

**APPROVED**  
9/4/2003 MMB

**TOWN OF PATTERSON**

**PLANNING BOARD MEETING**

**August 7, 2003**

**AGENDA & MINUTES**

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2) <b>Thunder Ridge Wetlands/Watercourse</b>	2	Board put on record granting the permit at the Work Session 7/31/03
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5) <b>Northridge Farms – Waiver of Site Plan</b>	3 – 5	Board granted waiver for the construction of a 2 stall barn with conditions
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CHAIRMAN  
Herbert Schech

*Secretary*  
Melissa Brichta

*Town Planner*  
Richard Williams



PLANNING BOARD  
P.O. Box 470  
Patterson, New York 12563

### **August 7 2003 Meeting Minutes**

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

MEMBERS:  
Michael V. Montesano  
David Pierro  
Shawn Rogan  
Russell Shay

*Telephone*  
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APPROVED  
9/4/2003  
MAM

Present were: Chairman Herb Schech, Board Member Mike Montesano, Board Member Shay, Board Member Dave Pierro, Board Member Shawn Rogan, Rich Williams, Town Planner and Craig Bumgarner, Town Attorney.

Meeting called to order at 7:30 p.m.

Approximately 14 members in the audience.

Chairman Schech led the pledge of allegiance.

#### **1) MONTERIO WETLANDS/WATERCOURSE PERMIT – Public Hearing**

Chairman Schech advised the application is incomplete and it is off the agenda tonight

#### **2) THUNDER RIDGE – WETLANDS/WATERCOURSE PERMIT**

Board Member Pierro stated Thunder Ridge, we voted at our work session to issue a wetlands watercourse permit to Thunder Ridge. They first came before us in July of 2002 and requested a permit to dig the snow making pond in the front of the ski area. We at that time required them to get a permit from DEC and as of last month, they obtained that permit and last week we issued the watercourse permit to allow them to dredge, the pond and we needed to put it on the record.

#### **3) LOQUERRIO SITE – Fill Permit**

Mr. Loquerrio was present.

Chairman Schech stated from what I understand you are just importing clean fill and it is not really that much right.

Mr. Loquerrio replied yes.

Chairman Schech asked for a motion.

Board Member Pierro stated we needed to designate or outline a maximum amount of fill that we are bringing in.

Board Member Rogan asked Mr. Loquerrio what do you expect the total amount to be.

Mr. Loquerrio replied I am not sure I think I wrote on there twenty yards, thirty yards.

Board Member Pierro stated then why don't we go with thirty.

Rich Williams stated I believe it was twenty yards but after I looked at the site it appeared that he might need a little bit more than twenty yards.

Chairman Schech stated you always need more.

Rich Williams stated I would do thirty yards clean fill according to the Code.

Board Member Pierro made a motion in the matter Loquerrio Site Plan at 41 Taylor Road, Patterson New York that the Planning Board issues the Fill Permit and designates that it must be clean fill and will be allowed to place thirty yards at the site. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Shay	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

Rich Williams advised Mr. Loquerrio that in a couple of days we should be getting you out a Fill Permit you can go ahead and schedule it now and we will make sure the Code Enforcement and Code Compliance Officer both are notified.

Mr. Loquerrio asked do I need to pay money now.

The Secretary replied your wife paid for the permit.

#### **4) LLS ENTERPRISES, LLC – Waiver of Site Plan**

Eleanor Nurzia, Applicant and Peter Nurzia were present.

Mr. Nurzia stated we are asking for a waiver of site plan because we are interested in basically adding a walk-in cooler to the existing structure that is there now. The portion that we are adding on is roughly

fifteen feet by fourteen feet, almost half and half by the walk-in cooler and the other portion of this will remain for the golf, Ms. Nurzia stated to disburse the golf balls. They will have their own access right here.

Chairman Schech stated we just received some of this information so give us a few minutes to read the review.

Ms. Nurzia replied sure.

The Board reviewed the Project Review Memo for a few moments.

Chairman Schech stated I will take a motion.

Board Member Pierro made a motion in the matter of LLS Enterprises that the Planning Board waive the site plan requirements for the cooler and the golf sales office, Chairman Schech interjected on the condition that you don't do anything else, Board Member Pierro stated to the north side of the building on the condition that you do not do anything else and that if you do apply for another waiver these issues have to be included in a new site plan but I don't think it is enough just to notify you because you are tenants we ought to see that the owners of the property are aware of this as well.

Ms. Nurzia replied we were expecting them here tonight.

Board Member Rogan seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Shay	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

## **5) NORTHRIDGE FARMS – Waiver of Site Plan**

Ms. DiSalvo, Applicant was present.

Ms. DiSalvo stated I just want to make a note that the barn that is existing now is three stalls and we are going to replace it with two stalls so we are cutting down.

Chairman Schech stated I thought it was four stalls.

Rich Williams stated you guys told me four so I put four.

Board Member Pierro asked do you have to finish it with four or can you build the structure for four and then just complete it to two and just leave it as an open stall, open storage.

Board Member Rogan stated but it does not sound like they are even requesting that.

Ms. DiSalvo stated the plans will be wrong because the building will be bigger.

Board Member Rogan asked so all you are proposing, Maria is the new building will be two stalls.

Ms. DiSalvo replied yes.

Chairman Schech stated two stalls and we are going to install a concrete pad for the dumpster and the retaining wall so nobody dies.

Ms. DiSalvo replied yes.

Board Member Rogan made a motion in the matter of North Ridge Farms that the Planning Board approves the waiver of site plan for the construction of a two stall barn to replace the existing barn that will be torn down, that the waiver will include the construction of a concrete pad to house a dumpster location with a appropriate retaining wall to hold back that material and as with the last application please note that any construction in the future may require a site plan and if required it will include these additions as well.

Ms. DiSalvo asked do you have the requirements of how high the concrete has to be.

Board Member Pierro asked for the footing.

Ms. DiSalvo replied yes, there is a lot of weight on there that is being pulled out.

Board Member Rogan asked you mean for the concrete pad.

Ms. DiSalvo replied yes I have never done one before.

Board Member Rogan replied I think Paul ought to be able to help you.

Rich Williams stated there are engineering specs based on the weight. I don't know what the weight of the dumpster is.

Ms. DiSalvo replied thirty yards.

Chairman Schech stated I would say six to eight inches at least.

Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Shay	-	yes
Board Member Pierro	-	yes

Board Member Rogan	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

## 6) SCHLANGE FILL PERMIT

Mr. Schlange was present.

Mr. Schlange stated I also submitted a building plan although this is only a fill permit request but you had asked for that detail and I only submitted one copy.

The Secretary handed the Board the plan.

Chairman Schech asked did the Highway Super approve that entrance.

Mr. Schlange replied yes he did. You have a copy of his approval, you should have a copy if not I have it with me.

Board Member Rogan replied it is probably in this packet.

Board Member Rogan stated if you remember last meeting I was a little confused the way it laid out because it did not appear the way we saw it and that is because you are adding a turn.

Mr. Schlange replied right correct I did not complete the fill process. That little turn up on the top gives me twenty feet of less than the three inch drop it makes me compliance with the Code.

Board Member Rogan stated that is what we were concerned about last time we didn't feel that you were going to make that transition from the steep slope to the road at three percent. It didn't seem possible.

Board Member Pierro stated this clears it up nicely Mr. Schlange.

Board Member Rogan stated we wish you could do it and still come out on to the road that you live on but based on the slopes it does not seem possible.

Chairman Schech stated I don't know that is going to be awfully confusing coming down that road. You are going to get an awful lot of visitors.

Board Member Montesano stated you are going to have to put up one of those signs Private Property keep out.

Mr. Schlange stated I will probably line it maybe with some removable flowerpots or planters or something that will give it a little definition so we don't have a lot of visitors.

Board Member Rogan made a motion in the matter of Schlange Fill Permit that the Planning Board grants a

negative determination of significance under SEQRA. Board Member Pierro seconded the motion. All in favor and motion carried by a vote of 5 to 0.

Board Member Pierro made a motion in the matter of Hans Schlange Fill Permit, Birch Way, Patterson, NY that the Planning Board grants the fill permit for the driveway garage entrance on the property. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Shay	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

#### 7) **SYPKO SITE – Wetlands/Watercourse Permit**

Mr. Harry Nichols, Engineer was present representing the Applicant.

Board Member Rogan stated it looks like you made some changes.

Board Member Rogan jokingly stated Rich calls you the prodigal son.

Rich Williams stated I do not.

Board Member Rogan stated take us through where you are at Harry.

Mr. Nichols stated we had a meeting at Gainer's office after the last meeting and unfortunately it got abbreviated. We did go over some of the main points; the way the driveway pitched we had pitched it to the outside, first it was pitched to the inside we had thought it would be better to pitch it to outside to get rid of the concentrated flow coming off the driveway but after the discussion with Rich, we decided to put it back and pitch it to the inside, which we have done here. There are only two sediment traps. One at the bottom of the driveway and one near the top that is to minimize the amount of disturbance. The one at the bottom will become a permanent one.

Chairman Schech asked did you get the Town Engineer's comments Harry.

Mr. Nichols replied yes.

Chairman Schech asked did you get the DEC Permit yet.

Mr. Nichols replied no we don't have that permit yet we are working on that.

Mr. Nichols stated that is basically the changes from the last time that I was here. In our submission, I believe we had calculations regarding the sizing of those basins. We will prepare and enlarge the detail of the culvert crossing which seems to be something that is needed on a larger scale in a separate drawing. In here one of the comments is that we had proposed that the end sections are preferred over the beveled end and I really feel that the beveled ends are going to provide less disturbance. If we go in there to create these large wing walls which extend beyond the width of these culverts we are going to end up with more disturbance. Now, the bed of the stream in that area where the culvert is there is visible rock in bottom and the less we have to remove to obtain the elevation that is needed the culvert has to be set one foot lower in order to provide a one foot natural stream bed material in the bottom of the culvert where right now the rock is probably just about a foot under the pipe right now.

Chairman Schech stated you could probably do away with the wing walls if you put in a longer culvert.

Mr. Nichols replied no what we are doing is we have a sloped approach.

Rich Williams stated no the wing walls are there to prevent the velocity of the stormwater coming down and hitting and eroding on either side of the pipe. That is their function that is their purpose. There is a number of different ways you can do that. You can have concrete wing walls, which is what I think Gene is pushing for or you can just rip rap the sides. There are a couple of other methods you can do it with. Harry would prefer just to rip rap along either side of this box culvert. I think once we get more detail on the box culvert it may answer that question.

Mr. Nichols stated the width of the culvert has got to be double the width of the channels it is right now. We designed it for a hundred year storm with one foot of free board above that.

Chairman Schech stated which we have had in the past few weeks.

Mr. Nichols stated and it didn't even top over either. I know that we have had some significant rains and even the rains that we had during the spring the culvert was not topped over but we have met that criteria so to go even wider I think it is just self-defeating.

Chairman Schech stated well Harry you make the Engineer happy and then we will be happy.

Mr. Nichols replied okay I will make your Engineer happy.

Mr. Nichols stated a lot of these things are details I will work out with Rich.

Rich Williams stated if I can just jump in here I think this plan reflects what was discussed at the meeting and a direction that we were all relatively comfortable in going in and at this point we just need a little bit more detail on some of the design elements of the plan and I think we are good to go.

## **8) RALPH BURDICK SITE PLAN**

Mr. Harry Nichols, Engineer was present representing the Applicant.

Mr. Nichols stated what we had done in this submission is we tried to address the concerns that the Board had at the prior meeting the parking for employees. We also rearranged the configuration of the vehicles so that there was maximum maneuvering room.

Chairman Schech stated I think our biggest concern Harry was you know you are going to have tractor trailers running around in there are they all going to fit on this blacktop spot.

Mr. Nichols replied they will be limited to the number of spaces that are provided. You have to have some limitation on the site plan otherwise there would be,

Chairman Schech asked are we going to limit the number of vehicles somewhere along the way or.

Mr. Nichols replied we are limiting the parking space for vehicles.

Chairman Schech asked so we are not saying what type of vehicles.

Mr. Nichols replied rather than one tractor-trailer it could be two ten wheelers but it limits the space that can be occupied. The trucks have to be parked on the paved area. The equipment that is left here has to be parked on the paved area because we are collecting it; we are going into an oil separator and into a detention facility.

Board Member Rogan asked Harry, is the intention for this paved area to be striped, or is this just for purposes of showing how many potentially he can fit.

Mr. Nichols replied I believe it should be striped.

Board Member Rogan asked as per your plan.

Mr. Nichols replied yes.

Board Member Rogan stated especially if Mr. Burdick is going to rent ten spots to Harry Nichols paving.

Mr. Nichols stated right numbered and what have you.

Board Member Rogan stated right then he would want to know which ones so he does not get spill over into the other areas.

Mr. Nichols stated and again like any other site plan it would have to be adhered to by the Applicant.

Board Member Rogan stated so with the increased site plan you have kicked it over an acre for,

Mr. Nichols replied we are over an acre but we are under two acres so we have prepared computations that are being submitted to the DEC along with an NOI. The NOI goes in first and then it is process and the request comes for a Stormwater Pollution Prevention Plan, which we have already,

Rich Williams interjected okay if I can just interject right here the sequence of events is; you prepare the Stormwater Pollution Prevention Plan because the Town is a regulated MS-4, we review that plan and you have to have that done and complete and reviewed by the Town and then you submit your NOI to the DEC.

The NOI is clear that the Stormwater Pollution Prevention Plan has to be complete before you submit the NOI. I don't want you to submit it and you have to check that box I don't want you to get in trouble with Pat Feracaine.

Mr. Nichols stated we have increased the number of plantings, screening on the A&P shopping center side as well as the front of the property, which is several hundred feet back from the road. This landscaping will just enhance what is already there as natural vegetation.

Board Member Rogan asked Harry, the grading along this paved area will be such that the water will all drain from this lot down to the two basins or will there also be any kind of a slight curbing on this.

Mr. Nichols stated there will be a lip on there to keep the water in the paved area from flooding out on to the rest of the site.

Board Member Rogan stated this seems closer to what we have been shooting for. I am comfortable with it.

Board Member Schech stated I don't think that we should waive the ten-foot stall width.

Mr. Nichols stated for the parking these people are going to be parking there all day.

Chairman Schech asked is this for the trucks or the,

Mr. Nichols replied no, Board Member Rogan stated the personal vehicles, and Mr. Nichols stated the employee parking. Mr. Nichols state the trucks are twelve foot.

Chairman Schech stated nine foot is really rather tight especially they are all driving pick-ups. Most of the truck drivers that I know have pick-ups.

Mr. Nichols stated we have the room if you tell me you want these ten foot.

Chairman Schech replied I would definitely say so.

Chairman Schech asked the Board is there anything else.

Board Member Pierro asked is the post and rail fence still in the detail around the parking lot.

Mr. Nichols replied for some reason I don't see, Rich Williams stated I don't believe it has been added in yet. I think it is one of the details that needs to be added.

Mr. Nichols asked is that what the Board would like post and rail.

Board Member Pierro replied yes a post and rail fence to contain the site so that nobody ventures out into that back field again and leaves a spare tractor trailer body laying around.

Board Member Pierro stated I see the trees on the detail but that still allows for a larger site.

Mr. Nichols replied the trees will be outside the fence.

Rich Williams stated well I believe or what I gleaned from the last Board Meeting was the Board wanted some sort of berm or fencing and settled for post and rail on the north and western sides not on the landscaped sides.

Chairman Schech stated just so they don't wander all over Harry.

**9) BIG ELM FARMS – Waiver of Site Plan**

Mr. Dan Fox, Applicant was present.

Chairman Schech stated the only problem basically, what we had was since you are tied into an existing septic system if the County was going to allow you to continue.

Board Member Rogan stated I think the proposal was to put an outdoor wash area, which would be tied into the same system that the indoor wash area is tied to.

Mr. Fox replied right.

Board Member Rogan stated so they are proposing to do it. They are not even required is what we found out. I think it is a great idea.

Mr. Fox stated one thing that may have a little bearing on this is the fact that we are not increasing the number of horses that we are going to wash we are changing the place that we are going to wash them. We have about forty-five horses there right now. Now that it is hot in the summer time we would like to be able to have a place outdoors where we can wash them but it should not increase the volume of water we are using.

Board Member Rogan made a motion in the matter of Big Elm Farms that the Planning Board waives the requirement for a site plan for the construction of the outdoor horse washing area not resulting in any increase in horses on the property and any future improvements may require a site plan including this improvement. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Shay	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

Mr. Fox thanked the Board.

**10) BUDAKOWSKI SUBDIVISION**

Mr. Joe Madden, Attorney with Shamberg, Marwell and Mrs. Budakowski was present.

Mr. Madden stated we are essentially here to ask the Board to make a determination on the application. I don't know if the Board has any material or any information.

Chairman Schech stated no you have to make a Clarence Daryl to us and then we.

Mr. Madden stated essentially we feel like the Board has all the information that it needs to make a determination. I was just reviewing a memo from Mr. Bumgarner regarding the viability of accepting St. Johns Road for dedication. We also feel that a 280 exception would be appropriate given the very limited amount of added traffic we are going to put on by granting this subdivision. It is really just one more house out there. Again, we are just here to see if there is anything else the Board requires.

Chairman Schech stated one of our largest concerns is what happens in the future and also for the safety of anyone. I had a question tonight which I asked Rich is there a C.O. on the house. There is no paved driveway how did you get a C.O.

Mrs. Budakowski's replied I have an Item-4 driveway.

Chairman Schech stated it is supposed to be paved.

Board Member Pierro stated there was no waiver, the Board does not have any recollection of waiving the driveway requirement.

Board Member Rogan stated that is interesting that they got a C.O.

Chairman Schech stated let's check on that.

Board Member Pierro stated we are going to have to get a determination on that.

Mr. Madden asked you are talking about the existing.

Board Member Pierro replied yes the Town Code specifically says a driveway be blacktopped unless waived.

Rich Williams stated I know there has been divergent opinions on this mine being one of them you know about what the status is and where we are and it might be good just to have a little discussion here start right back at the beginning and run through this very quickly about what everybody's opinions are because I know the Attorneys have said that it is possible to accept St. Johns Road, I don't necessarily agree with that and if you like we can run through that really quick.

Board Member Rogan stated I don't think really quick is even a good idea. Let's go through it.

Chairman Schech asked Craig, what is your opinion on this.

Board Member Montesano stated start from square one and go from there.

Board Member Rogan stated it has been a while since we talked about this.

Board Member Pierro asked the original 280a was done when wait I have the date.

Chairman Schech stated I have a quick solution for you do away with the subdivision just sell the one lot if we are all stressed out with money this is one way to get away with it.

Mr. Madden replied that is a solution but that is not why we are here we could have done that without your permission.

Rich Williams stated here is the original Final Subdivision Plat that O'Hara first filed that incorporated all these lots that we are now talking about with Ridgeview and the Budakowski's and everybody and this is where the problem for me at least initially started. With this Final Subdivision Plat this lot was all shown as one big lot with a fifty foot right of way not a right of way but a strip of land coming out to Route 311. Certainly, at one point in the very distant past there was a farm road that went through here that everybody called St. Johns Road. It shows up on the old railroad crossing maps as a road. It does not show as a public road but it does show as a road I am not exactly sure when we did take a look at whether it was or was not a town road we could never find any records that the town owned or maintained it but barring that it was some sort of used as some sort of road but like any public use road if it was a public use road if it is not maintained by the town it becomes constructively abandoned by Highway Law if not maintained by the town and at some point the town can and in fact did constructively abandon it not constructively,

Mrs. Budakowski stated but that road did have a Liber number at one point.

Rich Williams stated everybody says that nobody has ever given it to me. I don't know where it is. Regardless, Highway Law is clear when the road gets abandoned it is just an easement over the property. The underlying property gets generally split between the two adjacent property owners. In this case, O'Hara owned both sides so hence he could show a plat that does not show the road as a separate parcel because he in fact owned it both. After he came in and found out that he didn't want to improve this and actually wanted to subdivide the property and the Planning Board was not going to let him unless he made the improvements all the way out he stopped the improvements, he did his subdivision over here, Ridgeview and Foxwood Terrace and then after that went to the County broke this piece off with the County not with any legal subdivision approval and it appears that when the County did that they did it to the edge of St. Johns Road even though the Deed that was transferred between O'Hara and the Riotto's and then the Riotto's to the Budakowski's made mention of going to the centerline of any road that is out there. I would assume though it has never been shown on any plat until Jack just did the latest submission that the Budakowski's would actually own to the centerline of what was formerly used as St. Johns Road. Then the other issue becomes what is the legal status of the rest of the road, is it a road that they can improve, is it it's own separate parcel that the town can take and that is where we start getting into the rub of the whole situation. Right now, I mean St. Johns Road with this plat is showing just a fifty foot strip of land that comes out which is attached to this overall parcel. When the County came in and broke this off still the plans show that this road goes with the O'Hara parcel. The Attorneys have come in and said that well the town could take this strip because there is a note on the plat, which is required on all subdivision plats which basically says all roads, streets, highways, easements shown on here are offered for dedication. The concern that I have with that is if we were to go out here and take this referring to the plat being as this is shown as all part of O'Hara Subdivision and not its own separate parcel where would we stop, what would we take, would we take this whole parcel. We don't have any separate parcel that is used exclusively for road purposes. So, there are strips on here, easements, reservation strips that are applicable to the note and I would maintain that is what we could take out there but we could not if we wanted to go in and take this

fifty foot strip of land simply because it is labeled St. Johns Road because it is not broken out as its own separate parcel, Craig disagrees with me.

Craig Bumgarner stated I don't know if that is an accurate characterization Rich. That is absolutely something that has been raised in my memo so again, I mean just step back in time with our involvement. We were asked two very specific questions by the Board. Could they provide legal access, could they provide fifty foot of access. We answered in the affirmative on both of those because those were the questions that were asked. During the May meeting while I was on vacation the question then came up as to whether the road could be dedicated. That was not something that was addressed in our previous memo so another memo was submitted. In the memo, I stated that we have in the past taken roads based upon notes on a plat but then when on to state if you review that memo that there were two problems with proceeding in that fashion. One of them is the description or the boundaries of that roadway. That was noted in the memo. The second is, you know taking a road in that fashion meaning taken it based on a note on a plat could lead to some legal complications for the town clearly. I think going over the history is important but the question that the Board needs to answer as a threshold question in my opinion is, are they going to require this Applicant to be able to offer it for dedication. That is the threshold question that we have to answer here because if your only concern is fifty foot and access they have it. If your concern is fifty foot, access, and ability to dedicate I would say the third one is where you have some issues.

Rich Williams stated if I could just real quick as a follow up to that; the other issue is then procedurally how do we need to proceed to do it and do it right and the question is if this can be dedicated as a fee simple parcel, if it is a road that goes all the way back then they have frontage and we are golden, we can meet the zoning code requirements. If not then they are actually accessing this property by easement which means then they still need the 280a which we talked about way back at the beginning of this whole process.

Board Member Montesano stated for my own clarification, we have a house that is built on a piece of property that does not front on a town, village or a county road that was put up, the property was subdivided from whence we know not, now we have a house built although the criteria that I am use to seeing on a county or a state or a town road does not exist.

Craig Bumgarner stated let me jump in there they received a 280a for that.

Board Member Montesano stated what I am trying to figure out basically is or what appears to be you started out with errors shall we say to use a less harsh word, the property is subdivided unbeknownst to the town with no plans and sold.

Mr. Madden replied that is accurate but I am not sure it is accurate I think Rich was saying illegal before it wasn't illegal. It was legal,

Board Member Montesano stated to me as a layman it is not legal for the simple reason the property was never subdivided legally by a Board of the Town. The County accepted it I am just trying to get my thing I realize that you guys are going to throw a lot of but I am just trying to clarify in my own mind so you are going to have to bear with me. This is what all this nonsense that I attend classes for and everything else was elaborated on you must have a town road, a county road or a state road. So they came in the property as far as I am concerned, my opinion as limited as it is, is that something was done from the back doors rather than the front door. The county accepted it that made it somewhat legitimate that they can go and build a house there.

Craig Bumgarner stated as a matter of fact the County played a large roll in cutting that off is my understanding because the way that and somebody correct me if I am wrong here because this thing kind of rears its head every year or so; my recollection might not be as clear as it should be but to my understanding that the reason that Deed was separated off there is because George Michaud over in Real Property Tax made a determination that St. Johns Road effectively divided the parcel and that is why he did it.

Board Member Montesano stated let's go back further since that subdivision was brought to me as Chairman of this Board back in the eighties and that road came up by Mr. O'Hara that it was a town road and that I said no it is not and I checked it and there was no indication that it was ever town property of the Town of Patterson now unfortunately most of the people that were involved in this are all deceased so there is no way to go in what happened to the files they had on the town etc. Mr. O'Hara tried more than one way to figure out how to bypass that and since I didn't go along with it, the Board sitting at the time did not go along with it suddenly a sign appears that says St. Johns Road and we go from there. Now, how the property got subdivided without coming before the Board I don't know. If someone else determined it then they should be in here to explain it one way or the other as far as I am concerned anyway. The problem we have here is something was done these people ended up getting stuck with it and now we have to proceed with this and try to figure out some way to get them out of this situation. I don't see how we can get a road in there. There is too much confusion and nobody has shown me something that says they have a legal right to go in there and a 280a may exist it was granted but fine just because it was granted doesn't mean it was legitimate.

Rich Williams stated let's be clear on this and let's bring this back to the true issue. This is a subdivided lot it exists. The Town never challenged it. It exists we are done. The only question here is whether St. Johns Road is a right of way that exists that will provide legal frontage or whether it is merely a piece of land owned by Mr. O'Hara which they have an easement to cross in which case they need 280a. What we are here tonight really is to decide the direction they need to take because I don't think it has ever been clear.

Chairman Schech asked has anyone ever approached Mr. O'Hara and said are you willing to give this fifty foot section to the town.

Mr. Madden replied no.

Chairman Schech stated I think it would be a good idea.

Craig Bumgarner stated can I step back because again you know we are talking about a lot of different issues here and you know this Applicant has been before the Board for quite some time. When they came in we had discussed different options for St. Johns Road and I think what the Board has to determine on the record once and for all for the Applicant tonight is, what is it you are looking for out of St. Johns Road. Are you looking for fifty foot, are you looking for insurable access, are you looking for ability to dedicate. Those are the three threshold issues here. Two of them in my mind are answered; the fifty foot and the access are answered so that brings us back to their ability to dedicate or not and if that is not a concern of the Board then the Applicant can proceed. If it is a concern of the Board and it is a requirement let's set it on the record.

Chairman Schech stated as far as I am concerned I am looking for a fifty foot right of way. I don't know about the rest of the Board.

Craig Bumgarner asked a right of way or one that can be dedicated.

Board Member Montesano asked but what happens if the road, Chairman Schech stated that can be dedicated yes.

Mr. Madden asked it has to be dedicated before you are going to grant the subdivision.

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

Rich Williams replied no because I don't know that we want to get into and I don't know that we can get into saying we want to dedicate it. That is a Town Board decision.

Chairman Schech stated but we can recommend to the Town Board that we would like to see it dedicated.

Rich Williams stated well no, what we do, what the Planning Board does is they ensure that the possibility exists by ensuring there is a note on the plat which says there is an irrevocable offer of dedication for this area. Now, the Budakowski's I think have the ability to do that for twenty-five feet for what fronts on their road but I don't believe they have the ability to do that for the rest of that because I believe it is owned by somebody else. That is my opinion.

Mr. Madden stated that portion has been offered for dedication. What has been offered is up to where the Budakowski's would be able to.

Rich Williams replied and that again I respectfully disagree that simply because this is labeled St. Johns Road it is still part of this overall parcel. If it was broken out as a separate parcel that the town could walk in and take it.

Mr. Madden stated it is delineated it is marked off with metes and bounds.

Rich Williams replied for right here where it is fifty feet but it goes right back to the whole thing.

Mr. Madden replied right and we can dedicate the rest of it. All that needs to be accepted is what is up to here and we can dedicate we have the rest of it.

Rich Williams replied you have basically from right here (referring to the plan) twenty five feet going up but you don't have this, this is all part of this.

Mr. Madden replied right but what we have we can offer and what has been offered can be accepted now when you put it together it will equal,

Rich Williams stated there is a house on this parcel

Mr. Madden asked on the road.

Rich Williams replied on this parcel is shown attached to this parcel that there is a house on where do we stop that is my concern. Where do we stop.

Board Member Rogan stated in other words because it is not a delineated road bed at this point it is part of a larger parcel that has never been delineated.

Rich Williams replied exactly.

Board Member Rogan asked so is it normally delineated then when it is offered for dedication.

Rich Williams replied if it was a road, if it was offered for dedication it would be broken out as a fifty foot wide strip with a beginning and an end.

Board Member Rogan stated so what you are saying is this subdivision map the way it was done could never have been accepted by the town because it is not on that map. It is not delineated to a fifty foot road bed. That is part of that whole lot.

Rich Williams stated that is what I am saying.

Craig Bumgarner stated that is the debate.

Craig Bumgarner stated and this is the point where Rich and I do disagree. Where I disagree is not the delineation of St. Johns Road as much as the ability of the town to take it off of the subdivision plat. Make no mistakes the town has the ability, the Highway Law grants them the ability, they have done it in the past but it is not the cleanest way to do it. You are doing it with somebody who may not be in support of this project and the town and I think in that situation you could end up in litigation.

Board Member Montesano stated my point with that note in mind is if the town takes it over that means the taxpayer may end up paving a road that may go into litigation we may lose.

Craig Bumgarner replied not necessarily because understand this the town is not saying at least it is my understanding and this is what the Board has to clarify are we saying to them that they have to dedicate it now because I will tell you this we did not start there when this project came in. We didn't. They came in and we said we are going to come up with some standards that would pretty much step one in this process. The town would not have to ever improve that road as far as I am concerned. It would be at the point that when the town was ready to accept dedication somebody would have to come in with the road that was, Chairman Schech stated to town specs.

Mr. Madden stated when the next development which is what I have heard in conversations that the real concern here is not this one subdivision it is what is going to come afterwards. The town is going to have the ability to make sure that whatever improvements are necessary are done before that happens. All that we are asking for is that the access that we are using right now we be allowed to continue to access it for two parcels instead of one which is again as I said earlier not really a burden on it anymore than it already is.

Board Member Rogan asked Craig, explain to me, explain to a layperson what the reality what the difference is between a road that would be improved not even on this subdivision but in any subdivision that would be improved to certain specs, certain town road specs even if though specs are downgraded to some extent. What is the real transition from going from I am going to say a private road to a dedicated town road. It is taking ownership and therefore the town maintaining it.

Craig Bumgarner replied right.

Board Member Rogan stated taking responsibility for it.

Craig Bumgarner stated put this one aside and say a subdivision that comes before the Board after the plat is filed the developer goes in and starts to do the improvements, they do some of the public improvements, they build out the houses and do whatever the case may be. Our Town Code requires that a certain percentage of a subdivision be built out to completion before we will accept the road for dedication because we don't want a lot of truck traffic, construction vehicles and so forth tearing up that road after dedication. Once they get to that percentage they can apply for dedication. The first step in that process is with the engineer's office they make sure that everything is built in accordance with the specifications that were applied to the subdivision. They inspect it, make sure everything is still in good shape out there. Once they have said that everything is acceptable and the metes and bounds have been approved by the Town Engineer a Deed is submitted as well as an offer of dedication, some other associated documents, the Town Board then on the Highway Superintendent's recommendation passes a resolution taking the road. Now, that process which sounds quick as I just throw it out there usually takes a few years because the houses are getting built out and so forth so you are usually looking at something that from the time the plat is filed to when it is dedicated it depends on when the subdivision is built out and how big it is but it is usually a couple years following the subdivision approval.

Board Member Rogan asked why would the Town ever want to accept a subdivision road, what benefit does the Town get from accepting dedication of a road it just is increasing what the taxpayer's pay for maintenance.

Craig Bumgarner replied well that is true but for one the Town adds the road to its highway inventory, CHIPS listing to receive state funding, listen it does not offset the cost of taking care of the road but the Town has always found in the past and it is the main reason that this Board has always frowned upon private roads that people move on to private roads, they know they are moving on to private roads, they sit in the Town Board Meeting and say I am a taxpayer too (TAPE ENDED).

Craig Bumgarner stated I want my road plowed, my road paved, my road this and that. We have had a couple subdivisions in the town, Phillard Court, roads that there was a clear designation on the subdivision plat; don't ever come back to the Town Board because we are not taking the road. It is happening right now in the Quaker Manor Subdivision. You will always have a private road and the town will never take it and absolutely they come in and they start beating on the Town Board to take the road and at that point those roads are never up to town road specifications. We have waived standards on the base or on the width or on the curbing or whatever the case may be and so then you have got a situation where we are telling the homeowners bring it up to town road specifications and then we will accept and they are saying we can't afford to because the grades are not right, the curbing, so on. It is just easier for the town to collect those monies through the taxes and administer it to the roads themselves. It also to a large extent is an emergency access issue.

Board Member Rogan asked if the Board allowed and I am just throwing this out here, fifty foot right of way and reduced the town road specs which is what we spoke about I will say six months ago could the town accept that road if it were an Item-4 road and not paved.

Craig Bumgarner replied no I don't think your Highway Superintendent would; understand something under the Highway Law he has to sign off on the dedication. It is kind of a strange process in that you need

two approvals really, the Highway Superintendent's first and then based upon his recommendation the Town Board can take it but without one or the other it never happens and taking on a road that is not improved to town road specifications is not likely especially in light of these other projects that I just kind of mentioned because here you have roads that are improved well beyond what I think we are envisioning here for St. Johns. It will not be accepted if you go up to Danand and Phillard and even up here to the one on Quaker you will see roads that by many appearances look like they are any other road within the town and we would be taking on all of those roads if we started taking on any (unable to hear the rest of his statement).

Board Member Rogan asked so you are saying a road like Danand up in Partridge is not maintained by the Town.

Craig Bumgarner replied it is not.

Board Member Rogan stated it is privately plowed in the winter time.

Craig Bumgarner replied right and every time their private person is not up there clearing that place out at six or seven in the morning, so everybody can make their commute the town is inundated.

Chairman Schech stated okay final arguments.

Rich Williams stated Craig just outlined all the procedures that the town has to go through if they are going to accept a road for dedication. The one thing that I didn't hear him say is that the first thing that the town has to do is actually subdivide the road off which is what would happen in this case. I repeat this is property owned by O'Hara and the Budakowski's are getting access over O'Hara's property I don't believe it is a true offer of dedication because it is not actually shown as a road even though it has a label on it and my opinion has been from the beginning that they have a right to get through this property through an easement but it doesn't justify or it doesn't qualify as frontage and they would need a 280a to proceed forward with this application.

Board Member Rogan stated well you brought it back to the three questions and I think as a Board we have already clearly answered two of them that we do want the fifty foot right of way being able to be there and we do want town road specs although we had talked at one time of reducing those standards. The insurable part I am less clear on even after all this discussion all I want is that if a subdivision like this is allowed through a 280a that these people have the ability to build this road and that at some point in the future we would have the ability to accept it or to do what we need to do with it to provide safe entry and exit into this.

Craig Bumgarner stated it was my understanding when that first memo was written that again, I know that is a very small whether it can be offered for dedication or not but when the first memo was written I think the concern was that if the Budakowski's got the subdivision and later it was subdivided back behind there could somebody come through there put in the town road maybe building upon some improvements that they have already done there and so forth and those are things that we answered in the affirmative. You can get the fifty foot and these people have the right to get back there. That last question to me is crucial you can throw all this discussion out the window if this Board is going to require them to dedicate the road. The Board has got to make that determination and then they have to go about either convincing the town that we can do it off that plat or convincing the town that they have the ability to offer it for dedication meaning talk to O'Hara or who ever the owner of that underlying property is.

Board Member Rogan stated whether or not it can be dedicated to the town I almost don't feel that in one part is even something this Board has to be all that concerned with. The important part is that if it is not able to be dedicated and just the discussion that you outlined earlier that you end up with people that move on a private road that now cannot be dedicated but they scream and holler that they want the town to take it over and they can't accept it. I think that is a bad situation and I don't like that quite honestly.

Craig Bumgarner stated there is a reason that this Board has always frowned upon private roads and that is it in a nutshell. Now, I mean there are also other ways to look at it. You could say the Budakowski's you are asking them to do a certain level of improvements and you would ask the next guy to do a certain level of improvements and if that person is not willing to or isn't able to then at some point you turn off the valve and say not until, where we have really have had a big problem with this in the past is the, with the 280a situation and this is something that I recall was discussed extensively when the Budakowski's appeared before the Zoning Board was the old paper roads in Putnam Lake. What would happen is somebody would own property down a paper road the first person would build their driveway in pop off the paper road, the next person would hook on to that pop off of that and the next thing you know you have got seven or eight houses down this thing that is a paper road, no drainage, terrible grades, poorly improved and the next thing you know as well we have got a highway truck going up there because the procedures were not as strictly followed at that point in time the taxpayers would come down beat up the Board and the truck was going up there. These are some of the things you want to think about. You could if you are incline to grant this application now have them do a level of improvements and make the next person take it to the next step but if you are saying that it is important to this Board for them to be able to offer the dedication Rich said he disagrees with me I am surprised to hear that because if you take a look at my memo I think it is pretty clear in the closing that I am not comfortable taking a road in this fashion unless the developer or the person who owns the underlying is in agreement with it. In the situation that I cite in my memo in the way we did it in the past was completely different from this. You had a developer who was basically bankrupt and said I just don't have anymore money to do anything to get this road dedicated, we looked around for options, I spoke to our Title Company, did a lot of research with the Highway Law and we accepted it in that fashion for that reason only. If you got somebody that owns that underlying piece that does not want that road dedicated this is not a good way to take a road for dedication.

Board Member Pierro asked what is to stop the Budakowski's from doing exactly that to us.

Craig Bumgarner asked doing what.

Board Member Pierro replied refusing to do the upgrades.

Board Member Rogan stated they won't get an approval for the second lot without the upgrades first being done.

Craig Bumgarner stated yes if you guys are going to approve the subdivision now you would obviously require any improvements that you felt appropriate in connection with the subdivision.

Board Member Pierro stated and would we be required to rescind the first 280a from March of 2000 or recommend that a variance be done to that 280a.

Craig Bumgarner replied they would have to go and get, Board Member Pierro stated and get an new 280a. Craig stated well, Rich Williams stated it is apples and oranges it is two different things. Craig stated at

this point that 280a turns into an open development which instead of your Zoning Board you are going to your Town Board. This is an interesting you could write a law school exam on whether this is 280a, open development. It is really not a very straight forward issue in this situation with the situation you have out there. I would not even feel comfortable answering the Board on the direction to take with that tonight without really taking a good hard look at this.

Chairman Schech stated I think we should really think about this.

Board Member Rogan stated let me ask another scenario question to get everybody thinking. If just for a scenario, if the Board said well we are not as concerned with the dedication of the road at this level because we are looking at say three lots coming off this road would we be setting precedence then that in the future that we say the other adjoining property owner decides to come in do we then have the right to say well at this point we want it set up in such a way and if you can't you can't build on it.

Craig Bumgarner replied no I don't think you are setting I mean you always hear that are we setting precedence but understand something the precedence that you are setting is these people have to do improvements to a certain extent to what we feel appropriate for the level of traffic that is going to be going in and out of there. The next person would have to do improvements to the extent that you would feel for the additional traffic on top of that so I don't think that the next person that came in could say you didn't make them do it you can't make us do it; to the contrary I think we point to the record and maybe some clear language that we would use in any future resolution if one were ever to be granted and we say the reason that we varied the standards is because there is only two houses and we clearly intend that any future development on this road would require further improvements.

Chairman Schech stated Rich, not right now but before the next meeting can we get the other maps of the O'Hara Subdivision so we can overlay that and see where they are because he has some parts up there subdivided.

Rich Williams replied yes I can go it right now if you want.

Chairman Schech replied no you don't have to get it now because actually it is true there is no road indicated. It is just a parcel of land and part of the parcel land is fifty feet wide and it comes out to 311 that does not mean it is a road. It is a road that goes from fifty feet,

Mr. Madden stated it is not worth debating.

Chairman Schech stated to a hundred an fifty acres that is the road.

Craig Bumgarner stated again, I hate to keep coming back to this but why are we talking about that if we have to first decide we want them, Board Member Pierro interjected whether or not we are going to require dedication.

Craig Bumgarner stated do we want dedication. We can answer these other questions afterwards.

Mr. Madden stated it is not necessary to dedicate it everybody is in agreement on that and the situation that would develop afterwards is no reason to deny this very limited development that is not going to have any negative affects on the current easement use so I understand the Board's apprehension about opening the flood gates but fairness dictates that the Budakowski's not be held responsible for everything that is going

to be coming after them. They are responsible for what they apply to this Board for which is again is a very limited subdivision. It is not going to over burden the easement. They already have the easement and while I see the Board has to take into account the long term affects that it not lose sight of this being a limited set of facts with a particular, two citizens of this town who are asking for some moderate relief and that we not get caught up in all the possible problems that may happen down the road which can be addressed when they come up.

Board Member Montesano stated you can't use the word road.

Rich Williams stated and I would agree. The issue here is not whether we are going to accept this road with one more lot on it, we are absolutely not. The question is the procedures that we need and how we need to plan for the future and again, if I am correct in my assumptions that this is a strip of land owned by O'Hara then in the future if Mr. O'Hara comes in to do a subdivision at that point he can actually offer it for dedication and at that point then we are possibly talking about taking it.

Board Member Montesano stated we keep using that word road I would prefer driveway because there is no road to my knowledge. There was never a road that existed it was for horses and wagons that went over a hundred years ago and went south.

Board Member Rogan stated Rich, I don't want to get away from Craig because I think Craig's point should be well taken by the Board that we have to decide where we want to go with this from that standpoint but when you mention the strip of land that is owned by O'Hara does that easement that implied or actual easement extend to subdivision rights, access subdivision rights or does it just extend to that one parcel that was created.

Rich Williams stated if it follows the old farm road then I would say yes. If that farm road never existed and I don't think the evidence really supports that then the question is when he broke this off does the easement stop here or does it go all the way back. I think and either way the Deed says she owns twenty-five feet to the center of the old farm road. I would say the easement would allow them to do the subdivision.

Craig Bumgarner stated yes because one of the other things that I had discussed with somebody from their law firm Shamberg, Marwell when we were talking about the fifty foot right of way the one thing that we did point out because again, we were asked can they provide the fifty foot right of way we had no doubt that they could provide it from here to here we thought since there wasn't any clear designation that they could provide it the rest of the way because it was not on the subdivision plat we asked them to shift it over so that if they owned to the centerline the twenty-five feet we told them to put another twenty-five feet on this side so that we could ensure that fifty foot be provided.

Board Member Rogan asked and even if they could only get the fifty foot to the Budakowski's house they could do a driveway from there it does not necessarily have to be all the way up. In other words what I am saying is they could have a three hundred foot long driveway coming in at the same point where their driveway comes into the old whatever you want to call it.

Rich Williams stated yes assuming that the topography and the land is suitable to put that in that is something else we would have to take a look at. We know the road bed is there.

Board Member Rogan stated well back to Craig's original question once again and maybe it is even worth saying one more time. My original concern was the fifty foot and the specs on the road, at this stage of the game I am not as concerned with the dedication feeling comfortable enough that we have control as a Planning Board with future projects I am not as worried about the flood gate. I am really not. I think that is the idea of the Board to look at what is a necessary improvement based on the impact and I have said from the beginning that one additional house I don't think requires a full blown town road for instance. I do think that some improvements are needed to the road. Earlier it had come up about why the driveway was not paved well right now it empties on to a gravel drive so I don't see that as a big concern although I don't know how they got the C. of O.

Mr. Madden stated well that obviously we will be willing to address and take care of.

Board Member Rogan stated I don't know if you want to poll the Board and see how everybody feels or we want to.

Chairman Schech stated I would like to think about it. I am not ready to make a decision.

Board Member Shay stated I think if our Attorney has researched it and has come up with adequate answers then I think we could make a move on it.

Craig Bumgarner stated but again you have got the information that you need. Is the road getting dedicated or is the road not getting dedicated. If you want more time to think about it that is fine but to start talking about what this is and that is.

Board Member Montesano stated now the one subject that we have is the dedication the object would be do we want to, Rich Williams stated let me interject that is not the issue, the issue is not dedication. The true issue is the procedures that we need to follow whether this is an easement over someone else's property in which case they need a 280a or whether it is an actual right of way that they have access on a platted subdivision road which would help them to meet the legal requirements of our zoning code. That is where we are.

Board Member Rogan stated but that doesn't seem to be a question that we should be answering. It seems like a question that you all should be answering.

Rich Williams replied I am not so sure that we agree on it that is the problem.

Craig Bumgarner stated I don't think that is a problem because if this Board says that they don't want the Budakowski's to be able to dedicate then where we send them next whether it be for open development or not is something that flows from that.

Rich Williams stated as clear as I can make it I believe that they have the right to access but they have the right to access it over somebody else's property by easement. That is my opinion and I believe they need to go to the Town Board for a 280a with a recommendation from this Board whatever the recommendation may be. Is that your (referring to Craig).

Craig Bumgarner replied no Rich because understand this, if this Board says this road has to be able to be dedicated there is no reason to go to the Town Board. It is done we are done.

Rich Williams stated assuming that they can dedicate the road.

Craig Bumgarner stated if this Board requires it dedicated then why would they go for the 280a. They are done.

Rich Williams replied well no I understand that but again I don't think anybody is talking dedication at this point.

Craig Bumgarner replied I am not so sure. How did the request from the second memo come up.

Rich Williams replied that was made by me because the impression that I got after listening to the two attorneys in here that there was a fifty foot strip of land that could be offered for dedication to the Town if need be that provided them access to their property I don't agree with that.

Mr. Madden stated it was never a requirement at the beginning of this process that we be able to offer it for dedication and if that came up and now (unable to hear his statement – no microphone). The original criteria was we show a fifty foot access, fifty foot right of way and that is still the case so if dedication would have made it cleaner I think that was everybody's intention I wasn't here at the beginning of the process and that is no longer a possibility or we can't come to a consensus on it. We can at least agree that there is a right of way, it does meet the fifty foot specs, and therefore there is no impediment to allowing us with the Board's recommendation for a 280a and grant a subdivision on those grounds. I think what Craig is referring to is that unless the Board affirmatively decides that it is not going to require dedication as a pre-requisite, is that accurate Craig,

Craig Bumgarner replied yes.

Mr. Madden stated unless the Board is going to make that threshold determination that we are not taking it unless we can dedicate it that the next step is to move on to the 280a on the other hand if the dedication is going to be an absolute requirement then we are at the end of this process. If the Board isn't going to require us to dedicate it then I think we can reach the next step.

Chairman Schech stated I haven't made up my mind. I need to time to think this over.

Board Member Pierro made a motion we reserve decision on this issue until, Chairman Schech stated next meeting. Board Member Pierro stated the next Board meeting.

Mr. Madden asked can you deliver it at the next meeting.

Board Member Montesano stated I don't think we need a motion.

Mr. Madden asked if there is anything that you need further.

Board Member Rogan stated the only thing that I would recommend is that if the Board can think of any other questions in the next four weeks we are not going to have a better chance to have them answered then right now for clarity because we have everyone here.

Mr. Madden stated we urge the Board speed because it has been awhile (hard to hear this statement)

Craig Bumgarner stated let me jump in there because understand something it has been a long process but there has also been, Chairman Schech stated a lot of problems, Craig stated a lot of time where we were waiting for submissions and I am not placing blame I mean some of the maps and stuff that were provided I understand we not easy to come by I do want to make clear for the record that it has not been because the Board has been sitting here not doing anything. There has been a lot of information requested the time in which to gather that took awhile and you had a couple of different questions asked and answered so I think.

Mr. Madden replied no you are right I am sorry I did not mean to imply that. I just meant, Rich and I have been in discussion and I have talked to you a number of times but it has been apparent now for a few months that these three questions as it were are the questions to be answered and there really is nowhere else to go and that is the only reason why I ask I won't say they are easy to figure out but they are simply sort of yes or no questions in that regard I would just ask on the Applicant's behalf that the answers be arrived at as quickly as possible because there is issues and financial matters obviously.

Chairman Schech stated we would like to see it go away too.

Board Member Shay stated Mr. Chairman you brought up something earlier about approaching Mr. O'Hara.

Chairman Schech stated well that is not up to us.

Mr. Madden stated again, if the Board is going to actually require dedication then that would be something but if it is not going to then that would not be necessary.

Chairman Schech stated I was fairly clear at the beginning of this meeting my direction but now I am not that is why I need time.

Board Member Rogan stated Craig you had said the Planning Board goes along the route of requiring dedication that the process ends there explain that because I am little unclear. That means they don't have to go for a 280a because,

Board Member Pierro stated they can't there is no need to.

Craig Bumgarner replied if the Planning Board says if you can't dedicate we won't approve the subdivision then that is it.

Board Member Rogan asked when you say that is it that means that the project can't go anywhere or because you think it can't be dedicated.

Board Member Pierro stated they can't deliver.

Craig Bumgarner stated they would have to come up with a way to offer dedication before they, what I don't want is for this to be strung out for more monies to be expended looking for 280a's if in the end the Planning Board is going to turn around and say you have to dedicate it because then they are putting in another application, paying another application fee, appearing before another Board. I just don't want to go to another Board if ultimately this Board's direction is it they have to demonstrate the ability to dedicate because you may say we want you to be able to offer the road for dedication in which case they may wish

to explore other options; go to O'Hara, try to push the issue of us taking this off the plat but at least we would not spend time running around doing other things.

Mr. Madden stated if you don't need dedication then that makes it clear of what we need to do. I guess our problem now is that we are not sure what to do.

Chairman Schech stated next time.

Mr. Madden asked what is the date of the next meeting.

The Secretary replied it will be September 4<sup>th</sup>.

Mr. Madden thanked the Board.

Chairman Schech asked there is no Morgan here right.

No one was present for Morgan.

#### **11) CENTERLINE PROPERTIES – Waiver of Site Plan**

Mr. Scott Spano, Applicant was present.

Board Member Rogan thanked him for his patience.

Chairman Schech stated no storage containers.

Mr. Spano replied no storage containers.

Chairman Schech stated no storage containers as a matter of fact all the storage containers in town now are on a list, a hit list and they will all be telling their story to the Judge.

Board Member Pierro stated we had four issued today. We have the copies.

Mr. Spano asked even on an industrial site.

Chairman Schech replied no.

Mr. Spano asked where is my next, where can I go now.

Board Member Rogan replied expand your buildings.

Mr. Spano replied I am not even done building yet. I am just trying to make the site plan right.

Chairman Schech asked what is the next step if we deny it.

Rich Williams stated okay if you are denying it, you actually have to take a motion and then at that point he can't have containers on the site. That is it. I mean I don't know there is another step. The next step would be to appeal it to a court.

Mr. Spano asked so you are saying the Town of Patterson there will be absolutely no storage containers.

Chairman Schech replied right.

Mr. Spano stated so you would rather have the stuff outside.

Board Member Pierro stated no we would rather have buildings.

Board Member Montesano stated if it is not on your site plan how are you going to store it.

Board Member Rogan stated what is it that needs to be stored in these containers that can't be stored inside of a building.

Mr. Spano replied it is just stuff that you don't want to take up the inside of the building with like you said make the building bigger it is never big enough.

Board Member Rogan replied you are right I know.

Mr. Spano stated when you moved into your house or whatever it is the same reason why people have sheds that is all that it basically is a shed.

Craig Bumgarner stated sheds are permitted.

Board Member Rogan stated you can build a shed.

Board Member Montesano stated you can build a shed you can't have a metal box container.

Mr. Spano stated we are talking about things like tires, hand tools.

Board Member Rogan stated it is not the contents as much as it is the outside.

Mr. Spano asked what is the biggest shed you can build.

Rich Williams replied I don't think there is a limit.

Board Member Rogan stated there isn't a limit. What can you fit on your property.

Rich Williams stated wait let me rephrase that there is not a limit on commercial properties. It is just another building on the site.

Mr. Spano asked you would rather have a permanent structure than something,

Chairman Schech replied yes.

Board Member Montesano stated definitely.

Chairman Schech stated you can't really tax a storage container and besides it does not look nice.

Board Member Pierro stated they build pole barns that are removable that come down.

Mr. Spano stated I think it looks better than stuff scattered on the yard.

Board Member Rogan and Board Member Pierro stated we agree with you.

Board Member Pierro stated it does look better than stuff scattered around the yard but a building looks better or a garage or a barn than a metal truck back. We have them all over town and we have been issuing violations to them.

Board Member Rogan asked Rich this is something that is not permitted by our zoning.

Rich Williams replied no.

Board Member Rogan stated so in theory we deny him the only recourse he could go to the Zoning Board.

Rich Williams stated it is not permitted within a residential district by our Zoning Code with commercial districts it is part of the whole site plan review process that this Board could undertake and in fact if determined to be an accessory use to the principal use could be permitted.

Chairman Schech stated which we have disapproved in the past.

Board Member Rogan asked this is a project that is under construction you said you are not finished with it.

Mr. Spano replied no.

Board Member Rogan asked where is this, Commerce Drive.

Mr. Spano stated we are building a warehouse.

Board Member Rogan stated we just had Northeast Mesa remove theirs which is right on your road.

Board Member Pierro stated Heritage had it at their site and flipped it over to Northeast Mesa.

Board Member Rogan stated I can definitely appreciate you are in an industrial area, commercial area you are trying to store stuff I appreciate the fact that you are not throwing it all around the outside of the building.

Mr. Spano stated and with what is going on that is why I came in front of the Board.

Board Member Rogan stated and I am sure you can appreciate the fact that the Board is trying to change the town towards what we are seeing with our Master Plan with the way that we want to push the town towards.

Chairman Schech asked so these things are really allowed in an industrial area.

Rich Williams replied it does not say that they aren't.

Board Member Montesano stated but now we are going to have to resubmit plans showing these boxes.

The Secretary stated he did.

Rich Williams stated he submitted a sketch plan showing the location.

Craig Bumgarner stated by the way the reason I asked if you were still in construction on the site is because one of the things that has been done in the past is if it was just holding stuff while construction,

Board Member Montesano stated this is different he wants a permanent box there. We have been going along saying no and now,

Board Member Pierro stated we can't flip.

Board Member Pierro made a motion in the matter of Centerline Properties that the Planning Board denies a site plan waiver for a steel truck back storage containers on the property. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Shay	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

Rich Williams stated there is one other issue while Scott is here just to keep the Board in the loop so to speak, originally it was my understanding that this was going to be setup for operating a contractor's yard, warehousing material and Scott is going to lease portion of the building to another individual who is also going to warehouse different material it is shown on the site plan, no problems, no concerns.

Board Member Pierro stated as long as it is shown on the site plan.

Chairman Schech stated as long as he does not have to expand outside.

(Too many speaking at once unable to transcribe).

## 12) HANSEN SUBDIVISION

Mr. Gary Tretsch, Putnam Engineering was present representing the Applicant.

Mr. Tretsch stated I think the Board looked at the site. There are two existing houses on the site. They are owned by a father and son and they basically want to split it down the middle as close as we can make it down the middle. The only changes to what is out there now is we propose the driveway runs through from one end to the other when we subdivide it we would like to break it up. We had submitted this before the zoning change and I recognize we have to adjust the zoning information.

Chairman Schech stated basically we don't see any problem with it except for fact that the entrances need help because I know I had to back out into the road. I had trouble turning in from the far side and both of them need a lot of help so that they can access the driveways without backing into the road or turning around or whatever.

Board Member Shay stated if you were coming north, you couldn't make that turn.

Chairman Schech stated widen them somehow.

Board Member Shay stated something so that you don't make a three point turn to get into a driveway.

Board Member Montesano stated try to make it ninety degree if you can.

Board Member Pierro stated part of that embankment could be taken down.

Mr. Tretsch stated I will show some improvement to that.

Board Member Rogan stated Gary, the only other concern the Board had was that on the lot to the right side of the plan whether or not they would have the ability to turn around up at the house. We obviously don't want them to have to back down their driveway into Farm to Market Road.

Mr. Tretsch replied we show it ending here the break we can make it a little bigger so they will have some ability to turn around.

Board Member Pierro stated and also take out that shed that looks like it is falling down and that may provide enough area to cause a turn around to be done.

Mr. Tretsch replied we will address that. Can we move to a public hearing on this and I will give you the details.

Board Member Rogan made a motion in the matter of Hansen Subdivision that the Planning Board schedules a public hearing for the September 4, 2003 meeting. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Shay	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

Rich Williams stated I just want to bring up one issue for the Board; our Code requires that where a property abutting a road that twenty-five feet from the centerline that the Applicant of the subdivision show that twenty-five foot reservation strip. The problem we have with this is that twenty-five foot reservation strip in front of the southerly house is the septic system I believe so my recommendation was that I put in the memo was that they show a twenty-five foot reservation strip except for the area in the front of the house. Are you all okay with that.

Board Member Rogan stated fine.

Mr. Tretsch thanked the Board.

### **13) MORGAN DRIVEWAY**

Board Member Pierro asked they need a waiver to put the pavers down.

Craig Bumgarner stated Rich did recommend some blacktop for the first, Board Member Pierro stated right to hold it back.

Board Member Pierro made a motion in the matter of Morgan Site Plan, Putnam Lake that the Planning Board grants a waiver for the requirement of having a blacktop driveway and allow brick pavers to be installed,

Board Member Montesano asked what was the rule that we past last year on non-blacktop driveways like mine that was passed so we are giving a waiver you don't need a waiver I think we made an amendment that said you can use these.

Chairman Schech stated I thought that we made it that they still had to come before us.

Board Member Pierro stated in that motion I ad that as agreed with the Applicant the first five feet be blacktopped to hold the pavers in place.

Board Member Shay seconded the motion.

Board Member Montesano stated hold it can we have a discussion before we vote. You want the first five feet blacktopped.

Board Member Rogan replied yes because you can't bring the pavers to the road.

Board Member Montesano stated because what I am looking at is the way my driveway is the pavers are held in, Chairman Schech stated you have a flat driveway this is not a flat driveway. Board Member Montesano stated the other driveway that was installed, there are other driveways in the town with pavers believe me I have seen them all.

Board Member Pierro stated but they have like a little curtain to hold them back.

The Secretary stated I believe Rich said he had talked to Charlie on it also.

Board Member Montesano replied okay because I have been trying to talk to Charlie and, The Secretary stated he had talked to Charlie previously he said.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Shay	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

#### 14) MINUTES

Board Member Pierro made a motion to accept the minutes of June 26, 2003 and July 3, 2003. Board Member Rogan seconded the motion. All in favor and minutes were approved by a vote of 5 to 0.

#### 15) OTHER BUSINESS

##### a. Camp Brady Wetlands

Board Member Pierro asked Camp Brady is an extension for the wetlands.

The Secretary replied no the wetlands you have do the waiver for the fire hydrant.

Board Member Rogan stated we did that already.

The Secretary replied no you didn't.

The Board replied yes we did.

The Secretary replied no you did not do it because you were confused at the last meeting over SEQRA and the Chairman said put it on the next agenda.

Board Member Rogan stated right I read that in the minutes.

Board Member Rogan made a motion in the matter of Camp Brady that the Planning Board grants a negative determination of SEQRA and the Planning Board waives the wetlands permit requirement for the installation of a fire hydrant as per the fire department. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	yes
Board Member Shay	-	yes
Board Member Pierro	-	yes
Board Member Rogan	-	yes
Chairman Schech	-	yes

All in favor and motion carried by a vote of 5 to 0.

Board Member Rogan stated and we don't know what the extension is about.

The Secretary replied I think that was just a mistake.

**b. Tom McNulty**

Mr. McNulty stated I addressed a letter to the Board back in June regarding the sign at the school and I was not able to come I was away.

Chairman Schech asked did you get a copy of the minutes.

Mr. McNulty replied I didn't.

The Secretary stated no because the Board told me to wait until they are approved before I release them.

Mr. McNulty stated what I had addressed the Board for and I don't even know if it is your jurisdiction.

Chairman Schech stated it is not schools are exempt.

Mr. McNulty replied I don't see it that clear and I know legally I am told they are and I don't have the money to challenge it. What I was looking for is try to get support of the Board to say it falls outside of town regulation.

Board Member Rogan stated we did that.

Chairman Schech stated we did that in our memo.

The Secretary stated Rich still has to finish up that memo.

Craig Bumgarner stated the Board collectively I think and I am right in this, the Board replied yes.

Board Member Montesano stated but I don't think the memo was ever written. It was our intention to have that done.

Craig Bumgarner stated the Board stated their displeasure in that sign.

Mr. McNulty stated I appreciate that.

Mr. McNulty stated I have been in discussion with Ron Wilson the Assistant Superintendent and now they tell me they are going to put a cedar fence around it and landscape it and I don't know if a fence is, Chairman Schech asked are they going to put it right in front of it.

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

Mr. McNulty stated they tell me that they did an extensive review and they can't find any other place to locate it. It is a safety concern in the center island where the flag pole is. It is a safety concern next to the ball fields but I have seen at least three cars stop dead in the middle of the road and read it when it was on.

Board Member Pierro stated eventually it is going to cause somebody to pass one of those cars and an accident is going to occur.

Mr. McNulty stated they tell me the big reason they can't move it because of a sewage plant that is going to come through and that they received the plans from the Town and reviewed it and in speaking with Rich there is really very preliminary stages of that from what I understand and I want to get the Board's comment is there really a sewage treatment plant coming about.

Board Member Montesano stated I don't know if it is going through school property.

Mr. McNulty stated they put it to me that they are going on it and they are putting a pump station in and a number of things.

Board Member Pierro stated maybe but the last that I told you Tom is that I heard that the design company had gone bankrupt so now they are starting the process over again.

Board Member Pierro made a motion to adjourn the meeting and Board Member Shay seconded the motion. All in favor and meeting adjourned at 9:22 p.m.