know and I have been looking at doing it up online because I think it's a lot easier...

Chairman Rogan stated put in your name, put in your address, that sort of thing so that you're getting residents, people that own or rent within the Town that are Town residents that can complete, I would send out a postcard...

Rich Williams stated we want to keep it anonymous also.

Chairman Rogan stated okay, I would send out a postcard, well maybe you have to log in just to be able to get to the form, some kind of and then it's not linked to what to their answers, something like that, you send out a simple postcard for 20 some odd cents to the residential, to all the houses in the community that say go to this website or call this number, if you don't have computer access...

Rich Williams stated or here's your password.

Chairman Rogan stated or here's your password, well yea, allows you to get into that system and collect that data.

**g. Levine Fill Permit**

Chairman Rogan stated we have on the agenda, Levine Fill Permit, Ted we haven't had anything from the DEC, correct...

Ted Kozlowski stated not me.

Chairman Rogan stated but we also haven't had anything from the applicant to solve some of the, we have some issues out there that we can't, I don't think take an action as a Town, until we resolve these property line, we can certainly look at his property alone but I think we have a greater responsibility after we saw that site to ensure that the neighboring property is protected that once we've documented something like this, Joe doesn't really know about this and legal counsel. We have a fill permit...

Joe Dopico stated Andrew's told me...

Chairman Rogan stated gentleman in the audience, are you here for a specific case or just general, or do you have anything that you want to say...

Rich Williams stated h...

Chairman Rogan stated h.

Rich Williams stated you told me to put h on...

Chairman Rogan stated and what is h.

Board Member McNulty stated the fence.

Chairman Rogan stated the fence, we'll, I'm sorry, I apologize, if I had known that I would have jumped you ahead. Levine though is fill that was brought in illegally that is extremely questionable as to it's integrity, solid waste, things like that. The Town had met with the owner and they did some deep test holes to see what was involved in the fill, there was a lot of buried trees, et cetera, we notified the DEC because it was Ted's opinion and we tend to agree with him that it was a solid waste site, the problem, among other things is that the gentleman, the applicant, Mr. Levine, authorized the placement of fill that far exceeded his property line like at least a half acre I would say, you know of property that was not his that he filled, so we are sitting there saying you know we don't have the authority to certainly approve anything that's off your property but we have a bigger issue here and this is significant, we don't know what's in the fill and it's on someone else's property. So we recommended to him that he start trying to contact the owner to come up with some legal resolution, whether he buys the property gets a letter of approval that says he can do this, something but it's a mess.

Laura Roberts stated sounds like a trespass.

Chairman Rogan stated I'm sorry.

Laura Roberts stated it sounds like a trespass to me.

Chairman Rogan stated yea, I'm putting it very gently, number, number...

Laura Robert stated are you looking for a civil remedy or...

Rich Williams stated yea, what do you want us to do with it.

Chairman Rogan stated well I mean, we can't approve it.

Rich Williams stated do you want me to write him and get him back.

Chairman Rogan stated I'm sorry.

Rich Williams stated you want us to write him and call him back in at the next meeting for an update.

Chairman Rogan stated even if he sent an update in writing, he doesn't have to come in but we need to start working towards a resolution to this, regardless of what the DEC is going to do.

Rich Williams stated issued a violation subject to him (inaudible).

Board Member Cook stated can't we write to the neighbor.

Chairman Rogan stated I don't know about that, the question was can we write to the neighbor as a notification of what we found...

Rich Williams stated why not.

Board Member Cook stated it came to our attention...

Laura Roberts stated (inaudible).

Rich Williams stated because he violated our Codes. There is absolutely no reason why we couldn't write to the neighbor if we wanted to...

Chairman Rogan stated just as a notice.

Rich Williams stated we were kind of letting Mr. Levine do that because...

Chairman Rogan stated well he's had some ample time at this point too, it's over a month so...

Rich Williams stated and we don't know that he hasn't...

Chairman Rogan stated right, so why don't we first, let's reach out to Mr. Levine, the Board is concerned about making progress on this, has there been an progress, have you had any luck contacting the neighbor. If we don't get anything back from him, I think we should authorize a letter to be written to the neighbor, to the property owner, that we are reviewing a wetlands violation, a fill violation...

Rich Williams stated fill violation.

Chairman Rogan stated isn't it a wetlands violation also.

Ted Kozlowski stated no.

Chairman Rogan stated and it has come to our attention that this has occurred, et cetera.

Board Member McNulty stated and what degree can the Board act on that, what can we, can we just declare it a violation or...

Chairman Rogan stated I don't know.

Board Member McNulty stated we don't outline the clean up, do we.

Rich Williams stated you've got an application before you, you can approve the application again, you can approve it with mitigating the...

Board Member McNulty stated the fill application.

Rich Williams stated factors thrown in or you can deny it and tell him to remove the fill.

Board Member Taylor stated can we set a time frame on this, so we can move this along so it doesn't drag out.

Chairman Rogan stated I think we can, in essence we can say if we don't have some progress on this by next meeting we can...

Board Member Taylor stated we're going to make a decision on the permit.

Chairman Rogan well, we can do that, yes, ye we can do that, that was your question, so yes.

Rich Williams stated they just don't like Ted.

Chairman Rogan stated you been out there yet.

Board Member Taylor stated it sounds like I've been there, yea...

Chairman Rogan stated I think you should go out before you, realize there is nothing that can be done in a month that is going to resolve this, short of us saying yes we agree with what's there.

Board Member Taylor stated I don't mean resolve the situation, I mean resolve all these questions, we want an answer in a month and this is what we're going to do if we don't get an answer, we're going to deny the permit and start enforcement actions, so that is just going to mean a time table of what we are going to do because this stuff, some of it seems to go on for month to month to month to month.

Board Member McNulty stated it would be nice to have a response from DEP.

Chairman Rogan stated did you hear all that.

Rich Williams stated yes.

Chairman Rogan stated you did, you're amazing...

Board Member Cook stated DEC.

Chairman Rogan stated because I didn't think you could have a conversation and listen at the same time.

Board Member Taylor stated are we likely to get a response from DEC.

Ted Kozlowski stated I don't (inaudible).

Rich Williams stated I work in an office with women.

Ted Kozlowski stated I sent the letter in writing...

Rich Williams stated you better pay attention to everything they said.

Board Member Montesano stated and you don't...

(Tape 1, Side 2 Ended – 9:12p.m.)

Ted Kozlowski stated ENCONN Officers and gave them my telephone number and they have not responded to any of it...

Chairman Rogan stated that's amazing, usually those guys are so gusto for writing violations and...

Ted Kozlowski stated it is and to me it meets the definitions of a solid waste site but...

Chairman Rogan stated document everything that you've done and make sure for the file please, document your phone calls and stuff...

Board Member Cook stated Ted, could you re-send your letter saying second request with the date and just fire it off to them.

Ted Kozlowski stated well I think at this point I really think it should be a letter from our Town Supervisor to their Regional Director.

Rich Williams stated I don't think that's going to happen.

Ted Kozlowski stated you don't think that's going to happen.

Board Member Cook stated I would appreciate it if you just made a copy of your first letter, just type on the top second request with tomorrow's date, whenever and fire it back off to them.

Rich Williams stated you want to give me copies or it.

Ted Kozlowski stated sure.

Chairman Rogan stated and Rich you're going to reach out to the applicant to say that the Board is very concerned about making progress on this and we would like to know what the status is, what is going on because...

Rich Williams stated by the next work session.

Chairman Rogan stated yea, yea.

Board Member Taylor stated winter is coming.

Chairman Rogan stated I'm sorry, yea...

Board Member Taylor stated because winter is coming.

Chairman Rogan stated exactly.

Board Member Cook stated couldn't we, say if we hear nothing we could deny the fill permit and tell him...

Board Member Taylor stated clean it out.

Board Member Cook stated out, no...

Chairman Rogan stated issue him, say the stuff's got to be removed.

Ted Kozlowski stated can I ask, I mean do you really guys think that fill should stay there, whether we or DEC or (inaudible) I mean...

Chairman Rogan stated it's a mess.

Ted Kozlowski stated it's a mess, it's 12 feet high up to his house.

Chairman Rogan stated we haven't even looked, we don't even have a plan to say what are the slopes of what he's got there, regardless of the quality of the fill, the placement the slopes, we still have to address those, we've required more from other people.

Ted Kozlowski stated approval of that fill I think would be irresponsible.

Chairman Rogan stated we can't approve it the way it exists but I think we need to get into the conversation of number one, what are we going to do with this neighboring issue because we certainly can't approve anything or take any action there except tell that owner that he's got to remove the fill. On this property with the applicant, even if we said the fill, we're willing to accept what's there, that we haven't found any contaminants even though we've done no testing, we have to stabilize it, we have to make sure the slopes are within safe measures you know, so anyway, let's have those conversations Mike, jump in and then we are going to move along to the gentleman in the back of the room.

Board Member Montesano stated okay, have we contacted the Town of Southeast informing them that they have a possible...

Rich Williams stated the fill is not actually in Southeast, I initially thought it was but it doesn't go that far now, the parcel is still in Patterson.

Chairman Rogan stated it's Patterson.

Board Member Montesano stated oh okay.

Chairman Rogan stated that's why it's the residential parcel, in Brewster it turns into commercial property.

**h. Patterson Corporate Park**

Mr. Tom Shea of Woodward & Curran was present

Chairman Rogan stated okay, h on the agenda was the item for...

Rich Williams stated Patterson Corporate Park.

Chairman Rogan stated Patterson Corporate Park.

Rich Williams stated that is a nice way of saying it.

Chairman Rogan stated thank you.

Rich Williams stated they are looking to put a fence around their property.

Chairman Rogan stated and the, sir if you could come up to the microphone please, state your name for the record.

Board Member McNulty stated can I ask a question first.

Chairman Rogan stated not about this.

Board Member McNulty stated no, about this.

Chairman Rogan stated sure.

Board Member McNulty stated why are we looking at this, it's all within conforming heights of fences within our Code...

Rich Williams stated it's a commercial site, it's a commercial site, any improvements within a commercial site need site plan.

Board Member McNulty stated okay, I didn't read it that way but I was looking for the Code, okay, I believe you.

Rich Williams stated now certainly if you think it's fine and appropriate, no impact, again you can issue a site plan or based on the magnitude impact, you can require full site plan.

Board Member McNulty stated I just thought I read it commercial, it didn't really outline commercial, residential, it just says a fence no higher than 6 feet and 8 feet on a commercial site...

Rich Williams stated around a dumpster.

Board Member McNulty stated you're right around a dumpster, I did see that and...

Rich Williams stated that was an interesting one.

Chairman Rogan stated okay.

Rich Williams stated (inaudible).

Chairman Rogan stated the reason for the fence I'm assuming is site security.

Mr. Shea stated my name is Tom Shea, I represent the owner with Woodward and Curran.

Chairman Rogan stated you actually are soft spoken, you will need to speak up a little bit, catching that microphone.

Mr. Shea stated yes we are here to request a site plan waiver from the Board, we feel raising the similar questions as the gentleman on the end, it's not explicitly clear in the Code, we understood it as a site plan approval was unnecessary and that's why we are here today.

Chairman Rogan stated Ron, you had, when we were looking at the plan at the work session, there were questions because the fence didn't encompass the site, there were gaps in the fence and we were wondering what the reasoning for that was because there seems like are spots where ATV's maybe could get into the site.

Mr. Shea stated absolutely, there are basically the north, the south and the eastern property boundaries are more or less covered with the fence, the property boundary on the east border, which is along the Great Swamp, is, we have avoided all control areas, mainly wetlands that's why there are gaps in the fence...

Chairman Rogan stated okay.

Mr. Shea stated to stay out of wetlands, wetlands buffers, and adjacent areas, yes there are concerns but this is the best way to get a fence put up and not have to go through any other approvals to do so, not have to go through any other approvals to do so, you know stay out of the regulated areas.

Board Member Taylor stated that makes sense.

Chairman Rogan stated I've got a problem with the fence, your applicant's site, it's a security issue, I understand completely. There was one question somebody raised, I don't remember who about proximity to the edge of the paved road, Route 22 and how close that fence really needs, I realize that people might pull off of [Route] 22 and that's a level area out front, especially where we parked when we did our site walk but some people I think questioned if it were not more appropriate for that fence visually at least just to be, since there's not an active use of the site if that fence were placed a little bit distance away from [Route] 22, closer to maybe the tree canopy line or something like that, I don't remember and you have the plans in front of you, someone what the distance way, I'm assuming it's off the right of way...

Mr. Shea stated it's placed along the right of way, yes...

Chairman Rogan stated along the right of way.

Mr. Shea stated completely on our property, the owners property, I think at least the majority of that area is within the woods, is within the tree line, I would have to look again just to see...

Chairman Rogan stated the section where were parking where it's more of an open field that...

Mr. Shea stated and we would and the plan shows, we would more or less want to mirror that tree line where you enter the site.

Chairman Rogan stated could we, would you be comfortable if we made a motion that was for a site plan waiver to allow the fence per the plans except it follow at a minimum the existing tree line, does that seem...

Rich Williams stated there are section of that tree line that are right on Route 22, so you might want to...

Chairman Rogan stated well they've still got to be on their own property which they are proposing to be.

Rich Williams stated right, right.

Chairman Rogan stated so certainly you know if they are on, they are proposing to be on their own property so...

Board Member McNulty stated it's pretty close right out here.

Chairman Rogan stated right.

Mr. Shea stated the intent at the entrance area is to more or less follow the tree line so that is the plan, if, that is what we were trying to convey.

Chairman Rogan stated the existing, the plan that was proposed, except where it's open, then we follow the tree line, something like that.

Rich Williams stated I was just wondering if you didn't want to consider set it back, follow the tree line but not less than...

Chairman Rogan stated not that what is shown...

Rich Williams stated say 25 feet back from the property line, so you don't have a fence right on Route 22.

Chairman Rogan stated yea.

Mr. Shea stated well there is certainly no attempt to do that.

Board Member Montesano stated (inaudible).

Rich Williams stated I know that.

Board Member McNulty stated Rich, I have a question with regards to the site plan, this is a pre-approved site...

Chairman Rogan stated subdivision.

Board Member McNulty stated subdivision or commercial property.

Chairman Rogan stated commercial subdivision.

Rich Williams stated commercial subdivision.

Board Member McNulty stated all right and on that site plan, is that the site plan that is currently approved for us, correct.

Rich Williams stated there is a subdivision plan, there is not site plan for the individual lots...

Chairman Rogan stated we haven't looked at actual buildings or anything else...

Board Member McNulty stated oh okay, well that was my question, if we approve this plan, does that null and void that plan or is this just for the fence.

Rich Williams stated no.

Board Member McNulty stated just trying to get all that.

Chairman Rogan stated sir, I do see where you seem to be following the existing tree line, especially at the entrance where we parked, where its kind of open so I appreciate that.

Mr. Shea stated sure, we did our best to make that a straight run. It can be set back a little bit better in the field.

Chairman Rogan stated this is that one opening in the field above where the guy sells the fruit and stuff.

Board Member McNulty stated I think it calls to be 100 feet back from the boundary there (inaudible).

Chairman Rogan stated yea...

Board Member Taylor stated do they give a dimension.

Chairman Rogan stated 100 feet in this case at the entrance, 100 feet from the property line...

Board Member Taylor stated so that's what it is all the way along.

Chairman Rogan stated here, no here...

Board Member McNulty stated no, just at the entrance.

Chairman Rogan stated and then it goes, look, here it angles the tree line...

Board Member Taylor stated oh, I'm looking at the wrong drawing, I can't see that far.

Chairman Rogan stated and then it's on the property line.

Board Member McNulty stated does that meet State required set backs from the highway.

Rich Williams stated the State requires you to be on your property.

Board Member McNulty stated yea.

Mr. Shea stated which, I believe there is a note on there that says it will be 6 inches off of the right of way, we want to be on our property line.

Chairman Rogan stated of course.

Mr. Shea stated you know, I'm sorry, within our property line.

Chairman Rogan stated the area that it's on the property line is the wooded area, like you said it follows the tree line...

Mr. Shea stated right.

Chairman Rogan stated it shall be installed, what does this say, plan of edge of existing trees...

Board Member Taylor stated it needs (inaudible) existing trees.

Chairman Rogan stated this is a chain, black, you're not going to see...

Board Member McNulty stated it's black.

Chairman Rogan stated much of it anyway.

Board Member McNulty stated and it's only 4 feet.

Chairman Rogan stated 4 feet out of the road frontage.

Rich Williams stated I believe it's 6 feet on the road frontage.

Board Member Taylor stated it's 6 feet all the way around, isn't it.

Mr. Shea stated no, it's 4 feet on the road frontage, anywhere that it moves off of road frontage, it changes to 6 [feet].

Chairman Rogan stated what does everybody think on the road frontage, good where it is, move it in a little bit, what...

Board Member McNulty stated I don't have a problem as long as it's maintained because first guy in the wintertime that slides through it coming down that hill and I hope that it...

Chairman Rogan stated a tree falls on it.

Board Member McNulty stated I hope that it stays maintained and doesn't look (inaudible).

Chairman Rogan stated I'll make a motion in the matter of, it says on the sheet Winding Glades, LLC, so it's not incorrect to use that...

Rich Williams stated no, it's not.

Chairman Rogan stated in the matter of Winding Glades LLC, that the Planning Board approves a waiver of site plan to allow the installation simply of a perimeter security fence based on the plans submitted to the Board, dated July 21, 2010, so moved.

Board Member Montesano seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

Board Member Taylor stated can I amend it, contingent upon you supplying us with an as-built, if there are variations from this when you are done.

Mr. Shea stated yes, we are going to complete an as-built.

Chairman Rogan stated awesome, that amendment added in, so moved.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

Chairman Rogan stated all right great, thank you.

Mr. Shea stated thank you.

Chairman Rogan stated okay.

Board Member Taylor stated can I go back a minute on the Levine...

Chairman Rogan stated sure.

Board Member Taylor stated have we asked him to test the fill.

Rich Williams stated we went out there and we witnessed a number of deep holes to identify the type of material that was in each of the holes...

Board Member Taylor stated so it has been done.

Rich Williams stated our engineering firm, Maser Engineering, sent somebody out, qualified to look at that fill, there was no actually testing of the material done, we didn't run it out on priority, organics...

Chairman Rogan stated no chemical testing done.

Board Member Taylor stated should we require that, I mean if we are going to ask him to pull this stuff out...

Board Member Cook stated Ron, we asked DEC to come and investigate that site...

Board Member Taylor stated Ted was saying...

Chairman Rogan stated in lieu of DEC, I think we might have to do something to ensure, if we are going to leave things the way they are and stabilize them and ensure proper erosion control, we have to make sure we don't have chemical contamination. You would think he would want it anyway, his well is right here.

Board Member Montesano stated what he did with that well is a shame.

Board Member Taylor stated what he wants is to fill in his backyard and it doesn't seem like he cares what's in there.

Board Member Montesano stated if you look at it, you'll find that there was no plan whatsoever, he took his, his well is half buried, taking the trees down surrounding his property, near his house...

Chairman Rogan stated this is all in the neighboring yard.

Rich Williams stated I can't sit here and say with any certainty that there isn't a bigger environmental issue but based on the deep holes, there were none of the indicators, no odors, no greasiness, no (inaudible).

Joe Dopico stated (inaudible – not using microphone).

Rich Williams stated yea but there was nothing...

Chairman Rogan stated and you didn't do it on the neighboring property certainly, right because that would be trespassing.

Rich Williams stated there was nothing in the deep holes which would indicate that further testing was necessary and again one of the things that we were looking for was a large volume of organic material which would post a safety hazard and that was absent from the site.

Joe Dopico stated if there were oils, if there was asphalt.

Chairman Rogan stated okay.

Board Member Taylor stated can you get me out to the site.

Chairman Rogan stated that's appropriate, that is one you should definitely see.

Board Member Taylor stated so I can call you and set a day.

Chairman Rogan stated we have to coordinate with Mr. Levine too.

Rich Williams stated we have to get some more tranquilizers...

Chairman Rogan stated you definitely want to make sure Mr. Levine is, we have minutes...

## 9) MINUTES

Chairman Rogan stated which Ron, this would be something that you should probably abstain from but we have minutes from June 24<sup>th</sup> and July 1<sup>st</sup> of 2010, I'll move...

Board Member Cook stated make a motion...

Chairman Rogan stated oh, go ahead.

Board Member Cook seconded the motion.

Chairman Rogan stated make a motion we approve, seconded by Charlie.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	abstain
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 4 to 0.

Chairman Rogan stated Ron abstain, he wasn't at those meetings.

Board Member Taylor stated yea, I'll abstain, well I was but I wasn't on the Board.

Chairman Rogan stated correct, good point, you were at those meetings. Anything from anyone in the audience tonight.

Mr. Casey stated am I the audience.

Chairman Rogan stated you are, if you would like to say anything, the floor is yours.

Mr. Casey stated well honestly...

Chairman Rogan stated for the record.

Mr. Casey stated okay, I really don't have much to say though.

Chairman Rogan stated we like you already.

Mr. Casey stated oh, well thank you.

Chairman Rogan stated what is your name sir.

Mr. Casey stated just to introduce myself, my name Daniel Casey, I'm actually with the Putnam Courier, so they sent me here just to check things going on. The only real question I have is you mentioned a little bit before but regarding Maria DiSalvo and her departure, is there anything that you would like to add, I know you mentioned that there was an article that you read that you were discontent with, is there anything...

Chairman Rogan stated did you read the article.

Mr. Casey stated I'm curious as to which one you were talking about to be honest with you.

Chairman Rogan stated which paper was it in.

Board Member Taylor stated his.

Board Member Montesano stated (inaudible).

Mr. Casey were which newspaper, for that matter.

Chairman Rogan stated yours, the Courier, it's your paper.

Mr. Casey stated it was, well then.

Chairman Rogan stated I just read the article and just like I said, I thanked Maria for her time on the Board, it's as you can imagine a difficult job and I think anyone who serves that amount of time on a Board like this, deserves recognition and I was just disappointed in the context of the article and that's all and I think if you read the article you'll understand.

Mr. Casey stated okay, anything else you'd like to add regarding the context of it or no.

Chairman Rogan stated no.

Mr. Casey stated okay.

Chairman Rogan stated but thank you, I appreciate it.

Mr. Casey stated you're welcome.

Chairman Rogan stated I appreciate that opportunity.

Mr. Casey stated oh, no problem at all and the only other question, well not even a question, I was just wondering if, to welcome Ron, but is there, would I be able to possibly obtain a copy of your little statement that you said at the opening of the meeting, just so I can put it to a...

Chairman Rogan stated once minutes are...

Mr. Casey stated once minutes...

The Secretary stated once they're approved, you can have a copy.

Mr. Casey stated okay, thank you so much, that's all.

Chairman Rogan stated nice meeting you.

Mr. Casey stated you guys the same, have a nice evening.

Board Member Taylor stated are you coming to these on a regular basis.

Mr. Casey stated I am uncertain if I will be here on a regular basis but at least you have me for this evening.

Chairman Rogan stated bring coffee for yourself next time, this is an early meeting for us to end, usually they go to 11...

Mr. Casey stated I'm going to bring a sleeping bag if that's the case.

Chairman Rogan stated okay, thank you, appreciate your sense of humor. Anything from anyone else, no.

Board Member Cook stated make a motion to adjourn.

Board Member Montesano seconded the motion.

The motion carried by a vote of 5 to 0.

The meeting ended at 9:30 p.m.