

APPROVED
11/6/03 [Signature]

TOWN OF PATTERSON
PLANNING BOARD MEETING
September 25, 2003 WORK SESSION
AGENDA & MINUTES

- | | |
|--|--------------|
| 1) East Coast Pain Management – Sign Application | Page 1 – 8 |
| 2) Montiero Wetlands/Watercourse Permit | Page 8 - 10 |
| 3) Budakowski Subdivision – 280 Referral | Page 10 – 15 |
| 4) Maiorano Fill Permit & Colao Fill Permit | Page 15 – 16 |
| 5) Burdick Farms Subdivision | Page 16 – 27 |
| 6) Thomas Subdivision | Page 27 – 28 |
| 7) Barcon Builders – Driveway Relocation | Page 28 – 31 |
| 8) Noletti Site Plan – Integrity Heating | Page 31 – 32 |
| 9) Schech Lot Line Adjustment | Page 32 – 33 |
| 10) Sypko Wetlands Watercourse Permit | Page 33 |
| 11) Ralph Burdick Site Plan | Page 33 – 34 |
| 12) D’Ottavio Site Plan “A” & “B” | Page 34 |
| 13) Other Business | |
| a. Patterson Commons | Page 35 – 38 |
| b. Camp Brady (Shkreli) Subdivision | Page 38 |

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September 25, 2003 Work Session Meeting Minutes

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

APPROVED
11/14/03
MBS

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

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

Chairman Schech stated we are going to do number three on the agenda first.

1) EAST COAST PAIN MANAGEMENT – Sign Application

Mr. Bob Sprague, Applicant was present

Chairman Schech stated I don't believe we have ever had one of these before. What is the precedence of this here.

Rich Williams stated we have never had one because it is not contemplated as a permitted use within the Code.

Board Member Montesano stated if it is not a permitted use within the Code.

Rich Williams stated you need to take a look at the Code I can pull it out for you and you can see if you can figure out how to,

Board Member Montesano stated you have got to go to the ZBA if it is not in the Code Book then it is not even, Rich Williams replied you can't go to the ZBA it is not a contemplated use there are areas within the Code that you can take a look at.

Board Member Montesano asked there is nothing about temporary signs like real estate signs there is nothing.

Rich Williams replied that is what I am saying there is a section on real estate signs there are other sections about contractor signs and things like that.

Board Member Montesano asked can we generalize it and put that in a real estate sign it is only going to be a temporary thing.

Mr. Sprague stated or a contractor's sign it is a temporary contractor. We are contracted.

Board Member Montesano stated I don't like the colors they are not the Town colors.

Board Member Pierro asked are we setting a bad precedence by requiring a permit or are we setting a good precedence by requiring a permit for these signs.

Chairman Schech stated it seems like other towns have the permitting process. Actually you can control the erection and removal a little better by doing it this way.

Board Member Montesano stated you are giving them a business sign right.

Mr. Sprague stated it is a temporary sign.

Board Member Montesano stated but what I am saying is it is a business sign.

Mr. Sprague replied yes.

Board Member Montesano stated it is telling people that there is a business and they are going to do certain things for free on a particular occasion.

Board Member Rogan asked so the idea is to put up a sign that advertises an event going on in Carmel.

Board Member Montesano stated it is similar to the one behind the gentleman.

Mr. Sprague stated yes it will be similar to this, it is going to be this size referring to the sign he brought in. Brewster all they require is a deposit when the signs come down the deposit comes back.

Chairman Schech asked how much of a deposit.

Mr. Sprague replied they required a twenty-five dollar deposit.

Chairman Schech asked for each sign.

Mr. Sprague replied no for all of them. Carmel required a hundred dollar deposit, Kent required nothing but they will fine us if we don't take them down after ten days.

Board Member Pierro stated there is a hole in our Code then.

Rich Williams stated or not.

Board Member Rogan stated nothing against your sign but I don't like the idea of allowing signs to go up all over Patterson for events like this and it has nothing to do with your event but is there a reason why there is not something in the Code about temporary signs like this maybe it is because we never had anyone ask for them and they just put them up in the past. It is like tag sale signs. The worst damn thing in the

world are these signs that go up for garage sales and they don't take them down and I am sure you are going to take your sign down afterwards but to have a sign that announces an event I mean if you look at it, it is an analogous to a community event that would go on at the 4-H Fairgrounds but that is not a profit based event.

Rich Williams stated the way we looked at in the Code in general if somebody in Patterson is advertising an event on their property they could advertise the event on their property but it was not contemplated within the Code about the tag sales or the Fire Departments spreading signs on every telephone pole which is clearly prohibited or signs like this. I mean there are sections within the Code that if you really wanted to bend it to the point of almost breaking you might be able to say this would fall under, directional signs things like that which is why I just let him come into you and let you gentleman make a determination whether the Code applies, doesn't apply

Board Member Montesano stated basically this would be a public service sign see if I can get this idea, Rich Williams asked how is it public service.

Board Member Montesano stated well he is offering something for free to people in the community. If they make payment after that event to me it says over there free prizes,

Mr. Sprague stated this is what it is actually going to say that was just for size.

Board Member Montesano stated free pain evaluation.

Mr. Sprague stated there will be free food and free prizes and there will be free rides. The purpose of this is to educate people on pain management. We also do dinners around Putnam County at different restaurants. We educate people and the doctors tell them if you want to come to us we will be glad to have you but we want to educate you so you know how to manage pain.

Chairman Schech asked an ad in the Pennysaver is not enough.

Board Member Rogan stated I don't like the idea of these types of signs. I would like to see less signs put up around advertising things than more.

Board Member Pierro stated Mr. Chairman has got a point it enables us to control them with a timely removal.

Chairman Schech asked how many signs are you talking about.

Mr. Sprague replied five one at 22 and 311, one at 22 and Haviland Hollow, one at 22 and 164 and two at 84 and 311.

Chairman Schech stated I would say it is worth a try.

Board Member Pierro stated okay then let's put a dollar amount on them.

The Secretary stated I don't think you can because it is not in the Code.

Board Member Montesano stated let's put it this way we are going to make it something temporary.

Mr. Sprague stated actually I already gave a check for a sign permit.

Chairman Schech stated and if they are not down in ten days you go to court.

Mr. Sprague stated they will be down by the fourteenth.

Board Member Montesano stated what I am figuring is it is scheduled for the twelfth I would say,

Mr. Sprague stated they will go up on the Friday before and come down the Monday after.

Board Member Montesano stated I would say give him until Tuesday.

Chairman Schech stated he said ten days that is simple enough.

Board Member Montesano stated if they are going to go up on the Friday before the event, the event is going to be on October 12th that is Friday.

Chairman Schech stated they are going up on the Friday before.

Mr. Sprague stated we wanted to put them up the weekend before but if you say they go up on the Friday before we will put them up then.

Board Member Montesano stated if you are going to put them on Friday not too many people would notice them.

Chairman Schech stated I say they tend to fall down from our experience I would say you put them up no more than one or two days ahead of time.

Mr. Sprague stated out of twenty that we put up in June two of them fell down or were run over all the rest of them stayed up. It would be from October 3rd to October 13th because I will take them down on a Monday.

Board Member Rogan stated the difference between this type of sign and someone who wanted to put up a sign on their own property in other words if someone wanted to put this sign up on their front yard is that prohibited.

Board Member Pierro replied no it is on their own property.

Mr. Sprague stated Paul said that is a violation because I wanted to put it on my mother's property.

Rich Williams stated I want to be clear because I think I really need to be clear and I would like this in the record just so we are all clear. This sign is not permitted by our Code. I tried to do it nicely now I want it stated in the record that you have been so advised go ahead and do what you want.

Board Member Pierro asked it is not permitted by our Code under what grounds.

Rich Williams replied because we were trying to come up with a sign ordinance when we spent all this time going through it that limited the number and type of signs that could be erected within the Town and we wanted to allow certain individuals like contractors who are working on somebody's house to be able to put up a sign to advertise that they were working on that house because they also need that sign up for people delivering goods or a real estate agent that was selling that we allowed certain size signs but when it got to the proliferation of signs as Shawn said for Dover to come down and advertise their carnival or Pawling to come down and advertise,

Board Member Pierro asked so can we override our Code.

Mr. Sprague stated can I also state that two of our employees live here in the Town.

Board Member Pierro replied regardless and said something that I did not understand in another language.

Board Member Pierro asked can we willy-nilly override our Code just because we want to give an opportunity.

Rich Williams replied no.

Board Member Pierro stated then the discussion is over.

Board Member Montesano stated not really.

Board Member Rogan stated then change the Code.

Board Member Pierro stated if that is what the mindset of then we have to change our Code first.

Board Member Montesano stated you have to make an application and get the Town Board to change the Code.

Board Member Pierro replied right do we want to and we don't deny anybody the right to advertise their business if the intent of our Code was to restrict the proliferation of this type of sign.

Rich Williams stated just so you are aware it also applies to businesses within Patterson for example; Putnam Diner cannot erect a sign outside of Alpine again you want to limit where these signs are going to go and how it looks within the community but as I said I can give you the Code, you can take a look at the way it was written and you can see if somehow this fits in.

Board Member Pierro asked can I review the Code please.

Rich Williams retrieved the Code for him.

Board Member Pierro reviewed the section of the Code for a few minutes.

Board Member Pierro stated gentlemen for the record, it is the intent of these sign regulations to enhance and protect the Town's physical appearance and provide a more scenic and pleasing community. Most specifically these regulations are designed to safeguard property values, create a more attractive economic and business climate, safeguard the general public by elimination of advertising which distracts motorists

and contributes to the hazards of driving, encourage the installation of appropriate advertising signs that harmonize with the buildings, neighborhoods and other signs in the area avoid unsightly proliferation and unnecessary competition for visual attention through advertising signs; and encourage the functional use of signs as directional, informational and advertising devices. In no residences,

Board Member Montesano interjected Dave, stop a second back up a little bit. That part that you were there was something in there with the wording that said that the sign was not that it was prohibited or controlled I think that was what I was understanding.

The Secretary stated I thought there was a section on temporary signs.

Board Member Pierro stated let's breeze back and re-read the section he just read.

Board Member Montesano stated you said appropriate advertising signs.

Board Member Pierro stated the installation of appropriate advertising signs.

Board Member Montesano asked what is the definition of appropriate, appropriate advertising.

Board Member Pierro continued to read through the section on signs.

Chairman Schech stated it does say something about advertising signs.

Board Member Montesano stated it says appropriate.

Board Member Pierro stated yes but they are only permitted to advertise the use or uses of a premises on which it is located.

Board Member Rogan stated that seems to be the catch.

Board Member Pierro stated the temporary signs are referring to real estate signs and farm produce signs and contractor signs on the site but other than that there is no provision for this. So, how can we issue a permit even temporary, we can't.

Rich Williams stated and that would be my opinion but I am just an advisor you guys make the final determination.

Board Member Montesano stated it does not appear to be anyway to do it.

Board Member Rogan stated the catch here it says here to safeguard the general public by elimination of advertising which distracts motorists and contributes to the hazards of driving, the installation of appropriate advertising signs that harmonize with the buildings, neighborhoods and other signs in the area.

Chairman Schech stated we have to refuse it.

Board Member Pierro replied absolutely and I make a recommendation that we return the man his seventy-five dollar permit fee.

Chairman Schech asked is that a motion.

Board Member Pierro replied yes.

Board Member Rogan stated I will second it.

The Secretary asked wait what is the motion.

Board Member Pierro asked can we.

Board Member Pierro made a motion that the Planning Board denies the sign application of East Coast Pain Management and return the permit fee due to the fact that,

Rich Williams stated I don't think you can do that either because the Town Board sets the fee when you make a determination on the application then a determination has been made on a application we can't refund the money. In the past, what we have done which has been the practice forever is if he withdraws his application then he gets his money back.

Mr. Sprague stated then I will withdraw the application.

Board Member Pierro stated thank you Mr. Sprague.

Board Member Rogan stated I do want to say that I appreciate you doing the right thing though by coming in and trying to do it the right way and not just sticking signs up I do appreciate that. I know it does not change the outcome.

Board Member Pierro stated we have a couple of these sticking in our throat and I am sure you know where the signs are.

Board Member Montesano stated the new Code has been passed until we get it down and we remember everything that is in it we are stuck.

Mr. Sprague asked the check has already been cashed though right.

The Secretary replied I think so what I have to do is put it through the voucher system.

Board Member Pierro stated which is relatively quick. They do that pretty regularly.

The Secretary stated it could be two weeks from now.

Board Member Pierro stated I am sorry that we couldn't have a different determination for you.

Chairman Schech stated thank you for trying to do the right thing

Board Member Rogan stated you could extrapolate this type of a sign to be sale at K-Mart. That is not what we need.

Rich Williams stated that is why when I wrote it I didn't allow this type of sign because everybody and their brother wants to put something up along side the road.

Board Member Rogan replied right and you would be arbitrary and capricious in saying that you could differentiate between the two.

2) MONTIERO WETLANDS/WATERCOURSE PERMIT

Rich Williams stated they are on for a public hearing. Ted, did you review the plans.

Ted Kozlowski replied yes. Do you know the history behind this one gentlemen.

Board Member Montesano replied that is what we got you for.

Ted Kozlowski stated this was a boo boo by the Town. He was given permission to start his house and he went through a wetland. This is the best that I can do to fix the problem.

Board Member Montesano stated this is the guy across from the flying field.

Chairman Schech replied yes.

Board Member Pierro asked to prevent this in the future isn't there, would it be too time consuming for the ECI to sign off on these,

Rich Williams stated I think Paul realizes that Ted needs to do that so since this one, Ted Kozlowski stated Paul has been better. He made a mistake.

Rich Williams stated the short of it is Paul came into me and said pull up the GIS let me see if there are any wetlands, Ted stated and Paul does call me a lot. He asks me to check on things and this was a mistake. It was not a terrible mistake.

Chairman Schech stated and besides the guy is not a builder so he does not know any better.

Board Member Pierro stated I want to prevent it in the future that is all.

Ted Kozlowski stated he did not go right through the middle of the wetlands. He went on the western edge.

Board Member Rogan asked so are we in a position after the public hearing to approve the wetlands permit based on your criteria.

Ted Kozlowski replied I think so I did not go over it with a fine toothcomb. Rich, did you have,

Rich Williams stated yes I have problems with it. The same problems I have had from day one is we are actually creating a ponded situation based on those plans where the water is going to back up on to his property towards the septic system because there is no way to alleviate it.

Ted Kozlowski stated I am told by his engineer, Chris Caralyus that all the drainage coming off his property going to the west of his driveway and then is going to funnel down into Route 311 and go that way.

Rich Williams replied that is not what the plans show. If you look at the new plan I will show you specifically.

Rich Williams explained to Ted the drainage problems on the plan.

Ted Kozlowski stated I understand everything is flowing to the wetland he is telling me when I asked him that because you brought this up in the initial proposal he is going to have some sort of swale that goes here and catches the road drainage.

Rich Williams stated here is the swale, there is the swale bringing the water this way now where is this swale going. This swale isn't going this way. Again, here is the 198 he is going up gradient so the grade is going like this. He is bringing everything to here. This road if you look at the grading on the roadbed is about a foot, eighteen inches higher than this point so he has created a dam here. He needs to put a pipe under the wall.

Rich Williams stated all right but still if we are doing this and there is no rain we are fine. If we get a rain like we had the other day with this silt fencing now all the water is coming down this way and blow right through the silt fencing. Silt fencing is not designed to work in this fashion. It is a barrier control. It is a dam.

Board Member Rogan stated I thought we were doing a temporary area down here.

Rich Williams replied but it is not there anymore.

Ted Kozlowski asked what do you mean.

Rich Williams stated in other words, there should be a break at the low point here with some sort of way even if he just cuts a section of the silt fencing out and puts a stone check dam across so that water,

Ted Kozlowski stated Rich I am not even sure if he needs a silt fence. The only place he needs a silt fence is on the other side of his driveway. This silt fence is the edge of his property line where he cleared. He has vegetation coming up through that disturbed area all I want him to do is re-seed it with that meadow mix to match what is there. His silt fence really should be up here. He seeds that and hays that because you have got such a dense wall of vegetation here.

Rich Williams stated I don't disagree the exception to that is he is going to have in my opinion he has got to have a pipe going under that driveway. I have said it from day one. I don't see how you are going to do it otherwise.

Ted Kozlowski stated I will call Chris Caralyus tomorrow and find out because I discussed this with him based on your comments and my comments the last time and he said he was going this way with the drainage.

Chairman Schech stated apparently he can't.

Ted Kozlowski stated and I don't have a problem with a pipe underneath the stonewall.

Rich Williams stated I didn't think you would.

Ted Kozlowski stated what else.

Rich Williams replied let's pull the memo on it. I know I hit him on the revision dates because he is doing this and not adding revision dates. I think the big thing is I am not sure when this is going to be done. I know they are looking to do this this fall.

Ted Kozlowski stated well he is fixing the problem this fall. The owner has told me that he is really in the hole here and I don't think he is getting any of this done anytime soon.

Rich Williams stated here is the thing if he is doing any grading over here and disturbing the site and he uses that that will not germinate this fall. It will germinate in the spring.

Board Member Pierro asked the meadow mix.

Rich Williams replied yes so he needs to do something in addition so what I recommended he do if he is going to disturb it this fall or do anything that he put that down and then he over seed it with rye grass to stabilize the bare soil.

Ted Kozlowski stated Richie some of this stuff is going to germinate.

Rich Williams replied if you go on their site they say on their site the seed mix is not intended to germinate in the fall. If you seed it in the fall it would act as though it is a normal fall seeding.

Ted Kozlowski stated yes but I mean I am looking at stuff on here like that wild rye and the weed grass that germinates.

Rich Williams replied I am just going by the manufacturer's specs. There are a couple of other comments nothing earth shattering.

Chairman Schech asked so Ted you are going to call him.

Ted Kozlowski replied yes I will handle this.

3) BUDAKOWSKI SUBDIVISION – 280 Referral

Rich Williams stated they haven't actually submitted anything but the Board needs to make a recommendation and generally within that recommendation you want to establish (unable to hear). Who is going to be taking care of maintenance.

Chairman Schech stated and conditions are all in this and that is why I wanted the what do you call it.

Rich Williams asked the minutes.

Chairman Schech replied yes.

Rich Williams stated you are looking to make recommendations as to appropriate conditions that are reasonably,

Chairman Schech asked how do we tie this 280a in, we recommend the 280a but with what conditions. How do we get the conditions in there so we don't get messed up again.

Board Member Pierro stated so we are going to make a recommendation to the Town Board to allow an open development area under 280a with certain conditions; that any future development along that road the owners have to donate,

Chairman Schech stated we have all those conditions in the minutes right.

Board Member Pierro stated the owners have to deliver twenty-five foot of the roadway over

Rich Williams replied I don't know are they in the minutes.

Chairman Schech stated there is a list.

Board Member Pierro stated there is a list of things that we agreed upon.

The Secretary stated I believe in the motion that was made you stated some things.

Board Member Pierro stated yes the twenty-five foot of the roadway.

Chairman Schech stated was to be with the proper wording to the Town, the turn around up at the end.

Board Member Pierro stated the cul-de-sac, the fifty-foot right of way total.

Rich Williams stated what about snow removal.

Board Member Pierro stated there will have to be a maintenance agreement I think we said that in there amongst the adjoining landowners.

Rich Williams asked do you think Peter O'Hara is going to actually come in at this point and sign a maintenance agreement.

Board Member Pierro replied if he wants to develop his land.

The Secretary stated but right now.

Rich Williams stated these are the things that you need to talk about. There is going to be two lots created as part of this. Is one lot going to hold the responsibility for both lots.

Board Member Rogan stated no.

Board Member Pierro stated no both lots obviously. Both lots would be responsible to maintain.

The Secretary stated which in Budakowski's original 280a they had a maintenance agreement.

Rich Williams stated so both lots are going to be responsible for maintaining, Board Member Pierro stated equal share. Rich Williams stated okay one lot is going to be twenty acres and the other lot is going to be four acres they hold equal responsibility.

Board Member Pierro stated too bad.

Board Member Rogan stated yes they are both individual building lots at this time.

Rich Williams stated do you see where I am going with this, this is what you need to start thinking about as far as part of the recommendation.

Board Member Rogan stated because at such time that another subdivision were proposed from a different property owner we would have to then amend the maintenance agreement to include that property owner in the maintenance and it would then be potentially three ways.

Board Member Pierro stated right successive property owners and we do that in the form of this 280a just word it in such a way that,

Rich Williams stated you probably want to put something in there about any property owner that has a principal method of means of access will be responsible.

Board Member Pierro asked and improvements.

Rich Williams replied I am assuming that the Budakowski's are going to be responsible for the improvements.

Board Member Pierro stated we want to share it equally amongst everyone.

Board Member Rogan stated but not the initial improvements. The initial improvements are going to be by the new lot owners.

Board Member Pierro asked in future improvements.

Rich Williams stated again if you are going to do the 280a I would recommend to you that you come up with a scenario about what improvements the Budakowski's are going to be required to do and how that is going to be allocated and improved for adjacent property owners who may come in and use this property so that ultimately we end up with as close to a Town road as we can get.

Chairman Schech stated in other words before we grant an approval to the subdivision we want all these improvements done right.

Board Member Pierro stated up to the access of the second lot, the Budakowski's second lot.

Rich Williams replied I would assume you would do it as a condition of and they would have so much time in which to complete the conditions or they would lose everything.

Board Member Pierro stated we are making a positive recommendation to the Town Board for a 280a open development with conditions that maintenance agreements be prepared equally sharing maintenance.

Rich Williams stated you don't have to come up with the exact wording right now.

Chairman Schech asked what are we going to do with the lollipop on the end they are going to have half of lollipop and O' Hara will have the other half.

Rich Williams replied well if we are going to do the lollipop it is going to be down the middle of that road then yes it would have to be on both adjoining properties.

Board Member Pierro asked but how do we ask the Budakowski's to make an improvement to someone else's property.

Rich Williams replied I don't think you can.

Chairman Schech stated you are not because you are making a lollipop on their side and then if they want a real turnaround they have to do it on the other side on O'Hara's property.

Board Member Pierro stated okay so we are not talking about a true cul-de-sac.

Board Member Pierro stated they put the whole lollipop on their property and then when such time the other guy develops it they will bring the one piece in to cover it so if you make a fifty foot circle they will have a fifty foot circle if it ever gets developed to the other side then twenty-five feet of it can be moved over to his.

Board Member Pierro stated I don't think that is really equitable though.

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

Chairman Schech stated they still have to come back to us for the stream crossing and all that stuff.

Board Member Montesano stated O'Hara would.

Chairman Schech stated it has nothing to do with O'Hara this is Budakowski we are talking about.

Rich Williams stated you probably want to evaluate the full stream crossing for the whole road. Here is one of the things to think about while you are thinking about what improvements need to be done to the road. If you require Budakowski to provide an Item-4 road to a width of say eighteen or twenty-four feet or you want to go the full width assuming that we are going to have a Town road out there at some time, Budakowski where he can has to put down Item-4 to a twenty-four foot,

Board Member Rogan stated which is what we talked about a year ago.

Rich Williams stated six years go by before O'Hara comes in that Item-4 is shot so now when O'Hara goes to do it O'Hara is going to have put down all new base and that may be a hardship on O'Hara. You may want to consider instead of having a twenty-four foot wide Item-4 base rather you say we are going to have a driveway is normally say maybe we will go to twelve or fourteen or sixteen foot wide whatever it works out to be paved driveway standards so that the next guy that comes in has a little bit more Item-4, has a little bit more blacktop and then eventually we get there.

Board Member Rogan stated that sounds very reasonable.

Chairman Schech asked so basically what we want is a twenty-four foot right of way with a twelve foot travel way on top it right.

Rich Williams replied no eventually we are going to want a fifty-foot right of way with a twenty-four foot wide road.

Board Member Rogan stated right the twenty-five feet we have already asked for that makes sense I like that idea.

Rich Williams asked is there anything else.

Chairman Schech stated I think that is enough to get started on. They have to come back for the whole process right.

Board Member Rogan asked let's say that we forgot about something that we may want and we don't make it as a condition in the 280a that still does not mean that during the design of the subdivision that we can't then if it is reasonable ask for is that correct.

Rich Williams replied in general yes you are absolutely right but there may be specific instances where it would be difficult to enforce it to impose it because it is not reasonably related to the actual division of the property boundaries.

Board Member Rogan asked so then you would say that the process of doing a 280a you should set conditions that directly affect just the access.

Rich Williams replied basically it is an access issue.

Rich Williams stated one more thing when you are doing something like this you are actually talking about creating lots that don't have the typical dimensions such as; rear yard, side yard setbacks. (TAPE ENDED)

Board Member Rogan stated in this case it would be prudent to pre-determine what would be front yard, side yard and set it right into the 280a. In this case would we want the front yard to face 312 or do we want it to face the access.

Rich Williams asked what does Brewster care.

Board Member Rogan replied well we are not Brewster.

Rich Williams replied that is right so let's try to do it on 311. (Joking)

Board Member Rogan replied 311 not 312 right.

Board Member Pierro stated so the front and side yards delineated as part of the 280a okay.

Rich Williams stated and I will give you a memo for the next meeting.

Board Member Montesano asked you want all of them; front, side and rear yards.

Board Member Rogan stated here is the thing if you plan for the future and you think that this may eventually be a Town road they should face the access.

Chairman Schech stated down the line eventually it is going to be a Town road.

Board Member Rogan stated so you face them towards it.

Board Member Montesano stated the existing house doesn't.

Board Member Rogan stated the existing house does not comply.

4) MAIORANO FILL PERMIT & COLAO FILL PERMIT

Board Member Pierro asked these are residential lots.

Rich Williams stated these are both residential lots Maiorano and Colao.

Board Member Pierro asked why are they, they brought fill in 97 and 98.

Rich Williams replied they are side by side I don't know exactly when or how long and I haven't been able to get a clear idea. Maiorano is bringing it in because he extended a road behind his property to a barn in the back supposedly so he can get access to the barn so he can repair the barn. I have not yet been out there.

Board Member Pierro stated well I think we all ought to go out there.

Board Member Montesano stated yes on both of them.

Rich Williams stated I will see what I can arrange.

Board Member Montesano stated we should see the two of them.

Rich Williams stated I have been out to Colao's I have been working with them. He brought in a considerate amount of fill. The rear of his property is fairly steep to begin with and had no backyard. He is doing this to actually extend out his backyard. The embankment that he is going to be left with is going to be very steep.

Board Member Pierro asked is there a wetlands on that embankment.

Rich Williams replied way down very far. They are not been impacted here.

Board Member Pierro stated let's go look at it

Rich Williams stated Colao is very willing to work with everybody, he did not realize he needed this and I have given him a few recommendations that we are hopefully going to put in his permit so he is aware of that.

5) BURDICK FARMS

Rich Williams stated site walk comments you have them.

Board Member Rogan stated I would like to talk about site walk comments.

Board Member Pierro stated I have not seen the document yet.

Board Member Rogan stated I agree with all the site walk comments. I take no exception to anything that I read as happening. At the end of the site walk we shifted gears and I was probably taken a bit back so I was not thinking too much about the situation and for the last few days the idea of the road coming out on the other side of from where we had talked about I don't even know how to describe it; on the other side of the half acre lot that exists out there.

Rich Williams stated on the north side of Bill Burdick's house.

Board Member Rogan stated on the north side of Bill Burdick's house, I have a lot of issues with that and

Rich Williams stated for the record not with that in mind.

Board Member Rogan stated no it is not with that in mind that is why I am bringing it up because we talked about it and we might as well put it out there because I want to know whether that is the direction that the Board wants to go. We had a perfect opportunity to look at it that is the unfortunate part nobody drove down there.

Board Member Pierro stated I spoke to Rich about this on the phone. I think the last bit of our conversation there said yes let's make them go up that way. I am comfortable with that as well up until that point I was comfortable with the options of building a bridge starting at the foot of both of those steep areas and still protecting that area in the center which is currently carrying some of the runoff from that more viable wetlands to the north. I don't like extending it further north to the front of Bill's house. For one, I recall walking in there a few years back and that area is still a little soft and wet. That area I thought I remember that also collecting water. My problem there would be are we interrupting what is feeding that viable wetland in the middle by going to the north. I think making the developer do some road improvements on McManus and bridging that wetlands maybe the way to go.

Chairman Schech stated but if we don't have to disturb the wetlands don't you think that would be a viable course.

Board Member Pierro stated I think we can bridge that wetlands without terribly disturbing.

Chairman Schech stated you have got to be kidding me you think he is going to put a George Washington Bridge.

Board Member Pierro stated it is not that long.

Chairman Schech stated you can't expect him to do that.

Ted Kozlowski stated I think and with all due respect to Bill Burdick and I know that he lives on the edge of the road and if I lived there I would be upset too but never the less he lives on a right of way and someday that is going to be a road whether it is now or ten years from now it is going to be a road.

Board Member Rogan stated the reason that I disagree with that,

Board Member Pierro stated I don't buy that.

Board Member Rogan stated well the reason that I disagree with that and even taking it doesn't really make a difference who owns that house but I think and Rich and I happen to disagree on this but and I am having some paperwork pulled out of the files to try and document this but I think the legal right does not exist because I think permission was granted when the property was sold to cross over that portion for purposes specifically and these were drawn up by a lawyer specifically for accessing the property up until the time that it was built. In other words, to park there I don't think that.

Ted Kozlowski asked doesn't McManus go all the way.

Board Member Rogan replied no.

Board Member Montesano stated no years ago it used to go all the way that was made into four, seventeen acre parcels and those parcels cut off McManus Road. If you go down McManus, Board Member Rogan stated they didn't cut it off though,

Rich Williams stated no that is not correct either. McManus Road used to go all the way through but over the years it fell into disrepair ultimately it was in the hands of the Burdick's and then it gets a little confusing here but at some point the Town actually took an action to abandon a portion of it. The confusing part is I am not clear as to whether it was initiated by the Burdick's request,

Board Member Rogan stated yes it was.

Rich Williams stated or the Highway Superintendent's request but for some reason it got to be a contentious thing but ultimately one section was legally abandoned by the Town and that section runs from that little half acre portion, a little bit farther down all the way down to the turn around at McManus Road North. Now, the other guys that came in they abutted that road and they actually abutted to the centerline of that road when they subdivided that property but they didn't actually do anything with McManus Road they just extended a new road in a different direction from McManus Road rather than using the old roadbed.

Board Member Rogan asked here is a question, why would the Applicant seek to buy the half acre if they didn't need to if they could say, first of all in order to use the half acre of property if the Applicant bought it

they would have to come to the Planning Board and say hey, we have an idea we want to put it through this nice dry area let's say for the sake of argument why would they even consider buying that if they didn't have to and they just say we want to go through this area another thirty feet to the right. I don't believe the legal right exists to go through that.

Rich Williams stated because they didn't know any better and I will tell you this and I have been doing this a long time and it wasn't until recently and I sat with Tom McGinn and we started really tearing things apart and I got a really good education and now can sit here and say I have got a fairly good understanding of Highway Law and of public use right of ways and easements and old abandon roads.

Board Member Rogan asked does that right exist yes but we were kind of relating it to Budakowski. We are thinking in terms of allowing a property owner to access his property but that does not necessarily mean we have to allow a property owner to access the property for a forty-five lot subdivision.

Rich Williams stated well that is the big question here. Highway Law is clear, any abutting property owner along that old abandoned road has a prescriptive easement to use that and to improve that for access to their property and the question becomes, The Secretary stated when is it over burdening the, Rich Williams stated yes specific to Budakowski's at one point do you over burden that prescriptive easement.

Board Member Pierro stated I would say a forty-five lot subdivision is over burdening and I don't think as a Board I really do not think as a Board we should offer make any even indication that this is a possibility because we are then inviting you know we are saying to them.

Chairman Schech stated you can't we are not there to design this. This is an option for them we don't even have to suggest this.

Board Member Pierro stated I don't think we ought to suggest it at all.

Chairman Schech stated we are not suggesting it.

Board Member Montesano stated we don't have to.

Chairman Schech stated we don't have to that is what they are paying their engineers for.

Board Member Montesano stated we have done more engineering for more people.

Chairman Schech stated we tell them we want our other entrance but you are not going through the wetlands.

Board Member Pierro stated I think we just ought to suck it up and say hey look, Board Member Montesano stated we just tell them no we don't like it let them come back. You don't have to tell them what to do. We on the other hand continually tell people what to do.

Rich Williams stated you can't say no to every option.

Board Member Montesano stated we don't like your plan.

Ted Kozlowski stated look guys, none of you except for Rich were on the Planning Board when this first came through, am I correct.

The Secretary stated no Mike was here.

Board Member Pierro stated Mike was here and I just came on when this was already approved.

Ted Kozlowski stated the bottom line is this with regards to my position I have been against crossing this wetland from day one. I stood up at the public hearing, I put it in writing that it defeats the whole purpose of the Town Wetlands Code. We should not be going through that wetland period. I don't care what they say they defeat the purpose of the law. If this was a DEC Wetland, the DEC would tell you right from the beginning you are going north with that road and around this wetland. You are not going through it and that is the way I feel. I love Bill Burdick, he is on the edge of the road, and he has to live with that not me. It should go that way but having said what I just said to you the previous Board directed this Applicant to go through the wetland. Now, we are taking it back, I don't know how that is going to hold up in court but the previous Board,

Chairman Schech stated we didn't direct them to go through the wetlands we directed them that we wanted another access point.

Rich Williams stated yes we did.

Board Member Montesano stated excuse me, what we were talking about then now is a different Board, now we were talking about oranges you had certain amount of houses so that was the easiest way at that time. Now, the amount of houses diminished so traffic would be less. In fact, we have dropped this thing to about a third of what it was originally if not more, Rich Williams stated you can't, Board Member Pierro stated you can't go by those numbers. Board Member Montesano stated what I am saying is when we passed that originally that direction there was twice the houses there.

Rich Williams stated there was eighty-one lots.

Board Member Montesano stated all right so now you are down to forty-five so why couldn't you tell them well we no longer need this now you can go move up here and come across because there is going to be less traffic on that road.

Chairman Schech stated and don't forget if you are putting in forty-five houses, forty-five houses are not going to use that bypass road. Why would they go through this snaky little road when they have a nice super highway to go through.

Ted Kozlowski stated because when traffic backs up and you have school buses,

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

Board Member Montesano stated the only reason it is there is for emergency vehicles.

Board Member Rogan stated that area where we are talking about I only know it for a couple of years so I am only speaking from my experience but I don't know if you have ever walked that area but that is water

to the surface and they call these areas the wet lots for reasons. I mean they didn't go in there except two months out of the year because they get right into that mud so I think it is the upper part of that wetland.

Ted Kozlowski stated it is it is draining into it.

Board Member Rogan asked are you talking about something, what I am not understanding and Rich, this is a reason I am having a problem with it is you effectively when a property was divided which obviously when they sold the property they must have had to come through the Planning Board to do a subdivision to take out that half acre I would think otherwise it would have been done illegally so (a) the approval of that subdivision landlocked a parcel which does not make any sense. The Planning Board would not approve a subdivision to land lock a parcel. I have to go back and find, you are saying it does not make a difference either way that they still have the right but I would think if a property owner owned both sides of the road,

Rich Williams stated let me put it to you this way, if nobody has the right because that is landlocked how did you get access to your property.

Board Member Rogan replied an easement. I have an easement but they would have to get an easement and they would not get it. They have tried, that is why I think they tried to,

Rich Williams stated but the easement existed for you whether you have got it on paper or not. That is what I am saying by State law that easement exists for any abutting property owner and the only true question is,

Board Member Rogan stated so then they have the right to build one house on there without subdivision.

Rich Williams replied you may be right or they may be able to subdivide it into half and that does not over burden the easement. The reason that I did not consider that as a viable option was (a) that area is so narrow between that barn and Bill's house you are not going to get a fifty foot wide right of way. You are going to have difficult of getting a twenty-four foot wide road between there without being right on his front step, one and two it is clear in my mind about what everybody's rights are to use that but it is not clear in everybody else's mind and that confusion is going to create a lot of controversy, a lot of delay unnecessarily like we went through with Budakowski. If we go to try and use that everybody is going to be fighting about what it really means and what it doesn't for two years un-necessarily so I didn't consider it a viable option going through there.

Chairman Schech stated first of all we are not sure what is wetland and what isn't so we are going to ask him to flag the wetlands.

Ted Kozlowski stated that was another thing it has got to be re-flagged.

Board Member Rogan stated I need to say this for everyone but it is very hard to as anybody that would have something going on so close it gets to a point that it is very hard to separate things out and I am trying very, very hard to do that to separate out because hey, there are projects that we don't like for obvious reasons but you also then try to say well this is what the property owner should be allowed to do and I believe that and I believe that I have pretty good ability to do that with people. I will stop there but I am trying very hard to look at the merits of this and I don't like the idea of going through that wetland. I think it stinks.

Ted Kozlowski stated the other thing that I don't understand is the property is what it is. The layout is what it is. If he can't build forty-five lots on there through normal means and he has got to compromise the wetlands law and he has got to compromise public safety because Bullet Hole Road is so narrow why are we obligating ourselves to make this work.

Board Member Pierro stated right I don't understand it.

Ted Kozlowski stated why haven't we said from the beginning you have got a wetland that has to be protected, you have a road that is horrible, blah, blah you are not getting forty-five houses on this multi million dollar piece of property. Why are we always fighting here not fighting but we are spending a lot of our time,

Chairman Schech stated I think we did good we started off with a hundred and twenty houses.

Ted Kozlowski replied no we did Herb don't get me wrong but I am saying he still has got issues here. We still got to compromise our Codes to make this work. Why do we have to do this.

Rich Williams stated Ted it came down he wanted eighty-one lots and we said no that is not appropriate and this Board actually denied the eighty-one lots then it becomes well what is reasonable, the number that came back was in the forties, forty-eight actually. So, but now you are in here saying forty-eight is too much well,

Ted Kozlowski stated I think we are all saying that Rich.

Board Member Pierro stated I am saying that and I know Shawn is.

Rich Williams stated we didn't hear that the last time what we heard was forty-eight.

Board Member Pierro stated we were also told we have to be reasonable to avoid litigation, approve the forty-three lots, and let's look at that. That is what we were told.

Rich Williams stated nobody ever told you that you had to approve anything. We did tell you, you absolutely had to be reasonable.

Board Member Pierro stated approve the forty-three lots and be reasonable.

Ted Kozlowski stated this guy still has to go through Army Corp. to go through that wetlands and he runs the risk of getting denied.

Rich Williams stated and if he does not get it then it's fine and he still has to get a wetlands permit from us and if he does not get it and he gets denied and we do it on substantial grounds but we have to do it on substantial grounds we can't just say I don't like it.

Board Member Pierro stated but Rich now is the time for us to discuss that. Now, is the time for us to say hey, look let's suck it up gentlemen.

Rich Williams stated the whole purpose of the environmental review is trying to reach a reasonable balance between the rights of the property owner and the impact to the environment and is through that process, that

EIS process especially here as Lead Agency that you should be looking at what are of the environmental impacts of this development, are they reasonably mitigated and is what he is proposing a reasonable use of the property. If he had a hundred and sixty-eight acres surrounding Pine Island there is nobody here that would say putting one house in there would be a reasonable use of the property because it is a very, highly productive wetland area. This isn't in the middle of the Great Swamp. That doesn't mean that he is entitled to even put one house on there.

Ted Kozlowski stated if you recall when he did that EIS and there was a big argument on my part he was just under that one third threshold, one third of an acre threshold, they did the funny math on all the disturbance and they were avoiding the Army Corp. issue. Now, Army Corp. changed its rules and regs all you have to do is put a shovel in the wetland and you have triggered the threshold so that old EIS no longer is going to be valid with regard to Army Corp. issues.

Rich Williams stated that old EIS and you guys have to be clear on this is very valid.

Ted Kozlowski stated not with Army Corp.

Rich Williams stated into the issues that were addressed at that time. You can't go back and rehash things in that respect. What you are bringing up yes within the SEIS now he has to address impacts related to the Army Corp. because their rules have changed. So, new information if we have got something different that we know about the wetlands to be true that was not identified within the original scoping documents or EIS,

Ted Kozlowski stated and that is reason to deny a wetlands permit from the Town because we are going contrary to Army Corp. regulations.

Rich Williams stated no that is not a reason to deny a wetlands permit.

Ted Kozlowski stated it is a thing to consider.

Rich Williams stated we need to deny it based on un-mitigated impacts and a balance between the rights of the property owner and the need to protect the environment. We should not be relying on Army Corp. to stop a project for us or the DEP or anybody else. We do it on its merits and we should do it

Ted Kozlowski stated no but we can make the argument that the Town does not wish to issue a permit that would be contrary to another agency reviewing the same wetland.

Rich Williams stated it would never sustain that in court.

Board Member Pierro stated well with all due respect I want to hear that from Counsel.

Chairman Schech stated we have to re-flag the wetlands.

Rich Williams stated with all due respect you can hear anything you want from Counsel because,

Board Member Pierro stated I have always wanted to seek outside Counsel on this from the get go.

Rich Williams stated listen if that is what you want, go to the Town Board, and get them to hire whoever you think is appropriate.

Board Member Pierro stated I think there are far more law firms out there with the type of experience.

Ted Kozlowski stated the wetlands have to be re-flagged and he should start having a conversation with Army Corp.

Rich Williams stated there is an issue that may need to be explored in the SEIS that the original flagging wasn't correct.

Ted Kozlowski asked how many years has it been since that was done.

Rich Williams replied six.

Ted Kozlowski stated it is more than three years the wetlands got to be re-done just like Louie Pescatore.

Rich Williams stated it has to be flagged because it is not appropriately defined on the plan but that is not to say that in five or six years that wetland boundary should of changed.

Ted Kozlowski stated it could.

Rich Williams stated it is not likely and you know that but it may be that it was not flagged correctly the first time.

Board Member Rogan stated for the most part the project, we looked at the six lots in the back other than the fact that they are way the heck in the middle of nowhere they layout pretty nicely. I didn't like the one closest to the wells. The one closest to the wells I just thought with the rock outcrop behind it everything draining the way it is that was the worst of those six lots but other than that they laid out pretty nice. Most of the lots when you look at the layout I don't take exception to really many of them except for the ones that are close to the wetlands. If the law was different and we could do away and just have the one road going in but,

Chairman Schech stated this area is another Alpine Village it is a swamp on top of a hill. The same thing water up the kazoo on the top of the hill.

Board Member Pierro stated I think there is plenty of alternatives for them to stay away from this wetlands and utilize the rest of the property. As Rich said, a through road is a possibility all the way through from the other side, Mountain View all the way through. It keeps them away from crossing the wetlands.

Chairman Schech stated do they abut Mountain View.

Rich Williams replied yes.

Chairman Schech asked you want to put traffic on Mountain View.

Rich Williams stated they actually about fifty acres that is up for sale right now and it is possible looking at a plan without the topography or anything else it appears to be possible to put the road all the way through to Mountain View.

Board Member Pierro stated when you think about that, think about traffic on a brand new road through that subdivision all the way down to Mountain View maybe some improvements to Mountain View, think about that and think about the traffic that is going to impact Ice Pond and Bullet Hole.

Chairman Schech stated let's get the wetlands flagged right now we are getting one person upset, Billy Burdick right and you are talking about all of Mountain View getting all that traffic down Mountain View which one are you going to put up with.

Board Member Pierro stated I don't think that is a viable alternative going in front of Billy's.

Rich Williams stated there are other options too, Entler has property there. I don't think he has interest in it but it abuts Burdick Farms and it may be possible to bring a road down through there.

Board Member Rogan stated it is pretty back in there.

Rich Williams stated it is another option.

Board Member Rogan stated I will say of the two that we talked about on site in the wetland area I still think it is worth looking into that was closest to the turn around because we were saying the wetland up on the high side is not a productive wetland, it is not comparative to the one that we walked through and Dave almost lost his shoe and maybe the idea of spanning, you are only talking about a fifteen foot span you are talking about spanning eighty feet.

Rich Williams stated if you are doing a bridge you have to look at the span and grade.

Board Member Rogan stated I understand that. What I mean though is you are only talking about the open span underneath needing to be that minimum say fifteen feet it would let the water go right through.

Board Member Pierro stated it is not the George Washington Bridge.

Rich Williams stated I have got to tell you I walked out there this time and back in 96 for whatever reason and I also want to add that the road did not curve through back then it went straight through which significantly minimizes the impact to the wetland in that area.

Board Member Rogan stated you mean it went straight through, Rich Williams stated it came to a 'T' but having walked through there and seen the biological activity going on I don't know that I would have held the same opinion today that I did then as far as putting the road in that location.

Chairman Schech stated so about the only thing that we are going to handle with them at this meeting is flag the wetlands we want to do another site walk right.

Board Member Montesano stated yes we may have to.

Rich Williams stated I don't think we need to do another site walk. They need to get it flagged, Ted needs to make sure it is correct then they need to survey locate it on the plan.

Chairman Schech stated okay there goes a site walk.

Ted Kozlowski stated that I think that it would be good to tie that in with future site walks to look at beyond Bill's house and look at that spongy area.

Board Member Pierro stated my recollection is that it was soft but I have got to tell you where we were when we were talking about the base of the bridge where the headwalls would be I really think you guys could get in there. It is not that difficult of a walk. As to what Rich is saying that may be exactly our reason because in an expert's view things have changed I don't know if it was correct in making the decision that we made.

Board Member Montesano stated we are learning more as we go along so our knowledge is increasing but whether that would hold up in a courtroom saying at this present time because we have learned more and the laws have changed why can't we suddenly come in here and change our minds.

Rich Williams stated let me just close up where I was going to push this he has to do an SEIS I am going to make him look at a bridge alternative in that location as an alternate and better evaluate the wetlands in that area to evaluate the difference between the two.

Board Member Rogan stated once we crossed over that rock wall there was a night and day change from the vegetation.

Rich Williams stated the uncertainty in my mind when I walked out there was whether there was going to be a third alternative and that was to push it out of the wetlands all together.

Board Member Rogan stated well that certainly should be a third alternative but it is just not one that I happen to like but I am certainly willing to look at what I don't like.

Board Member Pierro stated we had a discussion about a cul-de-sac road or a loop road but the area beyond the wet lots is kind of thin there that is the narrow portion of the lot.

Ted Kozlowski asked Rich, did you ever see or do you remember what they are using or discussing as mitigation to the wetland loss. What are they offering.

Rich Williams replied don't you remember they were adding a third of an acre down by wetland four. That was a whole big bull thing and we were pretty much saying well, that is nice but it doesn't you were leading the charge on that.

Ted Kozlowski stated I can't remember how that went.

Rich Williams stated we were basically saying it didn't and I think that is one of the reasons I used to deny eighty-one when I put it in that findings statement.

Board Member Rogan asked do you happen to have any feeling as to why the Applicant never said over all these years, hey guys wouldn't you want to consider us coming in over here.

Rich Williams replied I think he has the same opinion that the property is purchased on either side right there so they don't have a right, clearly the property owners own to the centerline of the old roadbed so the property is like this and there is no doubt about it and there is no way he could offer a fifty foot right of way.

Board Member Rogan stated which would make sense for him to try and buy that half acre.

Rich Williams stated but the reality is McManus Road is the same way all the way to the end. It is just right now it is a public use right of way. It is a Town road but it is an easement over the top of someone else's property and what you do when you abandon roads all you are doing is abandoning the rights, if you are an abutting property owner you can still use it but I am not so I can't drive down there without your permission.

Board Member Rogan stated Ted, for the sake of argument if at the built out of this subdivision you only have one lot left that borders that roadbed so you are not talking about it ever going to be a through road. It does not go anywhere. It is one lot left and that is a thirty acre lot that borders it that surrounds Bill's house. In other words, at one point you said at some point it is going to be a road there is only two lots that border it right now.

Ted Kozlowski replied I was under the impression that McManus Road went right through down to eventually 311.

Board Member Rogan stated it does. It is still there.

Ted Kozlowski stated and I would think sometime in the future somebody is going to come up with some way of building it out.

Board Member Montesano stated they asked the Town once to do that. The person that owned the four, seventeen acre lots.

Board Member Rogan stated it may have been appropriate at the time of whatever that subdivision is called, the seventeen lots,

The Secretary stated Overlook.

Board Member Rogan stated Overlook, four lot subdivision if they had built out that road to town road specs in the old roadbed now you have something to build on, you have something that yes you could say it would go through but it was done by common driveway with each person sharing a maintenance agreement. It is fifty feet away like it is right there but it is not it is just the way they did it.

Ted Kozlowski asked let me ask you something I don't have the plan in front of me but could they go behind Bill's barn with a road, abandon the road, Board Member Rogan stated it is kind of where they are already going, the proposed road on the most recent plan is right to the property line.

Ted Kozlowski stated no I mean abandon the section between Bill's house and his barn just give that up and skew the road around the barn into the property and around do a loop around.

Board Member Pierro stated it is not our position again, as Herb says to offer them alternatives.

Board Member Rogan stated that probably is more of an impact to the wetlands than the proposed.

Ted Kozlowski replied I don't know I don't have the plans I am just throwing something out.

Chairman Schech stated we have enough for them.

6) THOMAS SUBDIVISION

Ted Kozlowski asked Rich is this Insite's the one with the crazy configuration.

Rich Williams replied yes.

Board Member Rogan stated Thomas is the one we drove up and it had the lot that we didn't like down in the hollow on the right side as you drive up. It had the bad site line distance.

Board Member Pierro replied right the house on Lot 2 had been placed on a small plateau.

Board Member Rogan stated yes that was a terrible lot. I don't like that one at all with the septic system, you never even did find where they had it although we figured it based on the topo.

Board Member Pierro stated most importantly they are going to have to come back with a design for the access way on 164.

Rich Williams stated I raised it as an issue that it was a poor location but, Board Member Pierro stated where else is there. Rich Williams stated they are not going anywhere. At best you are going to say the access is so poor that you are not going to get a subdivision out here. (TAPE ENDED)

Board Member Pierro asked that house that was done in the hole there on the right hand side is there any advantage to putting an access way closer to 164 on that side.

Rich Williams asked taking the drive right out.

Board Member Pierro asked as opposed to would that be any advantage I don't have the map in front of me.

Board Member Rogan stated we talked about bringing that house out of the gully, Board Member Pierro stated right and up higher. Board Member Rogan stated and using the septic area where they were going to shoot one underneath the road use that for that lot because the area that they tested on the left side looked pretty good pretty consistently sloped.

Board Member Pierro stated I was thinking about even looping the road around and coming out at a different angle but it does not do anything for the site distance unless you move it all the way even further down. Let's see what they come up with. There is no advantage there Rich that you can see.

Rich Williams replied it appears to come out on the crown and I think one of the things that happened was when they went to DOT, DOT said you are not going to get any driveway entrances. Don't hold me to that but I believe that is what precipitated this.

Board Member Rogan stated but we talked about trying to pull this house up to here, use this septic for this house, put in a septic somewhere down in here for this house I am sorry up here (referring to the plan).

Board Member Pierro asked putting this road over in this way there is no advantage to that.

Rich Williams replied no the site distance gets worse.

Board Member Pierro asked just moving it over to the crown.

Board Member Rogan stated remember we walked it we never could gain on it. You weren't gaining anything. In fact, at this point the further they can keep it which they are already at their property line is the best they are going to do with the possibility some site line improvements through here.

Board Member Pierro stated there is nothing else we can do with this so they are going to have to come up with some alternatives.

Rich Williams stated possibly you can get the driveway out here but, Board Member Pierro stated that is where it was.

Board Member Rogan stated I was just going to say look at the old stonewall.

Board Member Montesano stated when it was one or two cars it was fine now you are putting up four houses where one was you are going to have four.

Board Member Rogan stated we wanted it opposing the intersection.

Ted Kozlowski stated that is being a pig.

Board Member Rogan stated trying to squeeze everything you can.

Ted Kozlowski stated trying to make something impossible.

Rich Williams asked does anybody want any changes.

Board Member Pierro stated no I think the comments are accurate.

7) **BARCON BUILDERS – Driveway Relocation**

Chairman Schech stated he can apparently get every entrance from the State I can't understand why some other people can't get entrances from the State maybe they should find out who this guy talks to.

Rich Williams asked you have got the site walk comments, do you have any comments.

Board Member Rogan stated if I remember right Herb, your last comment on that was maybe to use the original and try to get down which I thought was fine because that was the better location for site distance. When we were on site I thought the one that he was proposing could work with that grading and some of those trees being removed.

Chairman Schech stated well if you are smart before you come to Planning you go out and log.

Board Member Rogan stated they did that on well they didn't do it on Bear Hill we did it on Bear Hill right. The Highway cleaned up the entrance there and it just happened to be perfect timing for our site walk for Gary Tretsch. They really cleaned it up nice.

Chairman Schech stated that is what we said a common driveway along the old roadbed.

Rich Williams asked does anybody want to see the plans that got approved by DOT.

Board Member Montesano replied would it make a difference.

Chairman Schech stated why we didn't approve the subdivision why do we care about that.

Rich Williams stated to see the extent of the road improvements the DOT approved for the three driveways.

He pulled the plan and pointed out the improvements to the Board.

Board Member Pierro asked he would have to do this in order to get.

Rich Williams stated he has to do it right now.

Board Member Pierro asked so if he does this clearing.

Rich Williams stated that is what DOT is mandating that he do to get the three driveways.

Ted Kozlowski asked is he allowed to do that now regardless of whether he has your approval.

Rich Williams replied yes it is a DOT permit.

Board Member Rogan stated you still need a permit from the Town to cut so many trees. Is that not in the new Code.

Rich Williams replied yes but he is going to be way under.

Board Member Rogan asked if this was approved what kind of an impact do you think that would have on the one we looked at, the one they were proposing.

Rich Williams asked this one.

Board Member Rogan replied yes.

Rich Williams replied well according to DOT he will have appropriate site distance.

Rich Williams stated I don't agree.

Board Member Rogan stated that is a fast road.

Board Member Montesano stated these are the same people that approved 292 & 311.

Rich Williams stated the option for this Board is you have to accept it unless you want to challenge it, to challenge it you need substantial evidence. You are going to have to get a traffic engineer. You are going to have to demonstrate how everybody is wrong.

Board Member Pierro stated well I guess that is all she wrote.

Rich Williams stated it is not all she wrote I mean he is in to change the location of a house and driveway and it is up to you guys whether you think it is appropriate or not. You can still mandate that it goes by the approved plans for whatever reason. As it stands right now at the last meeting he was instructed to provide us with new plans showing because he came in with that house just sketched up there, so new plans showing the proposed driveway, the new house location and a driveway profile.

Board Member Rogan asked so what you are saying is then if he comes in with those additions to a plan with the location approved by DOT we would need significant information to say no we don't want you to go here where you are approved to go and where you would like to go, we want you to go over some other location basically.

Rich Williams replied I think we meet less of a burden to say this is what you are going to do and this is it but if you were going to challenge DOT's determination that is where I was talking about you need substantial information.

Chairman Schech asked we did approve the original site plan right.

Rich Williams replied you approved a subdivision that showed a house and driveway location with a note that says this is it you don't change it without our approval and that is what he has got right now. He is looking to change that to keep his options open to subdivide the property.

Board Member Rogan stated and he admitted that he said I want to keep my options open. That is not a surprise.

Board Member Montesano stated it is a matter of how do you approve something if you don't know what is going to be done with it.

Board Member Rogan stated we know what the build out potential is on it.

Rich Williams stated we don't know what the build out potential is.

Board Member Rogan stated we know based on today's Code right and slopes.

Rich Williams stated based on the approvals that he already has got he has got one lot. I believe that is because of slopes and we weren't the engineers we don't know really why he pulled it back. We were told it was slopes. What is he going to do to overcome that maybe he can get three lots out of there maybe he can't.

Board Member Rogan asked does DOT when they approve a driveway location are they approving it based on safe site line distance for one house. In other words would they look at it differently if it were three houses.

Rich Williams replied no they are approving, Board Member Rogan stated but they would look at it differently if that was a major subdivision coming out at that point.

Rich Williams replied yes they look at it and approve it for use and for design criteria.

Chairman Schech asked all right so what do you want to do with this guy say it was approved this way and we would like to see it done this way.

Board Member Rogan stated we can say that but also say that we have reservations that even though DOT approved that we feel that are still some concerns with site line distance.

Board Member Montesano stated we feel that insufficient improvements on the road will allow for that much traffic that you are attempting to bring out and the first time there is an accident the State should be sued but the only problem is you sue the State, I am serious this is how it should be done but the thing is the guy that approved it is not the guy that is getting sued. The State is. 292 and 311 was the classic example they allegedly improved it so that there were more accidents then before then and then they put up a traffic light to cover themselves. That was their improvement.

8) NOLETTI SITE PLAN – Change of Use

Chairman Schech stated from an automobile service area now to Integrity a heating firm.

The Board read the review memo for a few minutes.

Board Member Pierro stated I don't see any problems with this.

Board Member Montesano asked he is looking for a waiver of site plan, no I want to know what is going out there. I don't like waiver of site plans on new businesses.

Rich Williams asked do you want to see the pictures of the sign.

Board Member Montesano replied you don't have to show me the pictures I want to see an application with an application I would see it.

Chairman Schech asked if we are talking about parking and stuff don't we need a site plan.

Board Member Montesano replied sure you do. He is putting up a fence.

Rich Williams replied that is what I ask you guys. This is the issue based on what is out there this is what I think needs to be done and whether you want to waive it anyway or you want a site plan.

Board Member Pierro asked how many parking spaces do we have sixteen.

Rich Williams asked do you want to see the approved plans and I can go through what has been done.

Ted Kozlowski stated he is making improvements to the property I think he needs a site plan.

Board Member Montesano stated he is going to do improvements he should have a site plan on what is being done.

Board Member Pierro asked what is he asking for a change of use right then you need a site plan simple.

Rich Williams stated yes but the reality is and the reality is gentlemen in the new Code that if he didn't need any site improvements I could sign off on it myself.

Ted Kozlowski stated but he is making site improvements.

Rich Williams replied well he does not want to. He is asking just to take over. The problem is early on I took a look at this and said wait a minute, today I pulled the site plan and said I don't know. He showed the Board the approved site plan that was done in 78. The problem is it was not built that way. There are two problems here he showed the Board the configuration that got built. The access road does not go the way it is supposed to.

Board Member Pierro asked so what do we need this man to do.

Rich Williams replied well I gave you a couple of options; he can either just go build what was approved and fix what is out there, he can come in and take the existing area and show how he can meet his parking needs by some sort of parking layout plan.

Board Member Pierro stated he has to provide for the right amount of parking.

Rich Williams stated the question is how does he want to do that and what you want him to do to get there.

9) SCHECH LOT LINE ADJUSTMENT

Chairman Schech recused himself.

Board Member Pierro asked Herb do you own the property adjoining Guzzo or is it your daughter's.

Chairman Schech replied my daughter does.

Board Member Pierro asked then why do you even need to be on this.

Chairman Schech replied because I have a piece for my other daughter that is still under my name and then there is a little tiny piece that goes to my property.

Board Member Pierro stated oh it is not all going to Irene.

Rich Williams stated no it is actually three different lot lines.

Board Member Pierro stated I have got to disclose I sold Guzzo's property.

Rich Williams replied you can leave the room too.

Board Member Pierro stated but Guzzo is no longer the owner.

10) SYPKO WETLANDS WATERCOURSE PERMIT

Rich Williams stated they still have a few more details to work out. He has not showed any vegetation along the road.

Ted Kozlowski stated we asked him that at the last meeting we shouldn't even entertain him at this meeting.

Rich Williams stated he has not gone to DEP yet.

Ted Kozlowski stated this guy does not even own the property yet does he.

Board Member Pierro stated no.

11) RALPH BURDICK SITE PLAN

Rich Williams stated I have not done a memo on it yet. Harry has not submitted any design calculations supporting his design.

Chairman Schech asked not yet.

Rich Williams replied not yet.

Board Member Montesano asked then why are we wasting our time.

Rich Williams stated let me rephrase that he submitted a stormwater report for the old design, he hasn't submitted a stormwater report which reflects the new design but Gene and I met with Harry since the last meeting and he did I think pretty much all the changes that we told him that he needed to make to the plan and the plan actually looks half way decent. All he has to do is prove that it is actually sized properly and it may be good to go.

Board Member Montesano stated so we can't make a decision on it until we see the plans next Thursday.

Rich Williams stated I have got the plans, you got the plans. It is the design calculations the big thick book that goes with this is not here.

Board Member Rogan stated which we wouldn't look at anyway.

The Secretary stated and he hasn't applied for a wetlands permit.

Board Member Rogan stated but anything we did would be contingent upon those approvals.

Rich Williams stated we should have the permit, we should have the public hearing on the site plan and the wetlands together.

Board Member Rogan asked so do we then say okay you are lacking the design calcs and go get the permits and come back and see us.

(Too many talking and making noise unable to transcribe).

Board Member Rogan asked I thought the disturbance went above an acre and therefore kicked it over to the.

Rich Williams replied once he is ready to start doing this then he has to file a Notice of Intent with the DEC and he has to wait sixty days and at that point they have the opportunity to ask for more detail. It is basically just a filing and it is done after everything is done.

12) D'OTTAVIO SITE PLAN "A" & "B"

Chairman Schech stated we wanted to see a letter of, Board Member Pierro stated we wanted to see the easements prepared.

Board Member Rogan stated and Craig is going to need to review them when we do get them.

Board Member Pierro stated he has an overlay.

Board Member Rogan stated I don't want to see them until after Craig has reviewed them. We asked him to put this all on one piece of paper.

Rich Williams stated we asked him to put it on, we asked him to show the easements. He was in today and I talked to him briefly about it about what he needs to do about the easement documents. Honestly, typically you don't do them until you are further along in the process.

Chairman Schech stated I specifically requested, Rich Williams replied yes the Board actually requested the easement documents up front. I am not telling him not to do that. When I met with him today I told him that was supposed to come before anything else.

Board Member Pierro stated typically the hardest part is to get the lawyers to sit down and draft those.

13) **OTHER BUSINESS**

a. **Patterson Commons**

Rich Williams stated I put Patterson Commons on I was contacted by Insite Engineering, Jeff Contelmo as you are aware about the issues with, Board Member Pierro stated the Ryder's. Rich Williams stated they are concerned about the water level, the detention pond at A&P. They are disputing that everything was done correctly. I am waiting for a memo from Tom McGinn which will probably resolve all of this. I am anticipating it is going to say that in fact, the invert of the pipe in that first basin was installed incorrectly. At the same time all of this is going on they have also made a request for us to release their bonds and we are supposed to be going out and evaluating the project. I talked to Tom a little bit about it and Tom and I are going to get together and go through some thing hopefully next week. At some point Ted, he and I want to go out there.

Chairman Schech stated also I went to the site about fifteen minutes after the last torrential downpour, nothing.

Board Member Pierro asked what do you mean.

Chairman Schech stated the same amount of water was in there as was the last time when we were there. Where does it all come from down the driveway and off the roof.

Ted Kozlowski stated I told you that when I want there in the pouring rain.

Rich Williams stated it does pass through but what Jeff is saying is that the wetlands have pushed up the level of the ground water under the surface and that is why the water doesn't perc into the driveway area,

Chairman Schech stated it has always been like that.

Ted Kozlowski stated that is why he has had a sump pump there for a hundred years.

Chairman Schech stated it has always been like that for as long as I can remember.

Ted Kozlowski stated they are fishing Rich and we said this from day one.

Rich Williams stated I think I can say affirmatively and be on safe grounds that the fact that the pipe was installed at the wrong invert whether that is going to make a difference in this that there is no demonstrable,

Ted Kozlowski asked has the guy fixed his gutters yet.

Chairman Schech replied no. They put nothing in all of their properties. They wait until they just crumble and fall down. That is the way to work.

Chairman Schech stated also out there we have Dunkin Donuts right the fence.

Rich Williams replied right I did not put that on.

Chairman Schech stated the fence looks terrific as far as I am concerned it should be ten feet because this way we would not see Henke's trailers.

Board Member Rogan stated the only thing that I want the Board to consider with that fence issue is that from a public health standpoint it is never a great idea to help someone disguise a problem and when you end up increasing the height of a fence from what it is supposed to be it allows people to throw more and it allows things to over spill. When the pictures were taken it was over. I think if six foot is the code I think six foot should be what is there because otherwise you are just allowing a problem. If they need garbage pick up more often then that is what they need not a higher fence to contain it. I will be out there in six months on a rat complaint I know it because there will be garbage all over the place.

Chairman Schech stated I have no complaint with the larger fence as a matter of fact I think it looks good.

Board Member Rogan stated that would be my only problem is just from the idea of what we are trying to do it is a containment for garbage.

The Secretary asked isn't it the ZBA's problem.

Board Member Rogan stated but they pushed it back.

The Secretary stated they can't they made their decision.

Chairman Schech stated we have to give the ZBA a recommendation can I have a motion

Rich Williams replied yes they can. I am going to check on how it is done but the ZBA on their own can actually make a motion to reconsider an issue at any time.

The Secretary stated but they did not make a motion to.

Rich Williams replied no they haven't but Ed asked, this is what precipitated, Ed came to me and asked me to find out what the Planning Board felt about the fence because his decision was made on that so I polled the Board, it came up at the meeting I thought that all the Board Members had said they were okay. I was wrong, Shawn doesn't feel that it is okay so Marianne brought that up, I went back, I talked to Shawn and I talked to Herb and I said we will do it at a meeting and that way I am out of it and it is official.

Board Member Rogan stated the other problem is Dunkin Donuts when we were on that site with the owner he said he was going to jump on those things that we asked him to do, to date I have not seen the colors that you guys asked, I didn't care about the colors but you guys asked for it. It is still out there the way that it was the day we were out there. To me that shows, Ted Kozlowski stated that he is in your face thumbing his nose at you. Board Member Rogan stated quite honestly I just think now changing the requirement of a fence

which is a Town Code, I understand that it is meant for residential, this is just for a dumpster but I think it will exacerbate a garbage problem. That is the only reason I don't agree with it.

Board Member Pierro asked refresh my memory, the Town Code states.

Board Member Montesano stated a six foot fence he has got an eight foot fence.

Board Member Rogan stated and the deal was they started to cut it down and didn't like it that does not make any sense.

Board Member Pierro stated I think it was difficult to cut.

Rich Williams stated I don't have any idea.

Board Member Pierro stated I am going to take a ride by again.

Board Member Rogan stated if that is the case then we should change our dumpster enclosures to all eight feet. I don't think an eight foot fence looks bad. I really don't have an issue with it like that I just think it allows people to hide these dumpster locations. I see them you guys see them went you drive by I see them because I have to see them on a daily basis and when you have a higher fence like that it just means no one, Ted Kozlowski stated you can pile more crap in there. Board Member Rogan stated that is basically it. It over flows it gets hidden.

Chairman Schech stated if it is lower it blows out.

Board Member Rogan stated yes but then they will be made to because somebody will say hey, you guys need to get a pick up going.

Rich Williams stated all right let's be clear on this they have to have the dumpster enclosure but they also have to have containers with lids that shut and are kept shut.

Ted Kozlowski stated Rentoulis doesn't do it at Alpine.

Board Member Rogan stated I think what irks me more here is that we asked them to do some very specific things and allowed them to open and I remember the guy saying I am going to have a guy out here to paint this in three days and you know what here we are months later. Then we asked him about the canopy over the drive in those ridiculous colors we said we wanted something changed with that and that is still up. I don't remember the other issues.

Board Member Montesano stated with that note the fact that you know more about it then I would then revert them back to his six foot.

Board Member Pierro stated I don't think that is going to solve any problems let's just enforce the site plan.

Rich Williams stated the immediate issue is the Chairman of the ZBA was looking for a recommendation on whether the Planning Board would consider allowing an eight foot fence or a six foot fence and next Thursday night what we are looking for by motion is your opinion.

Board Member Pierro stated I personally have no problem with the eight foot fence and I agree with what Shawn is saying but I personally have no problem and I think a business like this that is so far exposed to the public is going to be kept,

Board Member Montesano stated then he should be able to maintain a cleaner site so he should be able to maintain it with a six foot fence. That would give him the incentive to keep somebody out there cleaning up until they do it right. Most of the time, I would say my recommendation is leave it at six feet.

Chairman Schech stated make a motion.

Board Member Montesano stated I will make a motion to leave it at six feet.

Rich Williams stated why don't we do it at the next meeting where the motions are supposed to be made.

Chairman Schech stated we can do it here too.

Rich Williams stated you can do it here but.

Board Member Pierro stated we are short a man.

The Secretary stated you could have a tie vote here now.

b. Camp Brady (Shkreli Subdivision)

I apologize I found a memo today that was issued by the Town Engineer making a recommendation on Camp Brady for a bond reduction.

Rich Williams asked I will throw it on the agenda for next Thursday.

The Board replied yes.

Board Member Montesano made a motion to adjourn the meeting. Board Member Rogan seconded the motion. All in favor and meeting adjourned at 9:37 p.m.