

**TOWN OF PATTERSON**  
**PLANNING BOARD MEETING**  
**August 27, 2009 Work Session**

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

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**PLANNING BOARD**  
Shawn Rogan, Chairman  
David Pierro, Vice Chairman  
Michael Montesano  
Maria Di Salvo  
Charles Cook

**Planning Board**  
**August 27, 2009 Work Session Meeting Minutes**

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

Present were: Chairman Rogan, Board Member Pierro, Board Member Montesano, Board Member Cook, Rich Williams, Town Planner, Ted Kozlowski, Town of Patterson Environmental Conservation Inspector.

The meeting began at 7:30 p.m.

Michelle K. Russo was the Secretary and transcribed the following minutes.

Chairman Rogan state unless anyone has any objection, we have a gentleman here for Verizon Wireless, if we could jump to number seven on the agenda. Any objections.

Board Member Pierro stated none.

**7) VERIZON WIRELESS AT 801 ROUTE 311 – Initial Application**

Mr. Michael Sheridan of Snyder & Snyder was present to represent the application.

Chairman Rogan stated okay, sir could you just please state your name for the record.

Mr. Sheridan stated sure, Michael Sheridan from the office of Snyder & Snyder, 94 White Plains Road, Tarrytown, New York.

Chairman Rogan stated okay, Rich.

Rich Williams stated an application has been made to install a cell tower within an existing silo, at 801 Route 311, this is also the location for Pied Piper Ponies, their farm. It is just past Louie Pescatore's subdivision, Astro Subdivision, heading away from Town Hall.

Chairman Rogan stated okay.

Rich Williams stated the application includes modifying an existing farm road to provide access up to a 22 by 30 compound to a barn style enclosure for the equipment. As far as the Planning Board goes, the application is pretty straight forward.

Ted Kozlowski stated hello everybody.

Chairman Rogan stated hello Ted.

Rich Williams stated very minor comments with the site plan, most of the comment revolve around the existing zoning and how the proposal will effect that or will be effected by that, so.

Chairman Rogan stated so they go through site plan with us and they go through special use permit with Zoning.

Rich Williams stated no, they make an application to the Planning Board for site plan approval, pursuant to Town Law that provides them a vehicle for getting to the Zoning Board of Appeals for any requested variances that they need. In this case they will need a use variance and at least one, if not multiple area variances.

Chairman Rogan stated sir, is there anything that you would like to bring up for this evening with the Board since this is our initial application on this.

Mr. Sheridan stated well I think the statement that this is pretty straight forward is a good statement, it...

Chairman Rogan stated you'll agree with that.

Mr. Sheridan stated I'll agree with that...

Chairman Rogan stated okay.

Mr. Sheridan stated it's, as stated and as you can see on the plans, its using an existing structure which will be virtually look exactly the same as it is now, it will just have antennas located within it.

Chairman Rogan stated okay.

Mr. Sheridan stated and there will be a small shelter at the base of it which again has been designed in a similar fashion to the barn on the property and it won't be, really won't be visible to the road anyway, it's so far back.

Board Member Cook stated question, will the antennas be within the silo of on the exterior of the silo.

Mr. Sheridan stated the antennas will be within the silo, if you look at your plans, the roof of the silo is going to be replaced with a very similar roof which will be of stealth type material which will allow the antennas to work from within that.

Board Member Pierro stated now access is by the current driveway, the existing driveway.

Rich Williams stated off of [Route] 311, by the existing driveway.

Board Member Pierro stated okay, that's set pretty far back, I thought it was up front, in the barn up front.

Rich Williams stated no, its in the silo up on top of the (inaudible).

Board Member Pierro stated oh, excellent. Its been a long time since I looked at this.

Chairman Rogan stated I wish they all could be mounted inside existing structures, to be honest with you. Its not going to change the character of the site, this...

Board Member Montesano stated was there any, Tuesday night when they were having the conversation, at that meeting, people were talking about putting things in silos and they said is that legal, the reason being is it's a farm silo, its supposed to be used for farm products. I would assume that you guys have put one in a silo before.

Mr. Sheridan stated I personally have not dealt with an application like that but I can only imagine its been done before, that fact that this technology is readily available.

Board Member Montesano stated well I realize the technology, the thing is, the question was brought up by, that was one of the people that was sitting in the audience.

Rich Williams stated well let me answer that, Mr. Montesano is referring to the ZBA meeting that occurred Tuesday night for a cell tower application, submitted by Wireless Edge, over in the Putnam Lake area. The answer is yes, it is perfectly acceptable to put the cell tower within the silo but it is one of the zoning issues that I did raise because a silo has a special consideration within our Zoning Code, as far as use and height. Once you put a cell tower in it, my opinion is that it is nothing more than a stealth cell tower and should be treated as such. Not to say that it shouldn't be treated favorably but...

Board Member Montesano stated what I'm looking at...

Rich Williams stated you know its now a principal use, its no longer an accessory use to a farm...

Board Member Montesano stated right.

Rich Williams stated and it now no longer enjoys the height exemption that our Code has for silos.

Board Member Montesano stated now also with that note, is that going to remove their agricultural status.

Chairman Rogan stated I was wondering that too.

Rich Williams stated no.

Chairman Rogan stated does the property currently enjoy an Agricultural District.

Rich Williams stated actually, yes it does.

Board Member Pierro stated they are not using, sorry to interrupt you but they are not using the silo for its normal agricultural uses.

Board Member Montesano stated but they are using.

Board Member Pierro stated that we know of...

Board Member Montesano stated but like I said...

Board Member Pierro stated they are not putting silage in, in other words.

Board Member Montesano stated what I'm looking at is, does that take away from their agricultural benefits, if they are using it for a second type of business.

Rich Williams stated this occurs through out New York State on Agricultural District properties where they set them up for solar farms or more specifically upstate, wind farms...

Board Member Montesano stated yeah I know, I've been up...

Rich Williams stated and they are doing them in conjunction with the farming activities out there.

Board Member Pierro stated they are going to have a bunch of ponies on site that they raise and take care of.

Chairman Rogan stated to state Mike's question in a different way, if they knocked the silo down and removed it from site...

Rich Williams stated right.

Chairman Rogan stated would they still enjoy the Agricultural District designation. I mean it sounds like the answer is yes, so then this use doesn't hamper that designation.

Board Member Montesano stated thank you for the collaboration.

Board Member Cook stated what does the Code call for height wise for silos.

Rich Williams stated the Code exempts silos from the height restriction but it very narrowly defines silos.

Board Member Cook stated so then, by putting these cell tower antennas in there et cetera and related storage area around the bottom, the mechanical area on the bottom, how does that impact that height, any type of height.

Rich Williams stated the silo is currently 71, 72 feet high because it's a silo, its exempt and it is really a pre-existing non-conforming structure within our Code, that silo, so even if its not being used, its still there as a farm structure. Now that they are changing use to it though, my thinking is that it is no longer classified as a silo, they are changing the use and they need a height variance for it. Alternately you could go into the ZBA for a change on a pre-existing, non-conforming use of the structure.

Board Member Cook stated what is the height variance that they would be asking for.

Rich Williams stated 35 feet, 37 feet.

Board Member Pierro stated variance.

Rich Williams stated yes.

Board Member Pierro stated how tall is the current silo.

Rich Williams stated 71 feet.

Board Member Pierro stated so they are going to raise it from 71.

Chairman Rogan stated no.

Rich Williams stated no, the silo is 71 feet, our Code allows actually 38 feet within an R-4 Zoning District, so they would need a variance from the difference between the 38 feet which is allowed for a typical principal structure and 71 feet.

Chairman Rogan stated Rich, considering that the silo is existing, doesn't sound like a stretch, its just because you are changing the use of it, so therefore that kicks in a change.

Board Member Montesano stated well I'm looking at a pre-existing...

Board Member Pierro stated can that be waived Rich, if that Board recommends.

Chairman Rogan stated not by us.

Board Member Montesano stated no, its got to waived by them. It's a pre-existing condition in an R-4 Zone...

Rich Williams stated right.

Board Member Montesano stated okay, now we are modifying the pre-existing condition still in the R-4 Zone and there is no problem with that.

Rich Williams stated you are changing the use and its not a non-conforming use, it's a conforming use because it's a silo and its exempt from the height restrictions.

Chairman Rogan stated but you change it into a cell tower storage facility now.

Board Member Montesano stated its an R-4, that is the only problem I have, I expect a few people to show up.

Chairman Rogan stated yea but...

Mr. Sheridan stated the structure itself, the appearance of the structure won't be changing, the height of the structure will not be changing. It is going to look the same before and after, what the silo is being used for now, I don't know the property owner is actually using it for now, if they are still using it for their farm, I haven't spoken to them about that but...

Rich Williams stated well having some experience with silos, I can tell you that there are no corn fields in the area.

Mr. Sheridan stated I don't know what it was built for initially.

Board Member Cook stated the cell tower that was approved down on [Route] 22, was higher than this one.

Board Member Pierro stated absolutely.

Rich Williams stated yes, it was a 150 feet.

Board Member Cook stated yes.

Rich Williams stated which is the typical height.

Chairman Rogan stated right.

Board Member Montesano stated at Tuesday nights discussion...

Board Member Pierro stated I would like to call this an invisible use change, so it really is invisible.

Board Member Montesano stated they are not looking for a monopole because its too small for their six people they expect to be putting on it.

Chairman Rogan stated well I look forward to taking a look at the plans on this because really, as Rich had said, its going to be the site plan issues of how, because there are support facilities related to this that will be built around the base of the silo. So this becomes the meat and potatoes of what we are really looking at here. How do you access it and how do you support it.

Mr. Sheridan stated a small shelter at the base of it that will be, again it was designed with the barn in mind and the barn in a way that will look like, that has a similar look to barn on the property.

Chairman Rogan stated right.

Board Member Montesano stated when we get, the size of the tower right now, is going to fit in there.

Mr. Sheridan stated yes.

Board Member Montesano stated this is just...

Mr. Sheridan stated yes.

Board Member Montesano stated the size of the facility at the base will be minimal, what is the possibility of expansion once it's in.

Chairman Rogan stated upward you mean.

Board Member Montesano stated yeah.

Board Member Pierro stated they have another 36, 37 feet.

Rich Williams stated I don't know what the ability for expansion of this tower is because the antenna ray is basically at the top and shielded in an RF Compliant dome, which is going to be added. Anything below that is going to be you know, steered by the concrete walls, so I don't know if you are going to get (inaudible).

Board Member Pierro stated if the cell tower is 38 feet, you said earlier.

Rich Williams stated no.

Board Member Montesano stated no.

Rich Williams stated the height limitation in the R-4 Zoning District is 38 feet.

Board Member Pierro stated how tall is the cell tower going to be, is it going to be 71 feet, okay.

Rich Williams stated yes.

Mr. Sheridan stated it is the silo...

Board Member Cook stated the current height of the silo.

Mr. Sheridan stated the top of the silo is going to be exchanged with a stealth material.

Board Member Montesano stated we need a technical person to tell me how difficult it would be to take that covering and add another thirty feet on to it and bring it up.

Rich Williams stated they are not proposing to do that at this point.

Board Member Montesano stated at the present time.

Rich Williams stated and I imagine it would be difficult to put some additional weight on that silo.

Board Member Cook stated they would have to come back.

Chairman Rogan stated sure.

Board Member Cook stated to either us or the Zoning Board or somebody or both, to do that.

Chairman Rogan stated okay.

Rich Williams stated I think the only question that needs to be answered at this point is, typically the Board does a site walk out to site, I'm sure you want to do it again. Do you want to wait until the ZBA schedules a balloon test and everybody go out together.

Chairman Rogan stated they are going to do a balloon test with an existing silo.

Rich Williams stated actually no, they are not going to do a balloon test.

Chairman Rogan stated right.

Rich Williams stated you're right.

Board Member Pierro stated why, the silo is already there.

Chairman Rogan stated right.

Board Member Montesano stated they are going to use your paintball gun.

Chairman Rogan stated in terms of...

Rich Williams stated I'm just so used to cells towers with that.

Chairman Rogan stated exactly.

Rich Williams stated but do you want to schedule it with the ZBA.

Board Member Pierro stated absolutely.

Chairman Rogan stated absolutely, I would say.

Rich Williams stated okay.

Board Member Montesano stated you can bring your paintball gun in case Buzzy can't see the top.

Board Member Pierro stated maybe we can leave a couple of rounds on the silo.

Chairman Rogan stated but we have the initial information, the size of the enclosure is pretty small, 22 by 30 for the shed basically that will be built to house the equipment.

Board Member Pierro stated its going to look like the barn.

Chairman Rogan stated yea, okay, we thank you for your time and we will see you next week or your counterpart, whomever.

Mr. Sheridan stated thank you very much.

Chairman Rogan stated have a nice evening.

Mr. Sheridan stated thank you, you too, I appreciate your time.

Chairman Rogan stated thank you.

Board Member Montesano stated the new junior partner will be here next week.

Mr. Sheridan stated what.

Board Member Montesano stated the new junior partner will be here next week.

Board Member Pierro stated right. Shawn, will you be missing a meeting.

Chairman Rogan stated no.

Board Member Pierro stated okay, good luck, it was nice to meet you.

**1) ANTHONY BONIELLO – Wetland/Watercourse Permit**

Chairman Rogan stated okay, Mr. Boniello, we do not have anything new from Mr. Boniello yet.

Ted Kozlowski stated I have tried all day to call him (inaudible).

Chairman Rogan stated so we are not even really sure whether...

Rich Williams stated he called me...

Chairman Rogan stated oh I'm sorry.

Ted Kozlowski stated what time did he call you Rich.

Rich Williams stated 11 o'clock today. He's asked to be put over to the next meeting...

Chairman Rogan stated okay.

Rich Williams stated because he didn't come in, he didn't get the notice, he didn't send the notice out and we don't have an application, he's made no submission.

Chairman Rogan stated all right and this isn't work that has already been completed, this is him to trying to get a permit, right.

Board Member Pierro stated right.

Rich Williams stated I just want to point out to the Board that we had, in good faith, you know scheduled a public hearing...

Chairman Rogan stated and paid for notice.

Rich Williams stated and paid for it and its all a waste of money.

Chairman Rogan stated let's...

Board Member Pierro stated right.

Rich Williams stated in the future, maybe we really need to think about having complete applications before we do it. I know everybody wants to be...

Chairman Rogan stated how much, other than staff time because staff time never gets figured in as an expense because we always pay that. How much does it cost to notice for something like that.

The Secretary stated I actually do not know, I can ask the Town Clerk.

Chairman Rogan stated please get us the answer.

The Secretary stated absolutely.

Chairman Rogan stated make a motion that we set a public hearing for the October meeting for Mr. Boniello's wetlands/watercourse permit application.

Board Member Cook stated second.

Board Member Montesano stated question.

Chairman Rogan stated sure.

Board Member Montesano stated does he have his application in yet.

Ted Kozlowski stated no.

Board Member Montesano stated then I recommend we do not set the public hearing until his application in.

Chairman Rogan stated we can do that, that's fine.

Board Member Pierro stated he sets it...

Chairman Rogan stated we would need to have it though the problem is that if we don't have it for the meeting by next week.

Board Member Montesano stated then he will be held off again but that is his prerogative.

Chairman Rogan stated okay.

Rich Williams stated do you want to call him Ted or would you like me to call him.

Ted Kozlowski stated he called you, you know, I got put on hold for about fifteen minutes then I hung up today.

The Secretary stated I'll call him.

Ted Kozlowski stated I'll call him again tomorrow.

Board Member Pierro stated you want his cell phone.

The Secretary stated well write it down, there is no need to put it into the record.

Chairman Rogan stated okay.

Board Member Pierro stated okay.

Chairman Rogan stated so I will rescind the motion I agree with you Mike and do we actually need to do a motion procedurally to cancel next...

Rich Williams stated he didn't meet the requirements, he can't have it.

Chairman Rogan stated all right, so it's a moot point, Anthony Boniello is off the next meetings agenda.

## 2) **JOHN T. MAYFIELD – Wetlands/Watercourse Permit**

Chairman Rogan stated Mr. Mayfield's wetland/watercourse permit application, we have some information here in our packet. We have a map, I understand.

Rich Williams stated you do have a map, you do an application, he did not submit enough maps I had a computer.

Ted Kozlowski stated did we get any kind of confirmation that the neighbors have been notified (inaudible).

Rich Williams stated no but I can talk to you later about who was going to do that mailing.

Ted Kozlowski stated who was going to do it.

Chairman Rogan stated you want to read the minutes.

Rich Williams stated I don't know, I would have to go back to the minutes.

Board Member Pierro stated you said you were going to help him.

Rich Williams stated check the, no I did not say you.

Ted Kozlowski stated the man has not called me.

Board Member Pierro stated I thought Ted was going to assist him with that.

Ted Kozlowski stated I told him I would help him as much as I can.

Rich Williams stated I was trying not to say that on the record.

Board Member Pierro stated what's the big deal.

Ted Kozlowski stated no, I'm saying it on the record but you know both him and Boniello, I offered help, neither of them have called me, neither of them have returned phone calls, so what do you want me to do.

Rich Williams stated I'm telling you, he submitted certified notices that he had contacted three of his neighbors, the actual number that he had to contact was significantly more. He told me point blank that this department's staff which confirmed that number, really didn't know what they were doing and it was very

incensed that we suggested that he needed to notify more than three. He did not come in, he did not get the notice, he did not call.

The Secretary stated I mailed it to him, I mailed him the notice and the name list and it did not come back.

Rich Williams stated that's true.

Ted Kozlowski stated it doesn't surprise me (inaudible) I really tried.

The Secretary stated and his wetlands, Winston Byfield, I mailed it to him as well.

Ted Kozlowski stated my understanding is that Winston is not being paid.

Chairman Rogan stated right.

Ted Kozlowski stated so he's doing this out of the kindness of his heart as well. We have an application pending.

Board Member Pierro stated sorry.

Board Member Montesano stated the old because I don't have any of this stuff, I assume we didn't get it.

Chairman Rogan stated hey Dave, is that the look that your daughter gives you.

Board Member Pierro stated just like it.

Chairman Rogan stated okay. So we have this set for a public hearing but we don't, we are not going to know or have a good enough...to hold the public hearing because of notifications.

Board Member Cook stated well we haven't in the past because I remember one application the fellow didn't have the cards or didn't complete the mailing or something, we just said next time.

The Secretary stated Charlambous.

Rich Williams stated oh yeah, we did it on Martins too.

Chairman Rogan stated everybody was fine with Mayfield, it was a matter of completing the formalities of the process and that is what we are attempting to do, so let's see where we can get with that.

Board Member Pierro stated right.

Ted Kozlowski stated and that is so frustrating because he's 99% there.

Chairman Rogan stated yeah.

Rich Williams stated fifteen minutes missing...

**3) PATTERSON CROSSING RETAIL CENTER – Continued Review**

Chairman Rogan stated okay, Patterson Crossing Retail Center, continued review. I see we have a draft resolution.

Rich Williams stated you have two draft resolutions, actually.

Chairman Rogan stated two draft resolutions, I didn't see the other one.

Rich Williams stated I've been through the plans, they have addressed pretty much all the issues, I've gone to Andrew Fetherston from Maser, who also been through the plans and agrees that they are fairly complete. We still have not seen the off-site improvements (inaudible).

Board Member Montesano stated should be together.

Chairman Rogan stated yea, oh okay, thank you.

Rich Williams stated yes, they are stapled together. I had worked up a draft resolution and e-mailed it down to David Steinmetz, who is representing the applicant on this and he made some pretty interesting revisions to it that I think the Board needs to weigh in on. Which is why I gave you my original plus theirs, they are looking for some leeway on things like bonding, they want to just bond on phase at a time. Given the size of the project, there is some merit to not bonding the whole project but if we are just bonding one phase at a time, my concern is, they are going to move into the next phase because once construction starts, you're going. There is a time element in getting the bond in place...

Chairman Rogan stated what about being a phase ahead, in other words, you bond phase one and two and then you don't bond phase three until phase one is complete, in other words, there in too you have a bond, you jump leap frog, so to speak.

Rich Williams stated yes, something along those lines is where we need to go to protect the Town.

Board Member Montesano stated can we hold up their building permit on, all right we give them one and two, if we approve that but you can't proceed to three until the bond is in place or something to that effect.

Chairman Rogan stated you can't proceed to two until the bond for three is in place.

Rich Williams stated right.

Board Member Montesano stated right.

Chairman Rogan stated you're always one ahead of yourself.

Rich Williams stated right so if they start in two, which they are going to do.

Chairman Rogan stated right, let's hear from just...

Board Member Pierro stated counsel.

Chairman Rogan stated I don't whether its from counsel, just to make sure that we are not setting ourselves up for something that ends up being a nightmare to enforce, you would probably know better than counsel on that between you and Nick.

Rich Williams stated as long as we have enough and this is my concern because they want to do the same thing, just so you know, with the inspection fees and pay the inspection fees one at a time rather than you know, trying to get that next set of inspection fees in, could be difficult...

Chairman Rogan stated yea.

Rich Williams stated so I just want enough lee time...

Chairman Rogan stated yea.

Rich Williams stated so that you know...

Board Member Montesano stated can we do the same procedure on the inspections. They can't proceed to two until one is paid, et cetera.

Chairman Rogan stated we don't want to make this so complicated or so many steps in this that it becomes more work and the work itself is a cost, you know, so we have to be reasonable here.

Board Member Montesano stated well the object would be this, if we proceed with this, it may get costly to us but the object is that this is going to give us a little more control. The threat shouldn't be on us, it should be on him, hey you're not getting this unless the money is in here et cetera. Not that we are going to say, well we can't do it because our staff is going to get shafted, we kind of expect that with the, as part of the territory. He's got to worry about it, if we don't like what you're doing, we are just not going to proceed.

Rich Williams stated I think it can be set up that way as long as everybody, there are clear ground rules about you know, if you start phase two and you don't have the bond in place, we are issuing a stop work order immediately.

Chairman Rogan stated yea.

Rich Williams stated so everybody is very clear but you need to take a hard look at this. The other thing I was a little leery about is he's building in a lot of flexibility to change the design in my opinion and pushing it back on, if approved by the Town Planner. I think it's a good idea to give him some flexibility, as we talked about in moving say the tower twenty, twenty-five feet, based on what store may be going in but it goes right up to the number of parking spaces, the size the building, things like that and that I don't agree with.

Board Member Montesano stated we can always make it percentage, in other words, if it exceeds three percent, he's got to come back and talk to the entire Board or something to that effect. So if he moves something, for arguments sake, twenty feet what percentage of that twenty feet...

Chairman Rogan stated you're saying set up some kind of a trigger that says oh, this is bigger than, whatever...

Board Member Montesano stated right.

Chairman Rogan stated yea, I agree with you there because I don't want them coming back for...

Board Member Montesano stated not for every little thing...

Chairman Rogan stated (inaudible).

Board Member Montesano stated but the object is...

Chairman Rogan stated but flip side...

Board Member Montesano stated you don't want to dump it on him either.

Chairman Rogan stated you also don't want it to turn into a, use Field & Forest as an example of trying to set up when they need to come to us, when they need to let us know things are going on, we said it was going to be five foot tall, its going to be fifteen foot, we want to know about these things early, so the triggers need to be in place.

Rich Williams stated you're moving some architectural features around, you're not material changing the overall design but as far as the building size, the number of parking spaces, that should be locked by that site plan.

Chairman Rogan stated right.

Board Member Cook stated I agree with that.

Board Member Montesano stated this is what's got to be done, you're allowed, a field change may be allowed, let's say for arguments sake we allow a ten percent field change on the size of a building.

Rich Williams stated a field change, Mike, my opinion a field change is due to unforeseen circumstances.

Board Member Montesano stated okay, then I'll try to figure out another word. You're going to change something, for arguments sake that is going to be twenty or thirty feet or a design change. If it's within a sensible reason, such as what, the federal communications committee came in and said you can't put the tower in this location, it's got to be moved here. That's fine, that's another agency, there is something there but if he's going to, well the customer came in that wants to use the building and wants to move the tower over fifty feet from where it was because he likes that location, so we are going to move it, no. We've got to put limits and you've got to give them what the limits are, if you are going to set up rules, rules are there for one reason, if you break them its to nail you, so you set up rules, this is what the guidelines will be and this is how they are going to work. It's all Ted's fault, we can blame him.

Rich Williams stated Shawn, if you want I can go through my comments on the resolution.

Chairman Rogan stated sure.

Rich Williams stated its up to you.

Chairman Rogan stated I think this is important.

Board Member Pierro stated if you're going to go through them all, one this I did notice is that it says in there, the Concord Road access will be only for emergency.

Rich Williams stated right.

Board Member Pierro stated I thought we purposely wanted to create a walking community in that area to allow people...

Chairman Rogan stated and we went round and round on that for a long time and nothing ever ended up happening to change it from...

Rich Williams stated there are not going to be any side walks, people are going to be walking through there.

Chairman Rogan stated right.

Rich Williams stated when we say emergency, its for vehicles, we can clarify that.

Board Member Pierro stated I want to be able to invite people to walk through and have them gain access with a carriage or you know a cart, I think that will be one of the better things for that community there.

Chairman Rogan stated can you imagine living a block away from that on the high side and having to get in your car and drive to the site, if you have fences and you have no way. I agree with you a hundred percent, I mean I think that's a huge flaw if that were to occur.

Board Member Pierro stated yea.

Board Member Montesano stated well then you have to look at it...

Board Member Pierro stated I don't think it should be written in stone that it is for emergency purposes only.

Board Member Montesano stated yea.

Rich Williams stated it has to be, that was a condition of the ZBA [Determination].

Chairman Rogan stated yeah.

Board Member Pierro stated emergency vehicles, yes.

Rich Williams stated yes.

Chairman Rogan stated yes but...

Board Member Montesano stated you know what I'm afraid of, if you insist on this, that means I'm going to drive up there and I'm up on Concord [Road] and I suddenly park my car on Concord [Road] and walk through there. How are you going to limit who walks through that walk way.

Rich Williams stated Kent will be up there with their police to enforce a no parking regulation, in a heart beat.

Board Member Montesano stated but that's Patterson, certain parts of it.

Board Member Pierro stated the County can enforce that but I'm not...

Chairman Rogan stated the intent of the note is that they don't say hey we want our landscaper to come in that way, we want our so and so...Let's go back to some of the resolution notes.

Board Member Pierro stated number one.

Board Member Montesano stated which one are we going to go at...

Rich Williams stated second page, the first resolution...

Board Member Montesano stated okay.

Rich Williams stated I mean, I think mine is perfect, I have no comments on it.

Chairman Rogan stated the first one.

Board Member Montesano stated I want to know who this guy whereas is, he's in here an awful lot.

Rich Williams stated the second page, the sixth whereas, I was a little concerned with that paragraph that discusses the gateway into the Towns of Patterson and Kent.

Chairman Rogan stated so this first one is their draft or yours.

Rich Williams stated their draft should be labeled PCLLC.

Chairman Rogan stated the first one, we are on whereas that they drafted...

Rich Williams stated right.

Chairman Rogan stated I figured when I read gateway that it was their draft.

Rich Williams stated all that work that they are discussing here really is in the Town of Kent.

Board Member Pierro stated which one are we dealing with here.

Board Member Cook stated number six.

Board Member Pierro counts to six, stated measures that will reinforce the position of proposed development as the gateway into the Towns of Patterson and Kent.

Chairman Rogan stated it doesn't really say anything of real relevance to us.

Board Member Cook stated we should eliminate it.

Chairman Rogan stated well the flip side is, we take the Planning Board's draft resolution and we incorporate anything from this that we like that we think should be added to it, rather than working backward from theirs, you know what I mean. We've got, Rich prepared a draft resolution, take his and if there is anything we see in theirs that we think, hey this should be added to ours, we should do it that way.

Rich Williams stated yeah. Third page, the first now therefore be it resolved, typically in that paragraph, we end that paragraph with a time period in which they need to meet the general or special conditions and they've taken that out and they've taken that out specifically because they are looking for this to be a long term project. I think its one of the things that we need to think about it, I will say this, I don't think that the residents of the Town of Patterson, the majority anyway are looking to have this project approved, I think they are looking to have this project built so they can shop at it, so they get the tax benefits for it. Just approving it, isn't going to do us a lot of good, I think we need to think a lot about that and encourage the developer to build it and having shorter time frames than what he is looking for might be a way to do that.

Board Member Cook stated now with regard to the time frame, on the initial resolution for an application, what is the...

Rich Williams stated they are usually set up for 62 days.

Board Member Cook stated right, what is the maximum that can be done on an initial.

Rich Williams stated on a site plan, there isn't a maximum.

Board Member Cook stated there isn't.

Board Member Pierro stated the only thing that concerns me about that Rich is that it often, we have dealt with applicants who have come before us because of the difficult economic times...

Chairman Rogan stated and we, there is nothing stopping, if we put what our normal condition would be, a one year time frame.

Rich Williams stated our normal conditions are 62 days.

Chairman Rogan stated we could put a one year on this...

Rich Williams stated or two or three.

Chairman Rogan stated well I'll just go along with the one year for a minute, we could put a one year time frame on this and all that would be required for an extension would be a letter to us saying because of x, y and z we would like to request an extension and we could do it so it still gives at least that back and forth dialogue of what's going on.

Board Member Pierro stated right.

Chairman Rogan stated it ties them into at least a once a year conversation at a minimum.

Board Member Pierro stated off the bat I would like to start...

Board Member Cook stated I agree with that.

Chairman Rogan stated and it doesn't really cost them anything except to write a letter.

Board Member Pierro stated off the bat I would like to start with our standard 62...

Rich Williams stated 62 days, I can tell you on this project 62 days is...

Chairman Rogan stated I think you are going to have to start at like a year, they would probably like you to say five years or nothing...

Rich Williams stated 62 days, they're not going to get through Kent.

Board Member Pierro stated right, I forgot about Kent.

Chairman Rogan stated yea, they are not going to get through even.

Rich Williams stated six months they are (inaudible).

Chairman Rogan stated you know, they have still other agencies.

Board Member Montesano stated I think Kent is going to be at least a two to three year period if they keep it up the way they are going. They seem not to have lost anything...

Chairman Rogan stated you're right, they will with other agencies and with Towns, there will be things that they will have, let's deal with what we have in front of us, you know. Let's think about the time frame from the conversation we had, we'll talk about it with Maria also, next meeting. What else?

Rich Williams stated while we are still on that time frame, if you want to go to page five, the very last be it further resolved, that kind of lays out what they are looking for, they are looking for one year from the date that all final and un-appealable permits and approvals have been obtained by all involved agencies.

Chairman Rogan stated say that one more time please.

Rich Williams stated they are looking for one year...

Board Member Pierro stated one year.

Rich Williams stated from the date that all final and un-appealable permits and approvals have been obtained from all involved agencies. In other words, everybody else has given them their permit and that is when the clock starts.

Chairman Rogan stated the problem with that is they can...

Board Member Pierro stated the thing is beyond our control.

Chairman Rogan stated basically take their time and set their own pace with the other agencies and it's an opened, now granted all they would have then, they would still have conditional approval right, so they would have a project that is conditionally approved upon them meeting x, y and z, their time frame then

says that's in perpetuity until we get those agencies so we have conditional approval forever until we get, let's say Kent, let's say Health Department, DEP, DOT, whatever and then the one year time frame starts. I'm not sure I'm comfortable with that.

Rich Williams stated I'm also not comfortable with the fact that it essentially says that the clock doesn't start until they get their permits and approvals, what if somebody says now.

Chairman Rogan stated right.

Board Member Pierro stated right.

Rich Williams stated think essentially the clock never starts.

Chairman Rogan stated right.

Board Member Pierro stated six months.

Chairman Rogan stated well no, you...

Board Member Pierro stated why not.

Chairman Rogan stated the time frame even saying that the clock doesn't start until get approvals doesn't fly, if you had said in a prior and correct me if I'm wrong, if you have said in a prior paragraph that you get one year from the day of the conditional approval, that is the time frame and that sets while they are going and seeking other approvals. If you said even one day that everything has to be met one day after approvals, they are in conflict with one another aren't they...

Rich Williams stated somewhat, yeah, I mean...

Chairman Rogan stated you can't...

Rich Williams stated tomorrow he could go to the DOT and say listen I want to suspend my permit and when he finds...

Board Member Pierro stated if he does that he kills the project.

Chairman Rogan stated totally.

Rich Williams stated no but I'm saying, under this he gets his conditional approval, the next day he goes to the DOT and says I want to suspend my permit review...

Chairman Rogan stated yea.

Board Member Pierro stated right.

Rich Williams stated and he goes out and he markets this project for six years...

Chairman Rogan stated he had conditional approval on it.

Rich Williams stated this approval stays.

Chairman Rogan stated and at least with the one year conditional approval with none of this in there, he can still do all that but a year from now he's got to at least apply to us for a year extensions or whatever on his conditional approval. At least it gives the Planning Board the sense of what's going on, at least the ability to ask what's going on.

Board Member Montesano stated and the control stays with us and not with him...

Board Member Pierro stated on the conditional approval.

Chairman Rogan stated correct.

Board Member Montesano stated yea.

Rich Williams stated all right, back to page three, under general conditions, number two and number three, that is where he gets into you know, how he wants to do the bond and the inspection fees.

Chairman Rogan stated as we discussed, if we can come up with a manner that would allow the bond and inspection fees to be set and paid in some manner where we are not hanging the Town out to dry on this, where it's going to be easy to enforce because I don't want to create more work on this. This is setting a precedent, I'll be it this project is a precedent in the sense of the size of it and everything but go to any other application now, they are going to say hey, I don't want to put up Brewster Plastics, I don't want to put up hundred and fifty thousand, let me put up four twenty-five thousand dollars bonds as we go...

Board Member Pierro stated right.

Chairman Rogan stated let me, so I don't think we want to open up too much of a can worms here but I'm also understanding that this is unique and we are talking about a lot of money, so as long as we can set it up, personally I don't think there should be more than three or four steps in the whole process. If you're going to break, let's say it's a million dollar bond, just for rough numbers, then there shouldn't be anymore than four quarter of a million dollar draws or installments, I don't think we should do anything more than and I'm open for discussion on that but I don't want this to get too crazy.

Board Member Pierro stated no.

Rich Williams stated recognizing that we are going to put the bond in place, the bond is going to cover...

Board Member Pierro stated restoration...

Rich Williams stated restoration but its, we don't need to get a new bond for each phase...

Chairman Rogan stated we're not releasing it.

Rich Williams stated yea...as long as we are not pulling it that bond...

Chairman Rogan stated we're not releasing it either.

Rich Williams stated we still have that money.

Chairman Rogan stated so if we can set it in a way that it covers each phase.

Rich Williams stated well what I would do is say the bond amount will be based on the two largest phases...

Chairman Rogan stated yea, exactly.

Rich Williams stated and as long as we're not pulling that then...

Chairman Rogan stated then in some phases we'll be over bonded but if they are okay with that, then that's fine. They are still saving money.

Board Member Pierro stated we can be very over bonded because he has issues outside of our community that he has to deal with, the restoration of the road, the stream, they are going to make them bond that, I'm sure.

Rich Williams stated oh Kent is...

Board Member Pierro stated big time.

Rich Williams stated Kent is not going to give him anything.

Chairman Rogan stated but that is a real good way to handle that though, bond the two most expensive phases.

Rich Williams stated and the inspection fees are a little bit complicated because the inspection fees are now set up in escrow accounts. I'll just modify the wording so that there is never less than the inspection fees to cover the inspections for any two phases.

Chairman Rogan stated I think that's a home run.

Board Member Pierro stated yea.

Chairman Rogan stated that's great.

Board Member Montesano stated sounds good.

Chairman Rogan stated that's very reasonable, I think.

Rich Williams stated okay.

Chairman Rogan stated good idea.

Rich Williams stated you know, I've sure I know why they deleted it but we have a general condition that we always throw in here, general condition number five that essentially says if you missed represented anything or lied this approval's no good and they took that out.

Chairman Rogan stated in the event that any of the material submitted in relation to this application is inaccurate or misleading or the owners of the project do not have the legal right to develop or use the property where and as shown on the material submitted to the Board, then any approvals herein are found null and void.

Board Member Montesano stated oh, it's going to stay, its going to stay. If he fails to get an approval and walks away, we can...

Chairman Rogan stated so we have a couple of things that we can work with on Planning Board's draft resolution...

Rich Williams stated let me get the next one.

Chairman Rogan stated go ahead.

Rich Williams stated special condition number two.

Chairman Rogan stated okay.

Rich Williams stated essentially says prior to the issuance of a final certificate of occupancy for all structures, the mitigation measures described in the findings statement will be incorporated herein. My concern with that is he could build one building and he may not build the last building until three or five years later...

Chairman Rogan stated and the mitigation for that first building isn't constructed.

Rich Williams stated that and the off site improvements for example the mitigation was putting up the bonds for the street lights...

Chairman Rogan stated sure.

Rich Williams stated and evaluating that and I think that should be done early on, so I think we should develop some sort of schedule...

Chairman Rogan stated okay.

Rich Williams stated of you're doing this and then you have to have this mitigated, we could pull that together.

Board Member Cook stated have that part of the special conditions.

Chairman Rogan stated yea.

Rich Williams stated yea, that's schedule.

Chairman Rogan stated that makes a lot sense.

Board Member Pierro stated the...

Rich Williams stated number six, I go back to you're approving the final site plan subject to any modifications which may be required which would then be endorsed by the Town Planner. That is just so open ended. Number five talks about modifications for square footage, footprints, façade and building locations, if you are comfortable with doing that, that's fine...

Board Member Montesano stated no, anything we approve...

Rich Williams stated I don't have a problem with that.

Board Member Montesano stated he can modify, change to his hearts desire. If we are saying you're going to use 111 siding and he comes in and says I'm going to use paper, he can do that under these wonderful conditions.

Chairman Rogan stated with approval from the Town Planner and I just think that is too much to put...

Rich Williams stated for me a site plan is a site plan, you're locking in your drainage, you're locking in everything else.

Chairman Rogan stated I agree...all right.

Rich Williams stated that's it for me.

Board Member Pierro stated the issue with the roof mounted air conditioners and things like that.

Rich Williams stated I put language in there that the building façades needed to come back to you prior to the issuance of the building permit, specifically for approval, the final architecture, in regards to the roof mounted equipment and they took that out.

Board Member Montesano stated we'll it back in.

Board Member Pierro stated its back in.

Board Member Montesano stated its in.

Board Member Cook stated you have it in.

Rich Williams stated I have it in.

Chairman Rogan stated yea.

Board Member Montesano stated the things that we normally would do, should be contained in there. Mitigating circumstances is one thing but to get off the basics that we've always used, is out the question.

Rich Williams stated okay.

Board Member Montesano stated even with Ted.

Chairman Rogan stated okay.

**4) RIMALDI SITE PLAN – SEQRA Determination**

Rich Williams stated Rimaldi Site Plan is currently before the Zoning Board of Appeals, for the Zoning Board to proceed forward with the application. The Planning Board needs to complete SEQRA by the next meeting, the 30 days will have lapsed and then the Planning Board is in a position to make a determination of significance.

Chairman Rogan stated we couldn't do that at the last meeting because the time frame had not been, had not lapsed yet so it will be by next meeting so we can do our SEQRA determination, great.

**5) TAGGART ESTATES SUBDIVISION – Continued Review**

Chairman Rogan stated Taggart Estates Subdivision that was brand new last meeting.

Rich Williams stated no.

Chairman Rogan stated it wasn't.

Rich Williams stated this came in back in 2006 for a couple of meetings, Planning Board did a site walk out there. It was a 14 lot subdivision off of Ballyhack Road.

Chairman Rogan stated oh, I remember, Charlie has never been out there.

Ted Kozlowski stated the plans that I am looking at, show lots 4 and 5 on the plan and yet Jeffery's memo to you guys says that lots 4 and 5 were combined into lot four.

Rich Williams stated correct.

Ted Kozlowski stated but these plans don't show that.

Rich Williams stated yes it does.

Ted Kozlowski stated well then I'm reading it wrong.

Rich Williams stated the original subdivision that came in was a 14 lot subdivision.

Ted Kozlowski stated but I'm seeing lot 4 and 5 on these plans.

Rich Williams stated well they just re-numbered all the lots in sequence Ted. On the original plan with the 14 lot subdivision, where lot 4 is, there were two lots.

Ted Kozlowski stated okay then, see I thought they were eliminating lot 5 and I thought that was a good idea on the present plans because look at that house and septic, they are inheriting two stormwater basins and a good portion of the wetland and buffer...

Rich Williams stated I...

Ted Kozlowski stated is that, it looks like a lot of responsibility for that property owner.

Rich Williams stated I agree with what Ted is saying and while we are on that same point, one of my big pet peeves, one of my issues is the stormwater ponds and placing them on private property by easement. The property owner always thinks it's their property and they have a right to do whatever they want, I have to do periodic annual inspections. I have to set up a schedule so now its imposition on me because I have to contact the property owners, if they are on their own individual lots that are owned by a district or the Town...

Chairman Rogan stated yea.

Rich Williams stated and it makes life so much easier.

Board Member Pierro stated just to refresh everyone's recollection, not that I am out to do Anthony Boniello and company any favors but we had discussed this about the stormwater ponds being on individual lots and also placing fire suppression on those lots as well and even possibly giving access to Boniello's back two lots...

Chairman Rogan stated that is something that he has to work out with these guys, we can't...

Board Member Pierro stated he had a deal with Leonidas on that but back to what Rich is saying, if these are on private homeowner's lots, how are we ever going to do the maintenance and I don't see anywhere, where they are talking about fire suppression.

Rich Williams stated they haven't yet.

Chairman Rogan stated for lot 12 and 13, the ponds are up close to the road and in the corner where they could easily be part of or their own parcel, even if it meant the lot fell just slightly short of the requirement for four acres...

Board Member Pierro stated right.

Chairman Rogan stated then they would opt for potentially going after a waiver or variance...

Rich Williams stated area variance.

Chairman Rogan stated area variance which I would support.

Ted Kozlowski stated lot 5, you have to access those detention ponds on that person's property.

Chairman Rogan stated yea.

Ted Kozlowski stated that I think is challenging...

Chairman Rogan stated I think we should, I agree with everything that's been said, I think we should push for lot five to kind of disappear.

Rich Williams stated there are a couple of other issues that you need to talk about, relative to the overall design. One is, let's start with the easy one, when I was doing the zoning on this, one of the parcels that is

owned by this owner, ended up in the C-1 Zoning District because it is adjacent to where the race track is going to go, that is going to have to be re-zoned, they are going to need a recommendation from this Board. The big issues are the length of the road, our Code limits it to 1500 feet and they are showing 1700...

Chairman Rogan stated yea...

Rich Williams stated they are showing 1700 after 2300 feet on Ballyhack, which is also a single entry road.

Chairman Rogan stated right.

Rich Williams stated so you've got the 23 plus the 17, you're got the two lots in the back, the long skinny ones in the back corner that don't meet average lot width and this is in the cluster overlay, so they should be looking at a cluster design on this anyway. The reality is looking at this property...

Chairman Rogan stated the topo is never going to allow it.

Rich Williams stated the topo and the configuration; you don't have an area where you can cluster everything into one or two acre lots.

Chairman Rogan stated and it looks nice laid out but the topography on some of these lots is really, really challenging.

Board Member Pierro stated I recall us getting into heavily discussions on eliminating a couple of lots when it was Leonidas Subdivision, maybe we can pull those minutes and...

Rich Williams stated we can get you those minutes.

Board Member Pierro stated just to refresh...

Chairman Rogan stated Michelle.

Ted Kozlowski stated Rich (inaudible).

Rich Williams stated having to look at this; I'm looking at maybe an 11 lot subdivision or a 12 lot subdivision max.

Chairman Rogan stated total, yea.

Board Member Pierro stated that is what I recall with Leonidas, losing a few lots, especially the ones will all the wetlands on them.

Chairman Rogan stated yea.

Rich Williams stated yes Ted.

Ted Kozlowski stated your memo says that I had questions about the wetland flagging...

Rich Williams stated yes.

Ted Kozlowski stated that is three years ago, do you know that the wetland flagging has been revised there.

Rich Williams stated I do not.

Ted Kozlowski stated so I will call Jeff tomorrow and find out.

Rich Williams stated if you'd like.

Ted Kozlowski stated because they are going to have to re-establish flags. I do remember raising some question. I thought it was closer, I thought it was up towards lot 5.

Rich Williams stated it was along the road edge.

Ted Kozlowski stated Ballyhack Road edge.

Rich Williams stated between 5 and Ballyhack Road.

Chairman Rogan stated I think we're going to do obviously another site walk on this because Charlie hasn't been there...

Board Member Pierro stated yea.

Board Member Montesano stated its been a long time in between.

Chairman Rogan stated and just familiarize, the topography on this place is really interesting and challenging.

Rich Williams stated do you want me to contact them to get it staked out, so you can do it soon or do you want to wait until the end of October.

Chairman Rogan stated well here is the thing...

Rich Williams stated that was a little funny.

Chairman Rogan stated last time it was, we did this the first time, if I remember correctly, the whole thing wasn't staked out, this was one that we walked with...

Rich Williams stated oh yea we did...

Chairman Rogan stated remember just showing the roadway, the proposed roadway or something because the features out here, its so rugged. Just knowing where the, we were more interested in looking at the roadway and the wetlands to be honest and we didn't...

Board Member Pierro stated right.

Ted Kozlowski stated and we looked at access into Boniello.

Board Member Pierro stated yes.

Chairman Rogan stated right.

Ted Kozlowski stated the mule or whatever it was...

Board Member Pierro stated yea.

Chairman Rogan stated the three wheeler.

Board Member Montesano stated I got the quad to get out.

Rich Williams stated do you want to not worry about getting it staked.

Chairman Rogan stated I don't know, I tend to speak up because I feel like with the map I'm good, I also know that...

Ted Kozlowski stated well I'm going to ask Jeff to re-flag the wetlands, I'm sure.

Chairman Rogan stated that's separate.

Rich Williams stated Ted, that's for you.

Ted Kozlowski stated the flags are...

Board Member Pierro stated right.

Board Member Montesano stated well the object is this...

Chairman Rogan stated I don't want him to flag a 12 lot subdivision when we know full well by looking at this that a few of these aren't going to look.

Board Member Montesano stated let's put him in that position.

Board Member Pierro stated at minimum.

Board Member Montesano stated let's let him do the 12 lot subdivision...

Chairman Rogan stated all right.

Board Member Montesano stated and then if we have, then we are going out and tell him we looked at your lot, it's impossible, get rid of it. Now because he could tell you well how did you come to that conclusion well its obvious...

Chairman Rogan stated no it's a good point, yea.

Board Member Montesano stated you put it out that way, the way you want it, you put in the driveways et cetera and throw it in, if you're that interested.

Chairman Rogan stated okay, if you think it will work that well.

Board Member Montesano stated well I would prefer it in the sense that now you've got a visual effect...

Chairman Rogan stated okay.

Board Member Montesano stated I mean we could walk it, the topography hasn't changed, it hasn't changed for years, I remember when I used to be able to walk it without a problem to drag out some deer but...

Chairman Rogan stated Taggart...

Rich Williams stated so are we staking or not.

Chairman Rogan stated stake it all.

Board Member Montesano stated stake it all, make him do it, let him prove his point.

#### **6) COUNTY LINE GETTY – Amended Site Plan**

Chairman Rogan stated all right, County Line Getty, Amended site plan, what the heck do we have going on here. Oh, that's up here on the county line.

Rich Williams stated on the county line. This is precipitated by an enforcement action by the Building Department, specifically Dave Raines on Getty trying to get the site cleaned and in compliance. It's not running...

Chairman Rogan stated no, it is, I'm just checking it.

Rich Williams stated they've opened a convenience store up there which has never really been reviewed, (inaudible) and they have some other issues out there. Dave has been trying for a very long time to get them in for site plan approval to address a lot of these issues and it has been arduous task to get to this point. I did a review memo that takes a straight forward look at what the site plan requirements are and what they should be doing in addition to what they've done and what you know they should be waiving. The reality is I'm not so sure we are going to get any of that, we've got what we go and I don't know if we are going to get anymore out of them, so you should just aware of that. They have been responding to me, they've sent the money, they've got everything, I don't know how many revisions to this plans they would be willing to go through, there are some things missing.

Chairman Rogan stated well let's wrap it up with doing one good revision, for whatever we determine we need to get this wrapped up, you know.

Rich Williams stated well review the memo that I did, make sure you're in agreement with it, I think it pretty well lays it out.

Board Member Cook stated do we have to go look at this site.

Rich Williams stated it's up to you whether to feel its necessary to look at it.

Chairman Rogan stated read the memo, take a look at what the issues are and then we'll decide. We can decide at the meeting. We are not going to get there before then anyway.

Board Member Pierro stated no.

Chairman Rogan stated well we can, oaky we had already don't Verizon...

## 8) DODD LOT LINE ADJUSTMENT

Chairman Rogan stated Dodd Lot Line Adjustment.

Rich Williams stated we got an application in for a lot line adjustment on Old Route 22, its in the R-4 Zoning District, neither lot is four acres and neither is even close to four acres...

Chairman Rogan stated okay.

Rich Williams stated I did take a look at it, it meets all our requirements except for the area requirement for the two lots. In order to proceed forward he is going to need an area variance.

Chairman Rogan stated even though they are pre-existing.

Rich Williams stated yes because he is making one lot less conforming.

Chairman Rogan stated oh okay.

Rich Williams stated I do know the property, there is some justification for what he's doing, first and foremost, his secondary driveway is on the other guy's property.

Chairman Rogan stated that will do it.

Rich Williams stated my suggestion is that if the Board looks on this favorably, that, I can prepare a resolution you approve the application subject to approval by the Zoning Board of Appeals.

Chairman Rogan stated okay.

Rich Williams stated let him take the next step if he so desires, there is a timeliness in all of this I'm not sure what it is, but the property owner has been rushing to get this done.

Board Member Cook stated which parcel comes up short Rich.

Chairman Rogan stated both.

Rich Williams stated they both come up short but this one is already short, is giving this portion away so he comes up short.

Chairman Rogan stated I guess the object is...

The Secretary stated hold on.

Chairman Rogan stated that's the object.

(Side 1 Ended – 8:28 p.m.)

The Secretary stated okay.

Ted Kozlowski stated hey Rich.

Rich Williams stated yes.

Ted Kozlowski stated did you see the property survey of Dodd.

Rich Williams stated that isn't right.

Ted Kozlowski stated I know because you said they are both short...

Board Member Montesano stated maybe its one point.

Ted Kozlowski stated it says ten point five two oh five acres.

Board Member Pierro stated it's probably one oh five two, or one point five two.

Rich Williams stated no its not, that's a parenthesis, its zero point five two.

Ted Kozlowski stated oh, typo.

The Secretary laughs.

Rich Williams stated it isn't a ten.

Board Member Montesano laughs.

Ted Kozlowski stated doesn't it look like a ten though.

Rich Williams stated yea, when I picked it up without my glasses it absolutely looked like a ten and I'm saying what the heck. Then I remembered that he only has half an acre out there.

Board Member Pierro stated right.

Chairman Rogan stated the area that is being taken away from the one lot doesn't look like it was very usable the way the survey lays out.

Rich Williams stated it's a very steep slope actually going up the hill.

Chairman Rogan stated so it really comes down to just this gravel drive. Could it be and it really doesn't matter to me in terms of why they are doing the lot line adjustment, could it be Dave that there is something going with a sale or something where they need to get this as part of...

Board Member Pierro stated yea, there are a couple houses for sale over there.

Chairman Rogan stated time is kind of the essence because this gravel driveway goes along with the house and they need...

Board Member Pierro stated right.

Chairman Rogan stated we haven't gotten to it yet on the agenda but we are going to be looking to possibly go out to Field & Forest between now and the meeting, can we run by and take a look at this.

Board Member Pierro stated yes.

Chairman Rogan stated again a gravel drive is in place, I don't think anything needs to be staked.

Rich Williams stated I don't know that you are going out to Field & Forest.

Chairman Rogan stated oh okay, I thought we were, we're not.

Rich Williams stated I don't think you are...

Chairman Rogan stated really.

Rich Williams stated if you want to, you certainly can.

Chairman Rogan stated we'll see...we might be going out for this anyway.

## **9) WILSON/RAIBON/CRIVELLI LOT LINE ADJUSTMENT**

Chairman Rogan stated Wilson/Rainbow/Crivelli.

The Secretary stated Raibon.

Rich Williams stated I threw that on, they submitted an application for a lot line adjustment two months and I've been waiting for the plans to come.

Chairman Rogan stated okay.

Rich Williams stated I talked to Mr. Raibon he assured that they would be in by this Monday, then it was Tuesday, then it was Wednesday, here it is today and they are still not here. So, he's off.

Chairman Rogan stated all right, guess what, not a big deal.

## **10) OTHER BUSINESS**

### **a. Benderson Development (Patterson Commons) Performance Bond**

Chairman Rogan stated Other Business, Benderson. We had done some work on this last time in terms of releasing some bonds. What do we have now.

Board Member Pierro stated I think the Town Board reacted to that, didn't they.

Rich Williams stated yes they did, there were four bonds being held the Planning Board made a recommendation on two of the bonds and asked me to go confirm with the Health Department and the City whether the other two bonds, being held for curtain drains and monitoring, could be released. I sent a letter, I gave you all a copy to both the City and the Health Department saying we are holding this bond, we haven't heard anything, please respond in 30 days or we are going to release it.

Chairman Rogan stated okay.

Rich Williams stated I did hear back from Mike Budzinski, he did give me a call and he did say he had no issue with this, he was surprised we were still holding it.

Chairman Rogan stated we haven't heard anything yet from New York City DEP, so we should wait until...

Rich Williams stated nope.

Chairman Rogan stated the meeting would be 30 days.

Rich Williams stated yes.

Chairman Rogan stated okay, so.

**b. Steger Zoning Amendment**

Chairman Rogan stated Steger Zoning Amendment, I'm not sure where we are with that.

Rich Williams stated at the last meeting he had made an application to the Town Board who made a referral to the Planning Board to move the zoning boundary line, the GB, R-1 zoning boundary line so it bisected the building. The Board had requested a letter from the Town Attorney which you now have, who says as far as he is concerned there is no real issue but I also had raised the issue about the fact that if changing the property boundary line to allow half the building to be used a single-family home, contravened our Zoning Code for what a single-family home is. It doesn't work, so even if you move the zoning boundary, my opinion is that he still couldn't use the building in the manner he wishes to do. My recommendation to the Board was if you wanted to consider something like this, to consider creating a special use permit category similar to your accessory apartment special use permit category which is applicable to residential properties but create a similar category for the GB zoning district. In doing so you could you know, throw in there additional controls and safeguards to make sure that the property was used in a manner consistent with your intent. There was also some concern about well now you're sending him back to the ZBA and what are they going to do. I think the ZBA's issue really was that he really didn't meet the use variance criteria and probably would look more favorably on a special use permit. That doesn't mean the ZBA is the only one that could issue that special permit, you could also make a recommendation that Planning Board issues the special use permit, the Town Board issues the special use permit, however you wanted to do it. Just so you know, I have been down this road with the Zoning Board of Appeals one time when I suggested that maybe the Planning Board wants to issue a special use permit on something.

Board Member Cook stated who got upset.

Rich Williams stated the ZBA.

Chairman Rogan stated creating the change to the General Business district to allow the accessory use, applying the way you said it, just like you view an accessory apartment residential, now you are doing this residential in the GB district. That would require a change from the Town Board, correct.

Rich Williams stated yes.

Chairman Rogan stated so why don't we write that proposal up and send it as a recommendation to the Town Board to consider.

Rich Williams stated is that what you want to do, do it as a special use permit.

Board Member Montesano stated (inaudible).

Chairman Rogan stated and then the special use permit would be decided by the Zoning Board.

Board Member Cook stated yea.

Chairman Rogan stated why don't we send that over. See if you could just draft something up for the next meeting for everybody to kind of toss around.

Rich Williams stated Dave...

Chairman Rogan stated okay.

Board Member Cook stated could you e-mail that to us.

Chairman Rogan stated that would be great.

Rich Williams stated yes.

Board Member Cook stated if possible.

Rich Williams stated yes, if possible, let me, I've got...

Board Member Cook stated I understand, I'm sorry.

Chairman Rogan stated yes, well, don't rack yourself on this one.

Board Member Cook stated if we could have it before the meeting.

Rich Williams stated if I can e-mail anything I will, Mike are you ever going to get e-mail.

Board Member Montesano stated as soon as I get a computer.

Rich Williams stated Dave and Charlie, if you could send me an e-mail, so I have your e-mail.

Board Member Cook stated yea.

Board Member Pierro stated what did you do, burn up your computer.

Rich Williams stated oh yea...

Chairman Rogan stated you didn't see the smoke.

The Secretary stated crash and burn.

Rich Williams stated crash and burn. I actually came away pretty clean, all things considered but I did lose a few things and I'm still...I mean I have your e-mail some place but I'd have to search for it.

Board Member Pierro stated all right.

**c. Brewster Plastics – Recommendation of Performance Bond**

Chairman Rogan stated okay, Brewster Plastics recommendation on a performance bond.

Rich Williams stated still waiting for Maser to wrap that up with the project engineer, I guess.

Chairman Rogan stated yea...

**d. Fair Street Self Storage – Performance Bond**

Chairman Rogan stated and performance bond on Fair Street Self Storage.

Rich Williams stated ditto.

Chairman Rogan stated why am I drawing a blank on that.

The Secretary stated 311 Group.

Chairman Rogan stated Fair Street.

Board Member Pierro stated Fair Street, it was the...

Rich Williams stated you never really touched it.

Board Member Pierro stated it was the Von Essen property.

Rich Williams stated its behind Shaw Welding, is the new subdivision road.

Chairman Rogan stated oh okay.

Board Member Pierro stated yea, right behind that.

Chairman Rogan stated I don't remember even looking at that.

Board Member Pierro stated Boniello, it's Boniello.

Rich Williams stated yea, Gus Boniello, a different Boniello...it was a subdivision that was approved in the late '80's and somebody bought it and wanted to build it.

Chairman Rogan stated okay.

**e. Watchtower DEIS**

Chairman Rogan stated Watchtower DEIS, say no more.

Rich Williams stated I threw that on specific, you wanted to schedule special meetings on that.

Chairman Rogan stated yea...

Board Member Pierro stated I think we ought to wait until after the September disappearance.

Chairman Rogan stated absolutely, unless...

Board Member Pierro stated yea, that's better off, Shawn was going away.

Chairman Rogan stated actually, I recommend that we have them all between September 8<sup>th</sup> and the 23<sup>rd</sup> and my able bodied Vice Chair run them and we get this all taken care of while I'm out of town but.

Board Member Pierro stated October 15<sup>th</sup>, I'm history like a mystery.

Chairman Rogan stated we talking about shooting towards the end of September, something, in fact I think we said some time around the work session for the October meeting.

Rich Williams stated right.

Chairman Rogan stated so we were looking at the end of September to do one meeting on it.

Rich Williams stated so check your calendars and bring them at the next meeting.

Chairman Rogan stated that sounds good.

Board Member Pierro stated all right.

The Secretary stated and nobody write on mine.

Chairman Rogan stated nobody writes on yours.

Rich Williams stated wait until she gets to December.

**f. I.O. Wellness – Sign Application**

Chairman Rogan stated IO Wellness.

Rich Williams stated IO Wellness, at the last meeting you got a letter from the Building Department which essentially said that he went out there and took care of all the other signs basically opening the door for the Planning Board to approve the existing signs. I said that I thought there was still a Zoning problem with the signs, I went out there, I did check and I'm looking for some direction from the Planning Board at this point. Essentially the Shamrock Castle came in and got approved for 24 square foot sign, leaving one square foot available for anybody else and her sign exceeds that by a considerable amount. So her sign on top is still in violation.

Chairman Rogan stated didn't the Shamrock Castle sign remove something from the bottom of it, that reduced or is it now still as it sits in the pictures, it's still 24 square foot.

Rich Williams stated as it sits in the picture it is 24 square feet, I actually went out and measured it. Yes they did remove other signs that they had put up underneath that, they removed the sandwich boards, some of them are coming back.

Chairman Rogan stated yea, this is like a proverbial, they put more signs out on this place.

Board Member Pierro stated I don't want to see anybody get hurt but I'm really hoping somebody runs into this and they start from scratch.

Board Member Cook stated I guess the Shamrock folk, they're not leaning towards reducing the size of their sign.

Chairman Rogan stated no because it would mean creating a whole new sign.

Board Member Cook stated yea, just asking a question.

Chairman Rogan stated yea.

Board Member Pierro stated that is one poor sign, I have to tell you, that is really one poor sign.

Chairman Rogan stated you want to chip in and buy a new sheet of plywood.

Board Member Pierro stated yeah.

Board Member Montesano stated chip in and come in with a new code that says all signs must be re-done immediately.

Board Member Pierro stated we can do that, we have to get our sign code straightened out.

Chairman Rogan stated you are, the direction that you are looking for is do we want to kick this over to the Zoning Board with a recommendation to have them go for a variance on the size.

Rich Williams stated at this point they are not pursuing the application, you are doing this on your own. I don't know if they would be interested in going to the ZBA.

Board Member Pierro stated then what is our other alternative, issue a violation on the Shamrock sign.

Chairman Rogan stated no, on IO Wellness, Shamrock has an approval.

Board Member Pierro stated oh.

Rich Williams stated you want me to talk to Nick and one of us will contact them and say listen you have to figure out what you are going to do with your sign, either get it into compliance or go to the ZBA, we can do that.

Board Member Pierro stated who is the landlord, can we go directly to the landlord.

Rich Williams stated Ronan Brown.

Chairman Rogan stated Ronan, nice guy. He came before us when he was...nice guy.

Board Member Montesano stated I think it would be better if Nick or Richie went to them because for us to go to the landlord...

Chairman Rogan stated it's jumping over, it's overstepping.

Rich Williams stated well you wouldn't anyway, you would send somebody.

Chairman Rogan stated right.

Board Member Montesano stated well I realize that but...

Chairman Rogan stated the act is the same though.

Rich Williams stated plan b is to just, you don't have a pending application.

Chairman Rogan stated yea but we are talking about it and it doesn't meet...

Board Member Montesano stated you have a Code Enforcement Officer (inaudible).

Board Member Pierro stated if we leave it alone its going to get worse.

Chairman Rogan stated I agree.

Board Member Montesano stated Building Inspector, trying to do a job and he was asking us and...

Chairman Rogan stated yea...

Board Member Cook stated the Building Inspector or the Director of Code Enforcement, sent a letter, Notice of Violation to IO Wellness.

Rich Williams stated right.

Board Member Cook stated and they haven't responded...so then he should pursue it.

Chairman Rogan stated yea.

Board Member Pierro stated he should issue the violation.

Chairman Rogan stated that would kick them over to Zoning and the Zoning may kick over the idea of them either, of Shamrock either reducing their size because wouldn't Zoning be appropriate in saying well can we make this work before we issue a variance. Making it work would mean you take the size of the sign and reduce, that might be the whole impudence to get this resolved.

Rich Williams stated yes but I don't see why they wouldn't do that on their own, rather than go to Zoning.

Chairman Rogan stated right but that might be evident in the way that the options are laid out to them in a quick call or memo to say, this is what you need to do to clear up the violation, you either need to go to Zoning and ask for a variance or reduce the size and come into compliance for 25 square feet. It would probably be easier to just, but that is up to them, its their right to go to Zoning, so let's do that.

Rich Williams stated right.

Chairman Rogan stated everybody agree...all right.

**g. Field and Forest Apartments – Guide Rail**

Chairman Rogan stated Field and Forest, Rich.

Rich Williams stated Field and Forest, you've got two issues, the first you know I threw it on for the guide rail because there were conversations going back and forth, Nick Lamberti, Code Enforcement and Bob Falk who is doing inspections for Maser, met out on the site with Harry Nichols and Harry asked to be relieved of the requirement of installing the guide rail for most if not all the length along the driveway in front of building four because the grades are substantially different therefore the slopes are substantially different from that area that dips down towards the wetlands. Subsequent I have talked to Bob Falk about it a little bit about it and what Bob's understanding is of the meeting was they thought that it might be appropriate but they wanted Harry to give them the grades so that they had some sort of basis as to why the guide rail wasn't needed, which I think is appropriate. There is still that outstanding issue of the difference in the building height and how that came about...

Chairman Rogan stated right.

Rich Williams stated and it may be that the road is lower.

Chairman Rogan stated well the question I would have is, did we, when we did the guide rail issue at, what is that...

Board Member Pierro stated Guiding Eyes.

Chairman Rogan stated no, the granite place on Commerce.

The Secretary stated Eurostyle.

Chairman Rogan stated Eurostyle, that's up on the hill. Did we get plans backing up what the existing condition on that is because we went out and looked out and we said wow this isn't needed here, based on what we were seeing.

Rich Williams stated we did not but in that case the guide rail was there because of a proposed slope.

Chairman Rogan stated right.

Rich Williams stated and when we went out there, there was no slope and in this case there is still a slope, the question is what is the steepness to that slope. Is it under what DOT warrants a traversable slope or is it not.

Chairman Rogan stated and we don't know, even if we went out and common sense told us that they were or were not required, we still something from the engineers to show the slope. In other words, if we went out there and said wow this is, you know, relatively flat, you don't need that here, then it would be caught on the as built drawings for the C of O, correct.

Rich Williams stated right and I agree with your assessment, if it's obvious why not use a little common sense.

Chairman Rogan stated yea.

Rich Williams stated I haven't seen it and talking to Bob Falk, Bob was under the impression, he had left it with Harry to go shoot grades, give us grades.

Board Member Cook stated Shawn, when you say that we need the engineer's report on that, if you will, you're talking about the applicant's engineer providing that.

Chairman Rogan stated that is what Rich has been talking about, yea.

Board Member Cook stated okay.

Chairman Rogan stated okay, the item that Harry asked me about, that I guess we haven't gotten anything on yet, they were talking about swapping out some plants.

Rich Williams stated we do have that.

Chairman Rogan stated you have that.

Rich Williams stated Harry submitted one plan.

Chairman Rogan stated there is so much you can't pick up on the tape, you know.

Rich Williams stated he's got a number of different large tree species shown on the plan. His current plan calls for leaving the, I believe its five white oaks, which are large trees and then placing all the other larger trees, the sugar maples, the red maples, the pine and red oaks with ornamental trees, kousa dog woods, crab apples, magnolias, kwansin cherries, plums.

Chairman Rogan stated that is what the plan called for originally.

Rich Williams stated the original landscape plan called for pine oaks, red oaks, red maples and sugar maples.

Chairman Rogan stated I see.

Rich Williams stated and something else.

Chairman Rogan stated sweet gum.

Ted Kozlowski stated and he wants to change it to these ornamentals.

Rich Williams stated yea.

Chairman Rogan stated dogwood, crab apple, magnolia.

Ted Kozlowski stated why.

Rich Williams stated I don't know.

Ted Kozlowski stated I would go with the natives, maybe not go with those ornamentals, especially the cherries.

Rich Williams stated there are specific reasons for having larger trees, I mean you know, it reduces the visual impact of development, it modifies the site, it cools the blacktop, you know the ornamentals will not.

Ted Kozlowski stated with regard to ornamentals, cherries and plums notoriously do not live long and if they are not properly cared for then they will quickly succumb, I'm telling you right now. I would not recommend those, this is a replacement for existing native trees.

Chairman Rogan stated and actually all the approved species with the exception of the Japanese tree lilac, is one on here I don't about that one...

Ted Kozlowski stated Japanese tree, I mean (inaudible).

Chairman Rogan stated but all the other ones...I'm sorry.

Ted Kozlowski stated that tree gets at the very most ten feet tall.

Chairman Rogan stated well no, that is one of the approved species...

Rich Williams stated that he wants to change out.

Chairman Rogan stated that he wants to change out, I'm saying other than that one, all the rest, the pine oak, the red maple, scarlet oak, red oak, sugar maple, those are all things we are used to and that meet the character of the, what we are...

Ted Kozlowski stated those are native tree species that are long lived...

Chairman Rogan stated yea...

Ted Kozlowski stated cherries, kousa dogwood and plums...

The Secretary stated stop it.

Ted Kozlowski stated again are short trees, short lived...

Chairman Rogan stated yea.

Ted Kozlowski stated and need maintenance.

Chairman Rogan stated okay.

Rich Williams stated I do want to add one more thing and perhaps a bigger concern is the fact that they are still using the same landscape plan and he just wants to change out the species type and not the location, even though he's modified the area with side walks so he can't put some landscaping in. He's got a water line so he can't put a large tree in, he's got side walks so he can't put in some of the red maples, he's modified his project out there without modifying the location of the trees. Which is the issue I raised with the Board before you know, some of this landscaping can't go in at this point because he's got other improvements in the way.

Chairman Rogan stated so he's dealing with plans that aren't accurate, is what you're saying.

Rich Williams stated yea.

Chairman Rogan stated he's dealing with plans that don't reflect the site conditions.

Rich Williams stated yea.

Chairman Rogan stated then we need to communicate that to Harry. Is Harry coming in next week.

Rich Williams stated want me to call him and tell him to be there.

Board Member Montesano stated and if we were to stick with as Ted said, to the native species and not the nonsense. Stick with what's going there, not what you dream about because you can afford it.

#### **h. Site Walk Discussion**

Chairman Rogan stated all right, so all we were talking about going out between now and next meeting then was the lot line adjustment for Dodd.

Rich Williams stated yes.

Chairman Rogan stated okay, can the weather is probably going to kill us this weekend, it looks like it's going to be really bad with the rain coming in with the hurricane or whatever, sorry.

Board Member Cook stated Monday night or Tuesday.

Ted Kozlowski stated are we going to be going to race track.

Chairman Rogan stated not yet, we don't have anything.

Board Member Pierro stated we don't have an application yet.

Rich Williams stated they have to get cars out there first.

Chairman Rogan stated yea. So do you want to tentatively try to do like, Tuesday after work for Dodd...

Board Member Pierro stated yea.

Chairman Rogan stated and we'll play it by ear, if the weather looks like its going to be bad, we'll all communicate well before that, like no later than Monday but we'll set it for Tuesday at like 4:30.

Board Member Cook stated I asked this to Rich before but should we go to Getty, I don't know...

Chairman Rogan stated I don't see why not, we can go out there and take a look...

Board Member Cook stated I mean, I'm just asking.

Chairman Rogan stated we're going to be right on, Dodd is near Ballyhack and Old Route 22.

Rich Williams stated do you want to meet here and go to Getty and then go to Dodd or you want to...

Chairman Rogan stated yeah, that sounds good.

Board Member Pierro stated that's fine.

Chairman Rogan stated that's fine.

Board Member Montesano stated okay.

Chairman Rogan stated as long as we're doing it in that order because otherwise I'm driving past Dodd to come here, one way or the other, I'm coming from the office.

Rich Williams stated then we are going to Dodd first.

Chairman Rogan stated then let's go to Dodd first, 4:15.

Board Member Pierro stated okay, Tuesday.

Chairman Rogan stated Tuesday 4:15, Dodd.

Board Member Montesano stated we're meeting here or we are going to meet at Dodd.

Chairman Rogan stated at Dodd, I'm sorry.

Board Member Montesano stated that's okay.

Rich Williams stated we are going to meet at the site.

Chairman Rogan stated everybody has a plan, that's right off, heading towards your house from [Route] 22.

Rich Williams stated I'm going to park right on the road, you'll see me.

Chairman Rogan stated all right.

Board Member Montesano stated he'll have the big red flag on it, I'm here.

Ted Kozlowski stated you can walk from your house.

Chairman Rogan stated Rich can you just do a quick call to them to let them know that is what they are going to do to help expedite their application, we are going to get out there Tuesday.

Board Member Montesano stated do they have the little maps that says you are here.

Rich Williams stated he'll be here tomorrow.

The Secretary stated for what.

Rich Williams stated to file the ZBA application.

Board Member Montesano stated please bring Richie a flag.

Chairman Rogan stated and I'll call Maria, if you happen to talk to her please because my memory is fragile.

Board Member Montesano stated yea.

Rich Williams stated you're going to call Maria.

Chairman Rogan stated yea.

Board Member Montesano stated your fragile.

Chairman Rogan stated my memory.

Board Member Montesano stated what's my name again.

Chairman Rogan stated okay and we have some minutes to read for next meeting. Anything else from anyone, no. Motion to adjourn.

Board Member Cook seconded the motion.

Chairman Rogan asks for all in favor:

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

Motion carried by a motion of 4 to 0.

The meeting adjourned at 8:52 p.m.