

APPROVED

TOWN OF PATTERSON
PLANNING BOARD MEETING
September 4, 2003
AGENDA & MINUTES

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| 1) Hansen Subdivision – Public Hearing | 1 – 2 | Public hearing held & closed |
| 2) Budakowski Subdivision | 2 – 3 | Board agreed to do a positive recommendation to the Town Board for a 280a with specific requirements |
| 3) Patterson Fish & Game Site Plan | 4 – 6 | Discussion on legalities of apartments & Board requires a site plan |
| 4) Barcon Builders – Driveway Relocation | 6 – 7 | Board to schedule a site walk |
| 5) Ralph Burdick Site Plan | 7 – 10 | Board declared intent for Lead Agency |
| 6) Sypko Wetlands/Watercourse Permit | 11 – 15 | Discussion on sediment basins Board declared intent for Lead Agency, coordinate review |
| 7) Thomas Subdivision – Initial Review | 16 – 17 | Board to schedule a site walk |
| 8) Frantell Site Plan | 17 – 18 | Wetlands to be re-flagged Board to schedule a site walk |
| 9) Fuca Subdivision- Extension Request | 18 | Board granted a 90 day extension |
| 10) Thomas Daly Fill Permit | 18 – 20 | Board granted fill permit |
| 11) Other Business | | |
| a. D’Ottavio Site Plans | 20 – 33 | Discussion on septic systems & easements |
| b. Big Elm Subdivision | 33 – 37 | Discussion on setbacks, Applicant must go to ZBA |
| c. Monterio Wetlands Permit | 37 | Scheduled public hearing for 10/2/03 |
| d. Burdick Farms | 37 – 38 | Board denied Applicant’s request for special meeting |
| 12) Minutes | 38 | Approved July 31, 2003 & August 7, 2003 |

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APPROVED

September 4, 2003 Meeting Minutes

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

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

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

Approximately 22 members in the audience.

Chairman Schech led the pledge of allegiance.

1) HANSEN SUBDIVISION – Public Hearing

The Secretary read the legal notice.

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

Mr. Tretsch stated this is an existing twenty-two acre parcel on the east side of Farm to Market Road approximately a thousand feet north of the town line. There exists on the parcel two houses, two driveways, separate well for each house, separate septic for each house. The proposal is to subdivide the land approximately so that each house will be situated on eleven acres. We have made one revision we looked at that driveway situation, we had proposed to extinguish the piece between the houses and provide each line an easement so they can utilize it as they do now actually. The existing shed we put a note on there to be removed and that would allow for a turn around to be constructed and we did note it on the plan here. There is an existing turn around here.

Chairman Schech asked you will come up with a detail sheet.

Mr. Tretsch replied yes I will.

Mr. Tretsch stated so basically the subdivision is creating two equal parcels on this twenty-two acre plat.

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

Chairman Schech asked for a motion to close.

Board Member Rogan made a motion to close the public hearing. 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.

Chairman Schech stated just get us a detail. That is the only concerns we have is the entrances to the driveways for safety reasons.

Mr. Tretsch thanked the Board.

2) BUDAKOWSKI SUBDIVISION

Mrs. Budakowski was present.

Chairman Schech asked Mrs. Budakowski if she had a copy of the comments.

The Secretary stated I just gave them to her.

Chairman Schech asked her to sit down and read them a minute.

Board Member Pierro stated for the record we have reviewed the Budakowski Subdivision for an application to subdivide a piece of property on Route 311 for the last year and a half at nauseam. This parcel was an illegal subdivision done approximately eight years ago. It was improperly subdivided and it was done by the County for the last landowner and the Budakowski's purchased that property and by way of a 280a subdivision got permission to build a house on a road with only easement. The property did not have the correct amount of road frontage. The Budakowski's saw fit to come back and ask us to put a second home on that property and allow us to do a subdivision. We could not come up with a reasonable or a easy way out of this and we researched it, our Planner researched it and came up with a tremendous amount of records on the subdivision and we have come up with the following solution to the problem and that is to give a positive recommendation to the Town Board for another 280a subdivision for that lot so that the Budakowski's can break their lot in half and build a second house. There is a group of requirements that go along with this and it is written in our Project Review Memo dated August 29, 2003 written by the Town Planner. Number one is the Applicant will be required to offer for dedication twenty-five foot from the center of the northern property line, which should also be the centerline of a former road called St.

John's Road. The Applicant will be require to suitably improve the roadbed of the former St. John's road to the extent that the improvements will be determined at a later date after the 280a subdivision is obtained from the Town if they do grant it. There is an additional recommendation that the Board should include such conditions as may required for the subdivision to meet the intent of the requirements of the Town Code. The issues to be considered are; future maintenance of the access, improvements that may be necessary to the access way and any other required reservations because access from the lots will be from an easement this easement should be clearly defined in a form of a resolution and the location of the front, side and rear yards for each parcel.

Board Member Pierro asked is there anything else gentlemen.

Chairman Schech stated that is about it.

Chairman Schech asked can I have a second to that motion.

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.

Chairman Schech stated to Mrs. Budakowski it is up to you now.

Mrs. Budakowski asked what is my next step.

Chairman Schech stated go to the Town Board.

Board Member Pierro stated I believe you have to do some dimensional drawings, you have to contact an Engineer.

Mrs. Budakowski replied that is Jack Karell.

Rich Williams stated she needs to submit by way of a letter an application to the Town Board requesting Open Development Area under Section 280a under Town Law and concurrently with that the Planning Board is going to have to make a formal recommendation including whatever conditions you feel are appropriate to attach to that 280a. Some of the issues I did outline in the memo. That is the next step. Once she accomplishes that and gets a positive recommendation from the Town Board or the Planning Board for the Planning Board to even consider an Open Development Area then she would be coming back to the Planning Board to do the actual subdivision.

Mrs. Budakowski thanked Rich and the Board.

3) PATTERSON FISH & GAME, T&T ASSOCIATES SITE PLAN

Ms. Elizabeth Hudak, Attorney representing the Applicant.

Ms. Hudak stated I am here on behalf of T&T Associates, Patterson Fish & Game. It is the building on Route 22, which I believe you are familiar with. I have had some conversations with Mr. Williams, Mr. Bungarner about this matter. This was the building that had a retail operation and apartments and what had occurred was that there was some dispute at the time relative to whether or not there was a legal use of the premises. The former Building Inspector issued had issued a letter in which he believed that it had been pre-existing, non-conforming, which was disputed by the Town. As a result, T & T made application or at least was in the process of making application when the Town of Patterson changed their Zoning Code. By changing the Zoning Code essentially what had occurred was that it legitimized the retail use at the premises and an apartment or at least that is what our hope is. I am here tonight for a couple of purposes. The first being to make certain that that is exactly what happened and I need to have that confirmed so that under the new C-1 Zoning that the premises are absolutely legitimized to the extent of the retail use as well as for the apartment. Thereafter to discuss in some measure what other legitimate uses the premises can be put for and can there be any additional apartments. What happen was this matter was before the Board and it was tabled, I was not here at the time, I didn't represent T&T and what had happened was when the zoning was changed it made the use somewhat legitimate was when we were told to come back here to see what the Planning Board's thoughts were on the subject and like I said to confirm whether or not the retail apartment use was legitimate and then we could move from there.

Chairman Schech stated what we really need first is a site plan and then we can take it from there.

Ms. Hudak replied okay so then what the Board would suggest then is that we provide a site plan to the Board and this would be something that we can put on your next agenda. So we would have a site plan and then at that point.

Chairman Schech stated if you can get a site plan by then.

Ms. Hudak stated we will see if we can pull some strings. What I am really basically saying is that an accurate statement or is there anyone on the Board that has any different ideas about what I have said. I would just like to know that I am going on the right track.

Chairman Schech replied it is just that we require, it never had a site plan for the use that is there and we require site plans for all these uses so we need a site plan to start with and we realize with the new Code the use as a retail operation I believe is legal, right Rich.

Rich Williams replied retail on a two-acre parcel is now legal within the C-1 Zoning District.

Chairman Schech stated but we have no site plan.

Board Member Pierro stated we have no base line to start from.

Ms. Hudak stated okay so what we will do is return I can say that we are on the agenda for next month.

Chairman Schech replied talk to Missy about it.

Ms. Hudak stated terrific thank you.

Rich Williams stated just one other issue and that is the apartments in place clearly with the original subdivision I believe in 1989 it showed the property being used as a residential property with one apartment subsequently it has been converted now to two apartments and a retail use.

Chairman Schech stated but we can handle that with the site plan though right.

Rich Williams replied well I think she is asking to make sure that all the zoning issues out there are legal or how we need to address them. I am confident in saying that one apartment is a pre-existing, non-conforming use. I am not so sure that I am confident in saying that two apartments would be but certainly the retail aspect now is legal under the new zoning. Residential uses within commercial districts are no longer a permitted use within the Town so one apartment is definitely pre-existing I am not sure about the second apartment and retail would be okay with site plan approval.

Board Member Pierro asked do we have any idea of when that second apartment came into being.

Rich Williams replied well you have an issue where the original subdivision was done we have two residential occupancies within the building then the commercial was added to that.

Chairman Schech asked can I say something without getting into trouble.

Craig Bumgarner laughed.

Chairman Schech stated if I recall right it was the owner of the property, he had one apartment there was no business involved, and that was it years ago.

Craig Bumgarner replied my recollection on it was a residence with a day care underneath it for many years.

Chairman Schech stated well it was an apartment or a day care or whatever you want to call it but it was an apartment.

Craig Bumgarner stated it was a residence.

Board Member Shay asked so is it fair to say now that two apartments because of that are, Chairman Schech stated but technically there was no business there for a lot of years and the day care sort of drifted in.

Craig Bumgarner stated I remember the day care quite a few years back.

Chairman Schech replied how can you say that you are not that old.

Board Member Shay stated jokingly he went there, sorry Craig.

Craig Bumgarner stated that was a friend of mines and I was in the house when I was six or seven years old. I think the two apartments is something that we need to find out the time line on it. Day care, commercial I guess at this point irrelevant since it is permitted.

Chairman Schech stated so the most important thing as far as I am concerned with is the site plan.

Ms. Hudak replied yes and then I will look into this time line as to the two apartments and then I will concur with Mr. Bumgarner and Mr. Williams.

Board Member Pierro asked and what is the status on correcting the septic system issue.

Chairman Schech replied we are working on it.

Rich Williams stated we don't know the status of Bill Henry's Site Plan.

Ms. Hudak stated I think I know a little bit about that.

Craig Bumgarner stated part of the septic that services this property is encroaching on the property next door.

Ms. Hudak stated I am involved in that also just to illuminate the Board and people here gathered about that what is happening is that there has been an agreement reached as to the construction of a new septic. On the original subdivision plat there was that interesting way of saying that you can't get the compliance until whatever and however so what we did there is an agreement, that agreement was signed I am pretty sure so that there will be a new septic created so you don't have to be concerned about that and certainly, we will show the Board or whomever the fact that it has been constructed but that knock on wood is something that we don't have to worry about.

Ms. Hudak thanked the Board.

Board Member Pierro stated thank you for putting that on the record Counselor.

4) BARCON BUILDERS – Driveway Relocation

Mr. Harvey Barnes, Applicant was present.

Mr. Barnes stated I just recently purchased this property within the last month again, simply what I would like to do this is an existing site plan that shows more or less in the center of this property the driveway entrance, the house and a approved septic area. What I would like to do is this is the approved septic area is move the driveway entrance closer to that, the house slightly closer to that. There are a number of reasons for that, I see Rich Williams' notes here maybe I can talk about that in a moment but the driveway is going to be shorter, the distance to the septic would be much shorter. Right now, the distance to the septic is probably a hundred and twenty, hundred and thirty feet there is a number of cleanouts, which is not really advisable. The location of the house again, closer to the septic here move it further back more privacy from the road, a little bit quieter. All of this would be a cost savings to me building and the one other point that Rich brought up here is he mentioned a number of times in his notes to me and to you the previous owner wanted a possible subdivision there of three lots, sixteen acres, four acre zoning he could possibly get that. I want to leave my options open in the future. Right now, he is more or less in the center even towards the right here he is utilizing all of this area but what I would like to do is kind of push it over to that side. If a

subdivision happens great if it doesn't it will be a little bit cheaper for me to build that property. A couple of notes here that Rich had put; number one, a driveway profile should be provided. I would be happy to do that. I will bring that with me the next time and you want finished floor elevations and garage elevations I can do that. Number two here, talks about significant clearing of brush, trees and whatever to get your site distance this way. It was approved by the DOT and I understand your concerns about clearing and most of that is under brush and deadfall but I defer to you there. We can talk about that at a later date too. That is easily clearable. Again, much of it is deadfall and under brush. Again, the three driveways there we are talking about three driveway entrances, three houses, two-lot subdivision I am not really interested in that right now. I don't really want to be concerned with that right now. I want to leave my options open but for now I just would like to move everything to the west.

Chairman Schech stated okay what we would like to do is another site walk so stake it, driveway entrance where you would like it, house, septic and let us know when it is finished then we will take look at it.

Mr. Barnes replied very good thank you.

Rich Williams stated Mr. Chairman, if I could just add one thing the plans that were submitted do not show the house in this location, you might want to have the house staked also.

Chairman Schech replied I think I mentioned the house.

Mr. Barnes asked Rich the plans submitted by who.

Rich Williams replied by you. The sketch that you submitted did not show the house in that location.

Mr. Barnes replied I am sorry that is existing I think isn't it, okay I am not showing the house change you are right. I am showing the driveway change. I will lay that out.

5) RALPH BURDICK SITE PLAN

Mr. Harry Nichols, Engineer was present.

Chairman Schech stated I don't like the three-inch berm around the edge of the parking area. Can't you because I know what is going to happen when the trucks keep pulling over this three-inch berm is going to be gone.

Mr. Nichols replied well it is going to be rolled.

Chairman Schech replied I realize that but can't you just slope the blacktop to a catch basin in the middle of it.

Mr. Nichols replied it is. It is sloped. We were asked to put a berm,

Chairman Schech asked where is the catch basin.

Mr. Nichols showed the Chairman on the plans the location of the catch basins and stated that it slopes to the basins from all four directions but we were asked to put a berm around the outside just to make sure nothing spills out. That was discussed at the prior meeting.

Chairman Schech stated I am not an engineer Harry but I don't see how it is going to work.

Mr. Nichols stated that is in addition to the fact that we have the slope. We can minimize that.

Chairman Schech asked Gene help.

Gene Richards stated that one thing that Rich just mentioned to me a little while ago that he had made a suggestion to Harry that Harry, Rich and myself get together and resolve all the stormwater issues and that can be one that we talk about but just make sure any stormwater that hits on the pavement or gravel area reaches the stormwater treatment system.

Board Member Rogan stated that is our concern.

Chairman Schech stated that is my biggest concern.

Board Member Montesano stated that berm is going to sit there I understand why it is there. The thing would be is what Herb mentioned the guys are going to roll over it eventually hopefully they wouldn't but they will.

Rich Williams stated if I can just jump in here it is something that is parking spots they are going to be driving it over constantly.

Board Member Montesano stated what I am looking at is it something that should be more common or is it going to be something that is just going to be a waste of time.

Chairman Schech stated it is like a low curb that they are going to continually drive over.

Mr. Nichols stated it is just to make sure water will not, (unable to hear his statement no microphone). There already is provisions that the slope is carrying it in to the inlets.

Gene Richards stated Mr. Chairman when we meet to review this we will make sure that the grading is such that everything drains and is caught by this stormwater treatment system. We will make sure that a berm or whatever pavement is done properly.

Chairman Schech replied okay.

Chairman Schech asked Ted are you happy with the trees.

Ted Kozlowski replied Harry, I don't have the luxury of seeing the new plans. I only have the one dated 7/21 but did you identify the tree species.

Rich Williams stated Harry, White Pines.

Mr. Nichols replied we called for evergreen plantings in a variety.

Rich Williams stated Harry, White Pines.

Mr. Nichols stated White Pines.

Ted Kozlowski stated I would like to see a mixture of White Pines and White Spruce. One species does not sit comfortable with me. They are not going to be put on a berm, right.

Mr. Nichols replied that is correct.

Ted Kozlowski stated on the plans I have it doesn't say anything about mulch. There will be mulch two to three inches.

Mr. Nichols stated we will have a planting detail that shows that.

Ted Kozlowski stated the whole planting not just around the trees. The other thing is I just took a quick glance at the plans I see you have a post and rail fence on the northern part there and my concern with the dumpster from the beginning was that being that it is a construction related yard and every dumpster that I have ever seen over flow and a post and rail fence is not going to contain the material.

Mr. Nichols replied that is in an enclosure. There is an enclosure for that dumpster.

Ted Kozlowski asked what kind of enclosure.

Mr. Nichols replied stockade fence.

Ted Kozlowski replied okay and I see you did put some sort of spreader or dissipater on the outlet of the stormwater basin that you are constructing towards the wetland. You are going to go formally for a wetlands permit on this.

Mr. Nichols replied yes.

Mr. Nichols stated one item in here that Rich had mentioned; we are ninety feet from a watercourse. I call it a ditch you call it a stream.

Chairman Schech stated change it to stream it keeps everyone happy.

Mr. Nichols stated we are going to move this back ten feet so we will maintain the hundred foot separation, which will not require us to notify.

Chairman Schech asked who dug that was it the State or Mr. Burdick.

Board Member Pierro stated it was DOT. The one on the northern edge of the property is even further back then this one.

Mr. Nichols stated there is a large pipe coming under 22 so I would guess they did it.

Chairman Schech stated we don't have to do SEQRA today right we will get all this straightened away before we do it.

Mr. Nichols asked could we start SEQRA.

Board Member Shay asked where is the gate going to go is it shown on there.

Mr. Nichols replied unfortunately no. The gate is going to be out here. We will allow enough room to give a vehicle enough room to be able to park and not block the road and open the gate.

Board Member Shay stated I am just trying to prevent any vehicles from backing out on to 22.

Mr. Nichols stated it will be thirty feet, Board Member Shay stated a car length in.

Mr. Nichols stated it will be a little bit more than that.

Chairman Schech stated it has to be a tractor trailer length in.

Board Member Rogan made a motion in the matter of Ralph Burdick Site Plan application that the Planning Board declares it's intent to be Lead Agency, conduct a coordinated review, a declared a negative determination.

Rich Williams asked all in one shot.

Board Member Rogan asked can I do it all in one.

Rich Williams replied you are going to declare your intent, we are going to circulate to other agencies and you are also issuing a neg dec, no you can't.

Board Member Rogan stated okay so we do Lead Agency and conduct a coordinated review.

Board Member Pierro 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. Nichols asked in Rich's memo it says trailers will not be permitted as outdoor storage areas. Any trailer that remains substantially on the site for a period of 30 days is considered outdoor storage.

Chairman Schech stated we are talking about box trailers that are used for storage it is very common.

Mr. Nichols stated okay you are not talking about, Chairman Schech stated we are not talking about dump trailers.

Mr. Nichols asked how about a tractor trailer because it could be very well

Chairman Schech stated an equipment trailer we are talking about storage trailers.

Mr. Nichols asked one that is intended strictly to store stuff.

Chairman Schech stated a box truck that is just parked there and used to store.

Board Member Pierro stated it could be a tractor trailer back that is just left in place. If it is there for thirty days and it is used for storage it is,

Mr. Nichols stated and it is used for storage that is the key.

6) SYPKO WETLANDS/WATERCOURSE APPLICATION

Mr. Harry Nichols, Engineer was present.

Chairman Schech asked do you have the Engineer's comments Harry.

Mr. Nichols replied yes I do.

Mr. Nichols stated on the first page, number three the intent of the grouting is not to stop it (unable to hear) the riprap from the culvert. If they dig the trench from that pipe, you have got to at least make it three feet if it goes any further the grouted riprap has to go before the width of the disturbance.

Gene Richards stated I guess Harry, just so it is clear on the plan that what you want to do is to run it to the existing stream bank.

Mr. Nichols stated yes.

Gene Richards stated and right now I think the plan just said a minimum of two feet that does not mean it couldn't be ten feet but I guess I would just ask you to make that note read a minimum of two foot but somehow note that it should be carried to the existing stream bank just so it is clear.

Mr. Nichols stated the banks right now are probably six to eight foot wide. This culvert is an eight foot open area so approximately ten foot wide that will be excavation for minimal disturbance as possible.

Gene Richards stated I did not have the benefit of attending the Planning Board site inspection whenever that was so I don't have a picture in my mind of where this culvert is going so I am doing this a little bit in the dark. Just as long as you are protected on the upstream end and the down stream end but mainly the up stream end.

Mr. Nichols stated as far as the width of the driveway goes we are proposing basically a ten foot driveway but at the culvert crossing, we are providing twelve feet between guide rails. Rather than have a dirt section between we are extending the blacktop all the way and this will be riprap on the sides. There will be a short transition at the beginning (unable to hear -- no microphone).

Chairman Schech stated another concern we had Harry, is plant some trees along side of the driveway to keep the asphalt cool so we don't warm the water up too much and kill the salmon in the stream.

Board Member Montesano stated trout.

Mr. Nichols stated yes we are going to maintain as many trees as we can.

Chairman Schech stated indicate it on the plan though.

Mr. Nichols asked is this being processed as a site plan, which requires normal things that site plans require.

(TAPE ENDED).

Rich Williams replied no it is under consideration for a Wetlands/watercourse Permit and in conjunction with that we are also looking at other aspects sites for an Erosion Control Permit that is issued by the Building Department.

Mr. Nichols asked is there a SEQRA procedure also for this.

Rich Williams replied yes.

Mr. Nichols asked can that be started.

Rich Williams stated I just assumed as a minor application that we just do an un-coordinate review unless you want us to circulate.

Mr. Nichols replied no.

Rich Williams replied but it might be better that we circulate because it has to go to DEP. There is another question about at one point do you think it might be appropriate to submit an application because it probably would benefit you to get their input as to what you are doing out there.

Mr. Nichols stated yes maybe you should.

Rich Williams asked do you want to do a coordinated review.

Mr. Nichols replied yes.

Ted Kozlowski stated there are some wetlands things that I brought up at the work session I don't know if you addressed them.

Ted Kozlowski asked Harry, on the level spreader at the base of the hill is that going to be planted up. What are you doing there when you are all said and done. There is going to be disturbance how are you going to stabilize it after you disturb it.

Mr. Nichols replied any disturbance will be stabilized any disturbance.

Ted Kozlowski replied okay but we need that on the plans, Harry. Are you going to plant trees, grass, what are you going to be doing.

Mr. Nichols replied in that area there it is going to be grass.

Ted Kozlowski stated but for the purposes of the Wetlands Permit and for this Board you have to put that on the plans. Right now, it says nothing and we approve it it will be a mud hole and that is right on top of Stephen's Brook so I need to now at least for the Wetlands Permit what you will do there. The same thing goes for the permanent sediment basins I would like to see something planted there when it is all said and done. In addition, in the construction of this house I know you put in water bars and that is fine I am little uncomfortable I think there should be more water bars at least temporarily during construction. I only see three on the plan it is quite a drop so there should be at least temporary dips or something to dissipate some of that water.

Mr. Nichols asked you mean down the driveway.

Ted Kozlowski replied down the driveway. When you start at the top of the house there is a twenty-five foot drop and there is no water diversion at all.

Mr. Nichols stated the intent of building the driveway is to start at the bottom and build in such as a stabilization.

Ted Kozlowski stated Harry, I understand that but we just had three days of rain and the construction guys pull off the site and we get three days of rain and it is a muddy driveway you know what is going to happen. My concern is when Mr. Sypko is developing this lot not the finished product but the actual construction that is where we are going to see a lot of runoff and as I said from the beginning I would like to see more diversions at least temporary until the house is built and everything is stabilized and it is not part of the wetland review but if this were my house that upper temporary sediment basin would be a permanent sediment basin. If you take that way because if that is temporary then you are going to deconstruct that and plant something there and bring in something and why disturb it a second time. It is functioning to divert water and spread water. You have your curtain drains heading that way, the underwater footings, why not just keep it a permanent basin. I would.

Mr. Nichols stated it becomes a bit of a nuisance.

Rich Williams stated if I could just jump in here Ted, you know its sole purpose really is to catch the sediment from the site as it is being constructed after everything is constructed it should be stabilized, you should get a minimum amount of water going in there that combined with the fact that what you now have is a feature of the site that is capturing water and channelizing it down a very steep embankment. I would rather have that eliminated and have all the stormwater diverted down the channel along side the driveway.

Ted Kozlowski asked why not break it up Rich that is quite drop.

Rich Williams replied because again, you are creating now a channelized flow down a very steep embankment. That is going to result in rill erosion occurring down that embankment.

Ted Kozlowski asked what is to prevent it from happening if he puts it in now and it is temporary.

Rich Williams replied well it is only a limited duration hopefully the construction, I think Mr. Sypko wants to get into his house so it is going to be limited.

Ted Kozlowski replied right it is a back up, it slows everything down. What is the game plan, Rich asked long term. Ted Kozlowski replied yes what happens to this, you say it is temporary where on the plans is the restoration of that temporary basin. What do you do with it. What are we putting there. Are we going to fill it in with rock.

Mr. Nichols replied no it is being created by excavating the backside and using that as fill to create the berm so it is just the reverse procedure. The berm will be pushed in and it will,

Ted Kozlowski stated right but you got footing drains all draining above and around it.

Mr. Nichols replied they will go around it.

Ted Kozlowski stated right and that will be a constant source of water flow too so why don't we just divert it into the detention basin. Why are we diverting it over land over a long period of time.

Rich Williams replied I would rather minimize the amount stream flow or permanent flow coming down that embankment as possible.

Chairman Schech stated footing drains don't usually create that much of a flow.

Ted Kozlowski replied again, it is not in the wetlands so it is your call but I would rather see that there.

Mr. Nichols stated I think the Health Department's advisories not to create areas of ponding anymore than you have to because of mosquito problems.

Chairman Schech stated okay Harry just indicated what you are going to do with it.

Rich Williams asked and if I could just follow up, Harry you are going to be applying in the near future to the DEP for a Residential Stormwater Permit.

Mr. Nichols replied yes my understanding is that we have to satisfy the municipality first with our concept.

Mr. Nichols stated the DEC.

Rich Williams replied no the DEP.

Mr. Nichols replied no we don't have to go to the DEP.

Rich Williams replied yes you have to go to the DEP you are crossing a perennial stream with impervious surface.

Mr. Nichols replied we are going to, if we are not grandfathered because of an existing cart way that crosses we will be going to the (?) type blocks.

Chairman Schech stated I would check with the DEP, Harry before we all get in trouble.

Mr. Nichols stated what they are asking for and I have discussed this with them as a question mark and we cannot get their approval because to go for a permit from them is going to be a career.

Rich Williams stated but you were going for a variance that is a career choice. I think a Residential Stormwater Permit is much less review. I would call Joe Ziminsky and talk to him about it. The Board did give you permission; they did grant a waiver, which would allow you to do grass pavers. We talked about that on the steepness of this driveway. You probably should at least touch base with the DEP. A Residential Stormwater Permit is a lesser review I would think than some of the other permits they require.

Chairman Schech stated I would definitely check it out with them Harry.

Board Member Rogan asked do you want a motion on lead agency and coordinated review.

Chairman Schech replied he still has a lot of work to do.

Rich Williams replied I think they are close. The only question is Harry has to get back to us with what he is going to do with the DEP because that will dictate whether, Chairman Schech stated make a motion to circulate.

Board Member Rogan made a motion in the matter of Sytko Wetlands/Watercourse that the Planning Board declares their intent for Lead Agency and circulate for a coordinate review. Board Member Pierro 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 Pierro stated back to Ted's concern about that temporary sediment basin. If we see the need if during inspections during the time of construction that we see the need to have a stormwater basin on top of that mountain, on the top of the driveway can we change that and have that connected to the system that is running down the driveway now.

Rich Williams replied I don't know that we are going to be able to and Gene you can jump in here anytime but because of the grading on that plan and the location of the outfalls I don't know that you can easily tie it back into the grass swale going down the hill to put a pipe in under the driveway might be a difficult proposition. If it stays I think it is going to be a channelized flow down that embankment. We are really not going to have a good idea about how things, based on standard engineering practices and the assumptions that we all make in doing this we can assume what is going to happen post construction but we are not going to know that until it actually happens.

Gene Richards stated Mr. Chairman as I recall from the site plan when we reviewed it there is going to be a water bar on the driveway that is going to and Harry you can confirm this during construction that water bar will force stormwater into that temporary sediment basin at the top. Once the driveway is finished with its construction the pavement is going to be back pitched to a swale behind the driveway on the up hill side and really without a water bar there is nothing there to force that runoff back to the sediment basin so it would serve no purpose at that point.

Ted Kozlowski asked Gene, just a question why and I asked this and I don't remember the answer but why aren't the footing drains and the roof drains all diverted to that basin because they have got their own two separate outlets on that hill right around the proposed well.

Chairman Schech stated I believe they are diverted into dry wells aren't they.

Gene Richards stated the roof drains is going to a dry well for water quality treatment. The footing drains, which is just ground water and there may not even, be a problem with ground water I am not sure Harry what you have up on the hillside there.

Mr. Nichols stated usually seepage is not a large volume. If you don't control it you end up with problems.

Chairman Schech stated you need it there but you are not going to get a large volume of water.

Rich Williams stated the simple answer is you never mix clean water with dirty water if you can avoid it.

Chairman Schech asked okay Ted.

Ted Kozlowski replied no I don't agree with it but fine. It is not my house.

Mr. Nichols thanked the Board.

7) THOMAS SUBDIVISION

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

Ms. Ryan stated as you are probably aware the Applicant has a sixty-two plus acre parcel on Route 164. The parcel contains an existing house with an existing paved driveway and the plan that is before you is for three additional lots. Each lot will comply with zoning. We show frontage but actually the property lines at this point are flexible. We only showed that each parcel could gain frontage on Route 164 but we are proposing one access for safety reasons. We have already met with DOT and DOT just wants us to make improvements to the existing entrance and not use any other access off of 164 because of site distance

issues. So, that is how come we are proposing this one access here and it would be a common driveway to serve all four lots.

Chairman Schech stated basically we would like a site walk. Are you going to provide the helicopters for us.

Ms. Ryan replied we will get you in there.

Chairman Schech stated flag the houses, driveways, and septic systems.

Ms. Ryan stated as I said, there is an existing driveway here so if it is okay with the Board we are just going to provide stakes for the new stuff.

Chairman Schech replied okay.

Ms. Ryan asked is there a possibility to discuss some of the issues that Rich brought up.

Chairman Schech replied we would like to see it first.

Ms. Ryan stated one of the things that Rich suggested that the Board discuss tonight was whether to deem it a minor or major subdivision.

Rich Williams stated I put it into the memo as one of the issues the Board needs to consider.

Board Member Pierro stated it is in good condition. I would rather wait until we go and look at it.

Chairman Schech stated let's take a look at it first.

Ms. Ryan replied okay we will give you a call when it is staked out. Thank you.

8) FRANTELL SITE PLAN

Mr. Gary Tretsch, Putnam Engineering was present.

Mr. Tretsch stated this was before Board (unable to hear no microphone). We re-activated it in a very similar fashion. The building footprint and the parking footprint is as it was before the Board several years ago. We just updated primarily the stormwater system and we made a submission as well to the DEP. I did get a copy of Rich's memorandum. As with the other one you want you want to take a site walk and we will get it staked out.

Chairman Schech stated that is what we requested the last time he was here. We wanted the stakes on each corner of the building. We want the wetlands re-flagged. It has been a long time since they have been done. The septic area staked. Is there anything else to stake. Then we can go out and take a look.

Ted Kozlowski stated Gary, please have the wetlands flagged. The flagging is no longer there.

Mr. Tretsch stated the boundary that is shown is the boundary from the original.

Chairman Schech stated you are going to have to re-stake it because they do change all the time.

Mr. Tretsch asked is there any other comments that the Board may have.

Rich Williams stated if I can just jump in here before they go out to stake everything the Board is okay with the concept.

Chairman Schech stated well we have to take a look though. I don't know we might have to shrink it down to one third the size too after we take a look.

Rich Williams stated I just want to make sure you are okay before he goes and stakes it and you go out there and say well we didn't like the way the plan looked. I understand things are going to change in field but I just want to make sure that you are okay with this concept as you see it on the plan.

Chairman Schech stated if the site can handle it yes we don't really know until we go out and look.

Mr. Tretsch stated we will let you know.

Board Member Rogan stated it seems like a lot depends on the re-staking of this wetlands.

Mr. Tretsch thanked the Board.

9) FUCA SUBDIVISION – Request for an extension

Chairman Schech stated Fuca is looking for an extension and I think it seems all right. Do you have any problems with that guys. Can I have a motion.

Board Member Montesano made a motion in the matter of the Fuca Subdivision that the Planning Board grant a ninety day extension. Board Member Shay 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.

10) THOMAS DALY FILL PERMIT

Mr. Daly was present.

Chairman Schech asked are you going to make this look half way decent.

Mr. Daly replied yes I think it will be a great improvement on the property.

Chairman Schech asked what is the building called now. It used to be the Patterson Motel.

Mr. Daly replied the Cross Creek Inn.

Chairman Schech asked do you have any problems with this guys.

Chairman Schech asked is it going to be landscaped.

Mr. Daly replied landscape yes.

Chairman Schech stated just make sure that when they are under construction that nothing flows into the creek.

Mr. Daly replied there is currently silt fences.

Chairman Schech stated I know but there is no hay bales or anything on it so be careful.

Mr. Daly stated with the recent rain nothing has budged.

Board Member Pierro made a motion in the matter of the Thomas Daly Fill Permit at 1001 Route 311, Patterson that the Planning Board issues the permit. 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.

Mr. Daly thanked the Board.

Board Member Pierro stated there was a question about trees along this berm.

Board Member Pierro stated Mr. Daly just one moment please. I had just a quick question I mean the fill is already there but I have a question about what you are going to stabilize those banks with.

Mr. Daly replied the plan is routing out the berm, landscape ?, woodchips and then shrubs and flowering plants.

Ted Kozlowski stated I would just recommend to you that when these berms are created and they don't have the natural ground moisture that you would normally have on level ground you are basically almost producing a desert like condition. If you don't have long periods of rain so whatever you chose I would

highly recommend to use drought tolerant plants. Something that requires a lot of water like Kentucky Blue Grass or most of the trees you buy at nurseries you are going to need to supplement with water. I don't know if you want to do that. I would advise you to go to Cooperative Extension and just get some literature on drought tolerant plants that is what you should be putting on these berms. People make that mistake constantly especially with Pine Trees and all and they are dead within a few years.

Board Member Pierro stated Shawn made a good point that you are investing this amount of money you might want to put irrigation in.

Mr. Daly replied I have thought of it.

Board Member Pierro stated it is simply enough to do.

Mr. Daly replied I was think of a soaker hose.

Chairman Schech stated put a soaker hose in there until it gets established and you will be fine.

Mr. Daly stated I have had pretty good luck over there with plants (unable to hear the rest of his response no microphone).

Board Member Shay asked did you take into consideration site distance. I am trying to picture it with people coming out of that development there.

Mr. Daly replied I believe there is something on the plan as far as site distance. I know there is certain distances.

Chairman Schech stated the site distance is fine I went out there today.

The Board thanked him.

11) **OTHER BUSINESS**

a. **D'Ottavio Site Plan**

Mr. Nichols and Mr. D'Ottavio were present.

Mr. Nichols stated this is the two sites, Site "A", Site "B". We put them together on one plan but because of the amount of disturbance, which unfortunately raised havoc with this beautiful Pine Tree so what we have done a considerable amount of pavement and disturbed areas by utilizing this one access to serve both driveways.

Chairman Schech stated I have a big problem the line down the middle.

Mr. Nichols asked this line here to which the Chairman replied yes.

Mr. Nichols stated that is the property line.

Chairman Schech replied I know I will give you a pencil with an eraser on it. I don't like it because now we have septic over here, detention ponds over here, in the future if we have two different owners we are going to have all kinds of problems out there and it is going to bounce back to us. I ain't going to be around that much longer but these guys will have to handle it and I don't want to see that.

Mr. Nichols stated there will be all kinds of easements, cross easements.

Chairman Schech stated I don't like it.

Mr. Nichols asked can we have legally have two buildings as it, Chairman Schech stated on one site why not.

Craig Bumgarner stated or you put one big building, one bigger.

Mr. Nichols stated the site does not lend itself to one bigger building.

Chairman Schech stated you can have two buildings on one site why not. You have enough land area.

Mr. Nichols asked Mr. D'Ottavio if that presents him with any problems.

Mr. D'Ottavio replied no I can't have that. I may look like a wealthy man but I can't own a forty thousand square foot building. I am just a small business owner in Putnam County that just wants a ten thousand square foot building not a fifty thousand square foot building that I can't afford to have and I lose to the bank.

Chairman Schech stated you build them both and you rent one, lease one out.

Mr. D'Ottavio replied I don't have the spare million and a half to build both buildings. It would be cover under easements.

Chairman Schech replied I know and we have been through these easements many times.

Board Member Rogan asked Craig, what do you think about these would be covered by easements. How would that be setup to work.

Craig Bumgarner replied you can put the easements on there. It is just more a policy, I think we have never, the Board I have never seen approve something with the septic on another property. What is the Board of Health's position on that.

Mr. Nichols replied they are permitting it but with easements.

Board Member Montesano stated I don't like the idea.

Chairman Schech stated we don't care what the Board of Health says about it.

Board Member Rogan stated I don't know enough about it.

Craig Bumgarner stated I mean look if you want to know not to beat around the bush just a straight legal opinion they could put easements that would cover.

Board Member Montesano stated we are just going through a process here on the application we just went through with the sporting goods store where the property was built and subdivided and they had a septic system on another property.

Chairman Schech stated it is taking us three to get through that one.

Board Member Montesano stated and we are fighting that like crazy.

Mr. D'Ottavio stated but that was not setup right that property. I think that is from the seventies isn't it. That is from a long time ago. This is a completely different situation.

Board Member Pierro stated and I think that was done when it all was one parcel.

Chairman Schech stated we are creating another situation, which we really don't want to see. If we can't afford both buildings then just put one building up and then ten years down the line, you can put the other building up and become a wealthy man.

Board Member Rogan asked Harry, why did we get to this point in the concept from the previous plan.

Mr. Nichols replied because of the amount of disturbance.

Board Member Rogan asked which would trigger what.

Mr. Nichols replied we had two separate plans, Board Member Pierro stated and there were two separate driveways and the amount of fill that had to be brought in for the back of the building on the left hand side.

Rich Williams stated if I could just jump in here I think it originated by, we had a concept that showed the septic and the stormwater on individual lots and then after further evaluation by Mr. Nichols it was determined that he needed to put the septic on one lot. He couldn't site septic on either lot that forced the stormwater on to the second lot. In order to meet DEP requirements he ended up with a stormwater basin, jump in anytime you want Harry if I get it off track that he created a huge pit at the driveway entrance along 22, which everybody hated. We did go down to Valhalla, we did meet with DEP and we talked about a number of different concepts this being one of them as a way to shrink the stormwater basins by minimizing the amount of impervious surface. Did I get it right.

Mr. Nichols replied you got it.

Board Member Montesano asked what are the other options that were given.

Rich Williams replied well we could go back to the original plan with a huge pit along Route 22.

Board Member Shay stated we don't want that.

Mr. Nichols stated the DEP is not sensitive at all to the fact that we are creating such disturbance as we did with the other two plans. They only care that we provide the right amount of detention and water quality basins.

Board Member Montesano stated not to pick you out but you see this is my point we as a Board suggest something then some other agency comes in and we seem to take the back seat. They didn't like it so we moved the plans around. If we say we don't like it we have a fight on our hands and that is what I don't understand.

Mr. Nichols replied no it did not happen that way Mike. We came in and we had all the basin on it. This is an appearance to address your concerns by cutting back on the pavement end. We had a basin in here, which this is the Pine Tree we are going to save that. We are eliminating all of this disturbance now in this area.

Mr. D'Ottavio stated I don't think the DEP disliked our plan before this. They didn't really care if there was a detention pond off of 22.

Board Member Rogan stated that still doesn't resolve the issue of the dual septic systems on one lot.

Mr. Nichols stated the Health Department does allow it.

Board Member Pierro stated they do allow it and it is done in areas where development is done where there is not a lot of space like down in Westchester County they do permit this often.

Mr. Nichols stated we have already gone through this with Mike Budzinski at the Health Department and this has all been tested. They do allow this.

Board Member Rogan stated I would rather see you use the best area than use a cruddy area, twice the area.

Chairman Schech stated Harry, we don't like it come up with another idea.

Board Member Pierro asked is it our problem to worry about the legal issues over a failed septic system that may happen twenty years from now,

Mr. D'Ottavio asked is that the Board's,

Chairman Schech stated we don't like septic systems on other people's properties.

Mr. D'Ottavio replied well that septic system has been drawn like that since five meetings ago and no one ever said.

Chairman Schech replied well I just noticed it I am sorry.

Board Member Rogan stated at one point we even talked about it and said if you look back to the minutes we had discussed it and agreed with the idea because it was a better area than what was

shown previously. I remember having that discussion. I don't remember verbatim but I do remember having the discussion.

Mr. D'Ottavio stated that was the discussion.

Board Member Rogan stated absolutely because I even said I would prefer I don't know about the legalities but I would prefer to use an area that was superior for the construction of that septic system than use an area on the back of that left lot that isn't going to work now whether or not it be by easement or by lot line adjustment as long as it is able to be maintained constructed and increased if need be in the future I don't really care if it is on the other lot. I don't want us to eat it as a Board that we allowed something on another that can't be,

Chairman Schech stated this would be lesson number two.

Board Member Rogan replied well lessons have to be learned.

Board Member Pierro stated our problems with septics on the wrong lot gentlemen was probably as a result of a piece of property being subdivided and an illegal apartment being done over the weekend. If our Counsel feels that there could be correct easements.

Board Member Montesano stated I don't like easements whether they can be correct or not it is my privilege to say I dislike the fact that easements are allowed. I do not appreciate voting or being put in a position where I have to vote for an easement because I have seen party driveways. I have seen easements and all it ends up with is some kind of a war between people that happen to live there. I have seen people come in and put up family housing where they have got one driveway, six houses, everybody is happy and then suddenly one house is sold to someone else.

Board Member Pierro stated Mike, isn't that called an Open Development don't we do that on a regular basis and you know what to be honest with you, I hear all these horror stories about common driveways and I have never seen the war. I have never seen it not in this town maybe you hear of other people arguing but how does that come back and bite the town. How does that come back and bite the Planning Board. I have never seen it.

Chairman Schech stated Bear Hill Road; we got stuck with a road, which turned out to be a horror.

Board Member Pierro stated somebody wasn't watching.

Board Member Rogan asked Missy, would it be much to pull the most recent plan or Harry do you have with you the most recent plan prior to this.

Mr. Nichols replied no I did not bring it.

Rich Williams went to retrieve the plan.

Mr. D'Ottavio stated we already have a shared entrance to both lots.

Mr. Nichols stated they are not going to give us another entrance down here.

Board Member Rogan stated we wouldn't want two entrances anyway because of safety.

Chairman Schech stated we don't mind the shared entrance.

Mr. D'Ottavio stated there is already an easement from the first lot to the second lot.

Chairman Schech stated what we mind is the two lots. It is a simple solution.

Board Member Rogan stated Harry, what is the problem with doing a lot line adjustment to incorporate the septic area into the,

Mr. Nichols replied we could bring this over like this, Board Member Rogan asked would you still meet your bulk requirements.

Mr. Nichols replied no we would not meet setbacks.

Board Member Rogan asked so you would need a waiver on one setback or a variance rather.

Mr. Nichols replied no.

Board Member Pierro stated I want to remind you guys that our community is in desperate need of viable commercial development.

Board Member Montesano replied yes but you don't want to have it when we are going to end up doing something that isn't necessary.

Board Member Pierro stated think back about our problems, Board Member Montesano interjected I think back we are the only town that has a commercial property on a road that is a town road.

Board Member Pierro stated think back about our problems with this site. We didn't want to much destruction of the canopy in the rear because we didn't want to ruin the view shed from Haviland Hollow, there is a lot of steep slopes in the back of that property that we didn't want to push the buildings too far back. There were other concerns that we had.

Board Member Montesano stated that is right then there are other plans.

Rich Williams asked what is it that you are interested in Shawn.

Board Member Rogan replied I want to see both plans.

Rich Williams put the prior plans up for the Board. (TAPE ENDED)

The Board reviewed the plans for several minutes.

Board Member Rogan stated so this plan that we are looking at now was where we were at a few months ago.

Rich Williams replied yes.

Board Member Rogan stated and the change from this is basically just in a reduction of impervious surface, a change in the entrance to the building on the right to reduce the number of stormwater basins.

Mr. Nichols stated clearly eliminating this basin.

Board Member Rogan stated eliminating that basin that we all hated up front.

Board Member Pierro stated we got rid of that pit.

Board Member Rogan stated and we saved that Pine Tree that everybody wanted. A couple of months ago we were in favor of this plan except we didn't like the basin up front that was the one thing that we clearly said to Harry. We wanted that Pine Tree to remain and we wanted the basin in the front looked at it because no one like it. Now, if they make an effort to go forward with this plan and alleviate some of the Board's concerns this plan is the culmination of our comments in certain regards so I don't have a problem with it,

Chairman Schech asked did we comment that we put two septic systems on one site.

Board Member Rogan stated maybe we should pull the minutes on that.

Mr. Nichols stated we did discuss this.

The Secretary retrieved the minutes.

Board Member Pierro stated I recall the cutting and filling that had to be done in the rear of that property and the fact that we were possibly going to lose the canopy and have exposure to the back of these buildings from Haviland Hollow.

Board Member Rogan stated my feeling is if one connecting road can handle the traffic of the trucks, which you are not talking a lot it, is office warehouse, the septic systems are small.

Mr. Nichols stated we purposely kept the septic systems separate for the reason that you had raised concerns about having shared driveways. At least here they have their own septic they are responsible for their own septic. If you had one and there was a problem the two could sit there and stale mate each other of who is going to fix it. They can each fix their own now.

Board Member Rogan asked let me ask a question back to the Board, would the Board rather have the septic system as part of the left lot and then put them to the Zoning Board and recommend that the Zoning Board approve a variance for the distance from the septic system to the, that would not even be Zoning that would be,

Craig Bumgarner stated if we drew the lot line across and came down it would be setback.

Board Member Rogan stated setback from the line. Is that a worse thing than having an easement I don't know. Any thoughts Rich on that.

Rich Williams stated under the current proposal you have got so many cross easements, a lot line adjustment, Board Member Rogan stated it is only taking care of one.

Craig Bumgarner stated what do have other than the common drive.

Rich Williams replied the common drive, stormwater, septic.

Craig Bumgarner stated the only thing that you get rid of is the septic.

Board Member Montesano stated if you get rid of the septic that means you have two lots that are substantially stable by themselves. The stormwater runoff is an easement okay. You are going to have an argument who is going to clean out the ditch. The object is if it is going to back track on one guy or the other it is up to him to take care of it. The thing is if they are two sustainable by themselves with the septic on both pieces of property, on their own property to me that is a bigger headache by putting them together.

Mr. Nichols replied they are not together they are separate.

Board Member Montesano replied they are separate you have an easement going to them.

Mr. Nichols stated but this person is responsible for his septic and this person, Board Member Montesano stated fine but it is still on somebody else's property.

Mr. Nichols stated but he has the right to go there.

Board Member Montesano stated I like a car to have an engine and an exhaust system. I don't like to have a car that is going to sit there and share an engine or an exhaust system with another car. This basically you have the right to do it that is fine. I don't like putting myself in a situation where I can create a problem here and that is what it will do. That septic system there is no place to put that septic system for that other building.

Board Member Rogan stated Harry, if this is the sticking point is it something that we can look at. Granted we are not cleaning up all three issues.

Mr. Nichols replied on this lot here we have a problem.

Board Member Rogan stated no I am sorry that was not clear. If Mike's contention is that he feels that the septic system being on the lot is the most important issue and he is willing to have the easements on the other two,

Board Member Montesano stated you have a community driveway already, now I dislike community driveways, but it is there. The thing is you are going to put two buildings up to me it would be easier if you put one building up and put a wall in the middle of it you are still going to save money on the one building because now you only need five walls not eight but that is neither here nor there but I like the idea that you are going to keep as much as you can separate. Easements are a thorn in my side because they are there. I have seen it I have been here long enough to see them, you running into them. Community, party driveways are another headache and I have seen them on more than I care to admit and if you want proof of it there is no problem they are here.

Board Member Rogan asked so the question is I guess Harry, can we fix one of the three.

Mr. Nichols asked was that on residential that you have had the problems as opposed to commercial.

Board Member Montesano replied well commercial we are the only town that I know of unless you have run into another that has a commercial piece of property that is a town road that the town maintains. I have never seen that one before but we have that.

Chairman Schech stated I can understand a single driveway to have one entrance on 22 is fine with me but there is no way in hell that we can move that septic off that property.

Mr. Nichols replied I can't move it over here because this is rock. We tried to put it in over here we have all kinds of holes. We have holes now we have seven foot holes but the Health Department said we were going through broken rock and they would not approve it. We can't go in the back because of the slope.

Chairman Schech asked what is that piece right to the left there the slopes don't look too bad in there.

Mr. Nichols replied we dug holes over here too we could not get sufficient holes. Where we got the good holes was in here where we originally wanted the system but we were digging through rock, either broken rock or soft rock and the Health Department would not approve it both the DEP and the Health Department. We are limited by the areas this is too steep it is over fifteen percent. This would have been ideal.

Board Member Montesano asked what about the building itself that is there.

Mr. Nichols replied that is all rock. Rock is exposed right on the top of the hill and because we have the watercourse down here we have to be a hundred foot back from that. We have a limited area where slopes were acceptable and in that area we cannot get acceptable holes.

Chairman Schech asked Craig do you think this is going to wash.

Craig Bumgarner stated you can always burden one property with an easement. It can be done.

Chairman Schech asked and it is going to work in the future.

Craig Bumgarner stated could there be disputes over the interpretation of the easement sure but I mean my point is ultimately, you can bind this person so that the other people can go over there and work on it absolutely.

Chairman Schech stated and vice versus because you have the stormwater from your property going over there too. Who maintains the two stormwater basins.

Craig Bumgarner replied I can handle that it is similar to what you do with a common drive just have so they share costs.

Board Member Shay asked and if that septic goes down in the future would they be responsible.

Craig Bumgarner replied it would be the responsibility of the user not the property owner.

Board Member Shay stated it would be stipulated that it would be both owners.

Board Member Rogan stated no why would you want to do that Russ.

Craig Bumgarner stated that is why he did two septic so that septic "a" goes to Lot A and septic "b" goes to Lot B so that it is your responsibility to fix. If you think about it this way really the biggest problem that you would have is if there was a problem with the septic and when this person went over to fix it they were getting a hard time from this one.

Chairman Schech stated yes but that one couldn't stand the odor and the other guy doesn't want to fix it what happens now.

Craig Bumgarner stated you can place a burden on him for repair but that goes both ways. Is this person here going to give him a hard time to go over there and fix it when he has it sitting right in front of his commercial building. He is not going to want a stinky septic sitting in front of his building either. Also what you can do is put a duty to repair on this owner so that if there is a problem he has to get in there. I will say this and this is not legal advice this is just kind of an observation when you are looking at it from a commercial standpoint it works a lot cleaner than with neighbors. Again, this is just an opinion because neighbors they don't like this one because the dog barks or whatever the case may be. These are going to be commercial people.

Board Member Pierro stated you are dealing with less emotion with business people.

Mr. Nichols stated you also have the Health Department as an agent. If one of these septic are in disrepair they are going to tell that owner we are going to shut your building down.

Mr. D'Ottavio stated if the septic is eighty feet over to the left and it smells then the guys in the first building really has no repercussions the guy in the second building it is on its own property. It is the same thing. If your neighbor's house is a hundred feet away from you and the septic smells you can still smell at your house if its on your lawn or his lawn.

Craig Bumgarner stated the only problem that I foresee is them giving him a hard time about fixing it or in the manner to which to repair and we would have to make sure that if this is something that the Board wishes to consider that the party has some kind of responsibility to return the site to the state that it was in before they went hacking into the ground.

Chairman Schech asked how can we handle that.

Craig Bumgarner replied through the easement documents and what you do is you place the burden (unable to hear no microphone).

Rich Williams asked should we also make the town a party to the easement.

Chairman Schech asked why should we want to get involve with it.

Rich Williams replied for enforcement.

Craig Bumgarner replied we could.

Chairman Schech stated we have the Health Department to enforce it.

Rich Williams stated if we are not a party we can't take any enforcement action if we are a party then we have the ability to go in we don't have to but we have the ability to.

Chairman Schech stated why don't we let these two people here draw something up so we can peruse it and then come back to us.

Mr. Nichols stated I think we are going to be spinning our wheels, Board Member Pierro replied no you are not Harry. I think we are getting somewhere.

Board Member Pierro asked as in residential construction the septic tank, the collection tank will still be on the,

Mr. Nichols replied the tank for this building will be over here right here in front of the building this will be a pump system.

Board Member Pierro stated so we are talking about that once in twenty year failure of a leach field.

Mr. Nichols stated the leach field have a much better chance of surviving for a hundred years here than they will over here because the soils are so superior.

Board Member Pierro stated my point so Building "A" is still going to be able to clean out his septic tank when it over fills. There is not going to be any problems with easements relative to that. We are talking that maybe in twenty years when that septic system fails.

Chairman Schech stated Patterson Village's failed in five years so don't tell me about twenty years.

Board Member Pierro replied Patterson Village should have never been built. It was built in wetlands.

Chairman Schech stated it was approved by the Health Department and every engineer in the world.

Chairman Schech stated Harry, I would ask you to please put all this stuff together so we can look at it before we go any further. It is not going to take that long. You have all the minutes from Missy.

Mr. Nichols asked when you say put it together so I understand all these,

Chairman Schech replied easements.

Mr. Nichols asked you want to see what the easements are going to look like.

Mr. Nichols replied okay.

Board Member Rogan stated maybe everyone would feel more comfortable if Craig says yes this looks like it is going to fly. I don't like the idea of the septic being, I am agreeing with them but I also don't want to take away the man's rights to build these buildings if it can work. If we can set it up so that the septic systems are going to work which I believe in building the septic systems on a better soil. We are not talking about heavy flows. We are talking about bathroom usage. We are not talking about showers, we are not talking about food preparation. We are talking about bathroom use at a warehouse. I also think this is the natural progression from a few meetings ago. We just looked at the minutes while you guys were talking and in part we have asked for this. We have discussed this and said do away with the front basin. Nothing has changed on septic systems.

Board Member Montesano stated fine this is what we have discussed okay not what we have limited ourselves to. Now, the idea is fine if that is the only way it is going to be done you can't deny the man the use of his property. What I am looking at is there any other way. No one has said to me this is the plan that we looked at and this is the only thing we have left that is all we can do. No one has said that to me. No one has proven that to me that is all there is because no one has explained that.

Mr. Nichols stated I did say we did the testing out here, we tried, and we dug twenty, thirty holes out here trying to keep it on this property at that point the Health Department said we will allow you to put it over here.

Board Member Rogan asked do you have any letter to that affect Harry.

Mr. Nichols replied no.

Board Member Rogan asked can you get that.

Mr. Nichols replied Mike was out there.

Board Member Rogan asked can you get Mike to write something.

Mr. Nichols stated the comment that he said was it is permitted because we cannot find,

Board Member Montesano replied no what we are asking is Mike would say the following holes were deemed unstable or unusable something of that nature. What I think we are asking is you tried something it didn't work out the tested hole fourteen did not accomplish what it should of.

Board Member Rogan stated and is this a concept that they will consider and if the soil testing is fine they will approve.

Mr. D'Ottavio stated we had that soil tested already right Harry.

Mr. Nichols replied yes and the City has been out there also and witnessed it.

Board Member Rogan stated we are looking for a statement from the Health Department.

Board Member Montesano stated on the same hand right now it is commercial to warehouse. I have also seen a warehouse facility become a medical facility come back and ask for retail facility and then go back and now it is a pharmacy building.

Mr. Nichols stated it has to go through the Health Department whenever you have a change of use.

Board Member Montesano stated it is supposed to come to us.

Mr. Nichols asked doesn't that go to the Board.

Board Member Montesano replied yes it does but I am saying it has already been done. I have seen it done here and I can say the building out here went from a warehouse to retail, warehouse, and then retail again and now it is back to office space.

Mr. D'Ottavio asked wouldn't the Board go into the past minutes or plans and see,

Board Member Pierro stated can't we put a note on the plat.

Board Member Montesano stated you can put all the notes you want the problem is sometimes either they don't appear or someone forgets to put them in or the property is taken outside the town and approved by something else and brought back in. So, you try to keep as much control as you can.

Mr. D'Ottavio stated that is what the Board is here for to control.

Chairman Schech stated let's get the easements put together so we can look at them because if we start the planning process and as we go along somehow the easements sort of get fluffed off on the side and we never see them. I want to see them.

Craig Bumgarner stated one of the things that I was going to suggest by the way is if this is something that we decide to do I would like to see the easements recorded prior to signing because what typically happens with easements is they are supposed to be recorded after the plans get signed and let's face the fact that is probably the biggest hole is the follow up on that stuff post signature.

Board Member Rogan asked Harry can we also consider since you are already doing all this work anyway not that I want to place anymore burden on you but can we also look at how we can incorporate that septic into the other lot by lot line adjustment. What the ramifications of that would be so that we are reducing or mitigating one of the three concerns.

Mr. Nichols asked what zoning would we come under.

Board Member Rogan replied I don't know I would defer that to Rich.

Mr. D'Ottavio stated Harry, wouldn't that make the first lot too small.

Mr. Nichols replied that is what I am wondering. What is it zoned.

Chairman Schech stated we have a problem there what are you going to do with the detention basins. Are you going to do the same thing with the retention basins.

Rich Williams stated it is not C-1.

Board Member Rogan stated no I am saying the other two seem to be less of a concern than the septic. I am only throwing it out there as an idea.

Rich Williams stated you got a variance from the Town Board under the moratorium to proceed with the site plan application on the two buildings but not to do a lot line adjustment not to vary the boundaries. I don't know that the dimensional requirements have changed that much. I think you are going to run into a situation. You are not going to meet setbacks. I will tell you right now you are not going to meet the front yard setback in any way shape or form. The sixty-five feet you are probably going to be about twenty feet and the odds are speaking for the Zoning Board and I probably shouldn't if I was on the Zoning Board I would not approve a variance because it is excessive, it is unwarranted. It is not necessary.

Board Member Rogan stated when the easement can cover it.

Mr. D'Ottavio stated I think that is just asking for problems because then he driveway is going on one lot to another lot to another lot. That would be more of a problem.

Chairman Schech stated put the easements together and let's look at it.

Mr. D'Ottavio thanked the Board.

b. Big Elm Subdivision

Mr. Harry Nichols was present representing the Applicant.

Mr. Nichols stated I did send a plan in.

Chairman Schech asked Harry, he couldn't get the neighbors to,

Mr. Nichols replied he seemed in favor it and,

Chairman Schech stated in the meantime you have to put twenty thousand dollars into scratching down the basement floor.

Mr. Nichols replied yes.

Chairman Schech stated that makes a lot of sense.

Mr. Nichols stated no he just flatly a conscience decision that he would not and nothing would change his mind. He is going to under pin the building where necessary and drop the floor in the garage two and a half to three feet so that we can keep the driveway on the lot and meet the requirements.

Chairman Schech stated now while you got this thing up in the air can you move it like eight feet to give us thirty feet for the side line. It is very easy when it is sticking up in air.

Mr. Nichols stated that memo that is in the file mentioned twenty-five feet on the side line.

Rich Williams stated yes at some point, Randy Laurent submitted a memo to the Planning Board saying this is what I think the setback requirements are. I have nothing to justify where he came up with those numbers. There is clearly nothing in the record, nothing in the minutes anywhere that establishes those numbers.

Mr. Nichols stated the Board has the right to establish any numbers they want.

Rich Williams asked did you read my memo.

Mr. Nichols replied I have not had a chance to.

Rich Williams replied okay read that and I would like to hear what Craig has to say.

Craig Bumgarner stated I think your memo is right on target. This Board has the right to change it when they are approving the cluster subdivision not, Board Member Pierro after it is approved.

Craig Bumgarner replied yes they cannot go back and change it after the fact.

Chairman Schech asked the thing is what did we approve when we did the subdivision, twenty-five feet.

Craig Bumgarner replied it is silent as to what it was. I will say this as well, 1990 was it Rich.

Rich Williams replied it ran from 1989 to 1992.

Craig Bumgarner stated we came on board in 1994 it was already the town's practice at that point to clearly designate any reduced setbacks within the resolution. Is it possible it didn't make in there yes but it seems odd I will say that. I don't think this Board has the power to retroactively change the setbacks because you are not the Board that approved the subdivision. If you want to change setbacks now it goes to the Board that changes setbacks, which is our Zoning Board of Appeals and that, is the way I feel.

Mr. Nichols asked why would the Board want to change the setbacks if there were no setbacks done here.

Craig Bumgarner asked so we are just going to pick our own.

Chairman Schech stated there are no house locations on the plat.

Mr. Nichols replied there were house locations but there were no setbacks that you,

Craig Bumgarner stated if the setback is not reduced you go by the setback in the zone that is in affect at that time. You don't just come up with one. So, the point is the setback that was in affect at that time I believe was 30 feet and that is what would have applied unless the Planning Board in the cluster resolution reduced it, which they had at that time the power to do. Now, this Board can't go back and change that Board's resolution and that approval. The only Board that we have that can

change the setback as you know would be the Zoning Board of Appeals. You would have to go in and make the application to change the setback from when it was approved which was 30 feet to now the 25 feet that you are proposing out there.

Mr. Nichols asked how do we establish thought what the minimum should have been.

Craig Bumgarner what the zoning code was then.

Mr. Nichols stated there is a house Lot 9 I believe one of them was 25 feet that was approved.

Rich Williams stated this is where the whole thing comes in, in reviewing the plat there were three basic sets of drawings that I looked at; the Phase I subdivision, Phase II subdivision plat and the construction drawings. The Phase I subdivision plat and the construction drawings as they were labeled or what we have been using for construction drawings basically showed the same dimensional requirements, the same house layouts, the same grading. The Phase II the construction drawings and the subdivision plans conflict as far as lot lines and house locations and the sequence at which the plans were created you would have to take the final subdivision plat over the construction drawings because it was created and approved at a later date. The Phase I all the houses met the thirty, forty, fifty setback requirements. In Phase II they did not. The Phase II showed three houses with a twenty foot setback, side yard setback. My opinion is that based on the plans you would have to use the setbacks that were approved with the subdivision plats. They would take priority over establishing appropriate setbacks. In this particular lot the lot clearly had the house pushed up against the hundred foot conservation easement in order to provide a thirty foot setback. If the setback was only twenty-five feet they probably would have slid the house back to get it away from the conservation easement to allow them more room in the front yard. I just want to point out too we are splitting hairs here because if I am correct we have a thirty foot setback if Harry is correct we have a twenty-five foot setback either way the house is twenty-two feet and he needs a variance.

Craig Bumgarner stated this might clarify things this Board is not empowered right now to alter this. It is the Zoning Board's job go to the Zoning Board. This is much to do about nothing right now. We are debating and we don't need to.

Board Member Pierro stated we make a recommendation that you go to the Zoning Board and apply for a variance.

Rich Williams replied you can't do that he has to go back to Paul and get denied then he can appeal Paul's denial.

Ted Kozlowski asked Harry, one question there are these huge, enormous piles of fill directly behind that house what is to be done with that I still don't understand that one.

Mr. Nichols replied I don't know I will find out.

Mr. D'Ottavio stated it is the septic fill.

Rich Williams asked spread or removed.

Mr. Nichols stated what happened was the material that was out there was deemed unacceptable by the Health Department so they had to remove it and bring in acceptable material. Are those the piles of stuff that is going in.

Mr. D'Ottavio replied some of it is the approved stuff and some of it is,

Ted Kozlowski stated my whole point is this Harry, that material has a lot of rock in it and stuff how are they going to access back there because along Big Elm Road my understanding that is a conversation easement. They are not going to go through that property are they to remove that fill.

Board Member Rogan stated they already have got a built roadway up along side the house.

Ted Kozlowski replied do they are they going to go around the house area not along Big Elm Road.

Mr. Nichols replied no they are not going to go along Big Elm Road.

Rich Williams stated they have already built the access road in the conservation easement all in front of the house.

Ted Kozlowski asked in the conservation easement.

Board Member Rogan and Board Member Pierro replied yes.

Ted Kozlowski replied which was supposed to be left alone.

Board Member Montesano stated and apparently there is nothing that can be done about it.

Chairman Schech stated Harry go to Zoning and I guess come back. How many feet do you have to lower this garage floor.

Mr. Nichols replied maybe two and a half feet.

Chairman Schech replied that is it.

Board Member Montesano stated I would like to have an answer to his question. If you are not supposed to be in the conservation easement what the hell are you doing in there could you please explain that to me and now everybody has this strange look, what are you talking about it.

Board Member Pierro stated these pre-dates I think Mr. D'Ottavio's involvement in this project.

Mr. D'Ottavio replied no I am not involved in this.

Board Member Pierro stated I was surprised you were talking like you knew something about it.

The Secretary stated he lives there.

Mr. D'Ottavio stated I don't live in that house I live in that subdivision.

Board Member Pierro stated I was a little taken back by your comments.

Board Member Montesano stated can we go back to your question Ted, can we get an answer from somebody.

Ted Kozlowski stated why do we have a conservation easement if it is violated.

Board Member Montesano stated it was there for a reason apparently somebody decided to pay no attention to it and we sit here saying the gentleman there is going conservation easement, conservation easement and we don't pay any attention to it.

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

Board Member Pierro stated it has been violated but before it can be restored you have to get that material out of there.

Chairman Schech stated I know that but there is no sense talking about a conservation easement right now until they go to Zoning because if Zoning is a real hard a- - right now Zoning is going to say take the house down. If I was on Zoning that is what I would tell you to do. Then we can discuss this.

Chairman Schech stated go to Zoning.

Board Member Pierro stated go to Zoning. We all agree that there is a problem with the easement.

c. Monterio Wetlands Permit

Ted Kozlowski stated Monterio set a public hearing for the next meeting.

Board Member Montesano made a motion in the matter of the Monterio Wetlands Application that the Planning Board schedules a public hearing for October 2, 2003. Board Member Pierro 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.

d. Burdick Farms

Rich Williams stated the site walk is for the 13th.

Chairman Schech stated the site walk is the 13th and I think we should ignore his request for a meeting.

Board Member Pierro stated deny his request.

Chairman Schech stated ignore it.

Board Member Pierro stated okay but let's deny it.

Board Member Montesano asked why deny it.

Board Member Pierro replied we don't have time to generate the paperwork and get our comments prepared.

Board Member Pierro made a motion in the matter of Mr. Conditto's request on Burdick Farms to have a special meeting that the Planning Board denies the request because of time constraints from the time of our site walk to the time of the special 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.

12) MINUTES

Board Member Montesano made a motion to approve the July 31, 2003 and August 7, 2003 minutes. Board Member Shay seconded motion. All in favor and motion carried by a vote of 5 to 0.

Board Member Montesano made a motion to adjourn. Board Member Pierro seconded the motion. All in favor and meeting adjourned at 9:40 p.m.