

TOWN OF PATTERSON
PLANNING BOARD MEETING
September 29, 2005 WORK SESSION
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Planning Board
September 29, 2005 Work Session Meeting Minutes

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

Present were: Chairman Herb Schech, Board Member Dave Pierro, Board Member Shawn Rogan, Board Member Maria Di Salvo, Rich Williams, Town Planner, and Kozlowski, ECI was present.

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

There were approximately 5 audience members.

1) TRONCONI WETLANDS WATERCOURSE PERMIT

Chairman Schech asked what do we have on Tronconi.

Rich Williams replied Tronconi, as you recall this is a wetlands watercourse application that is located over in Putnam Lake near Garland Road, a small house.

Chairman Schech stated they were not in the last time.

Rich Williams stated yes he did not appear at the last meeting. I have since had conversations with him. He is well aware that he needs to notify the adjacent property owners by certified mail; hopefully he is going to do that and be in here for the meeting. He did submit responses to the concerns that I had raised in my last memo.

Chairman Schech asked so he realizes he is supposed to come. Does his contractor have a plan.

Rich Williams replied he has not submitted any plans other than the sketches that he had originally submitted and a narrative subsequent to that.

2) KESSMAN BROS. SUBDIVISION

Chairman Schech stated we have a letter on it.

Rich Williams stated they did submit in response to the Board's concerns a letter detailing the agricultural activities that will continue to occur on the property, how each structure will be used. I think it adequately addresses all the concerns. They have also now finally submitted a survey showing the property boundaries. There were some details that I think that were omitted from there. They don't show the DEC or Town regulated wetland. They are not really going near those boundaries so I don't know if that is an issue for anybody. The big issue now is they finally have submitted a survey and there has always been an issue about where the proposed property line would fall in relation to the pool and cabana and on the latest survey it is shown to go through the cabana unfortunately it does not conform to zoning. They are going to need to figure out how they are going to address that before final determination can be made other than that I think we are ready to make a decision on this.

Chairman Schech asked that is the cabana on that one house.

Rich Williams replied on the pool.

Board Member Pierro stated you can't create a violation so something has got to give there.

Rich Williams stated the reality is they had the approximate DEC wetland boundary on past plans so I imagine all they need to do for that is turn on the layer.

Ted Kozlowski stated I think it should be for the record.

Board Member Rogan stated if it is not a matter of them going out and re-surveying and they can just bring it from another plan.

Ted Kozlowski stated just so that future owners know that there are wetlands on the site.

Chairman Schech asked yes but is that fair if they are not planning on doing anything with it.

Ted Kozlowski replied no I think what Shawn and Rich just said is it is already existing on previous plans put it on the new plans. It is a matter of drafting that is all.

Board Member Rogan stated that could be a condition of the approval.

3) WYNDHAM HOMESA LOT 28 WETLANDS WATERCOURSE PERMIT

Board Member Rogan stated that was the lot we looked at over the weekend.

Board Member Pierro stated with the stonewall in the back.

Rich Williams stated correct.

Board Member Rogan stated when we were out on the site it seemed like there isn't nearly enough room between the front yard setback off the right of way for the road and the drainage easement that runs down the back. I can't imagine that there is enough room in there for a house because even then if you squeaked the house in any improvements off the back of the house is in the drainage easement.

Board Member Pierro asked does it fit Rich.

Rich Williams replied when they give me the plan it fits on the plan. We all have the plans, we all are looking at the same plans and it fits on the plans. Now, when they go to like I said I think a condition,

Board Member Pierro asked we don't have that plan in front of us yet do we.

Rich Williams replied you had received it two meetings ago.

Board Member Pierro stated okay I have that one.

Rich Williams stated being that we all share the same concern about that, there does not seem to be that there is enough room prior to them starting any construction they should stake things out in the field to make sure that it really does work.

Board Member Rogan stated it can be survey located and inspected would that be by Paul prior to,

Rich Williams replied I would prefer it either be me or Ted.

Chairman Schech stated so we want it all staked first.

Board Member Rogan stated I would say but other than that the lot where they are building the house I do not see that as a huge impact like we said pulling a couple of the stones and finish up the wall and put some markers in place, make the wall a living fence.

Ted Kozlowski stated the wall should continue and not just a pile of rocks

Board Member Rogan stated I agree.

Board Member Pierro stated my other concern when I was out there on Tuesday with Maria is just the general disrepair that the whole site is in. Some of the drainage, some of the bales of hay that are near the drainage culverts are knocked out of the way. They are probably not doing what they are supposed to be doing.

Rich Williams stated there are still some issues that they need to address but for the most part they have tightened up a lot of the erosion controls over the past week.

Board Member Pierro stated okay they need a clean up day there.

Rich Williams stated and they did. They spent Monday as a clean up day.

Board Member Pierro stated there was still stuff out of whack on Tuesday when I was there. It just didn't look good.

Rich Williams stated right there is always going to be stuff that needs additional work.

4) MERLOTTO FILL PERMIT

Rich Williams stated Merlotto this is an application to place approximately three hundred and fifty cubic yards of fill on a site. I did do a short memo. I have been to the site. The site is about a ten thousand, six hundred square foot piece of property currently vacant. Mr. Merlotto does not live on the site or near the site; he lives around the corner from the site. It is currently forest, there is no streams, no wetlands involved in the application. It is basically a fairly level site as is and putting three hundred and fifty cubic yards on the site I am not sure what he wants to do. I have asked him for a sketch showing the location and depth of the fill. That has not been forthcoming. I recognize that individual property owners they have a right to use their property as they see fit but I do have an issue with somebody who is going in and just clear cutting a property and then putting fill on it for some day in the future.

Board Member Rogan stated without knowing what we are looking to achieve five years from now.

Rich Williams replied yes and you know certainly in its current condition it is better for water quality in the area than clearing all the trees off the site and dumping some fill on and packing the fill down.

Board Member DiSalvo asked is that an approved building lot or can it be.

Rich Williams replied it is nothing.

Board Member Rogan stated not based on its size. What is the point of it all.

Rich Williams stated there is no approved septic that I am aware of, certainly no development plans for the lot.

Chairman Schech stated well let's do a site walk on it and take a look. How come we are accepting all this fill from Brewster all of a sudden.

Board Member Pierro stated because it is for free.

Rich Williams stated yes it is for free. Basically, what they are doing is they are putting in the new sewer lines and they are excavating all this material then they have to replace it with suitable bedding so they can't use the material so there is a lot of excess material floating around.

Board Member Pierro stated also Rich, it has been my personal experience one of my friends got some of this stuff delivered to his house and it stunk of fuel oil or gasoline. Now, without doing a test I don't know what the two is but I know it was a petroleum product. I think we ought to, there ought to be some way that we can inspect this before it is leveled out and graded and covered if possible. I don't want to see us creating a nightmare by bringing contaminated soil into somebody's back yard. There ought to be a better way to police it.

Rich Williams stated I am just thinking it is a little late you allowed Bob Stanton to bring in about three thousand cubic yards of this material on to his property.

The Secretary stated that was L.A.W.S.

Board Member Pierro stated right that was L.A.W.S. but most of that wasn't bad we were out there.

Rich Williams stated yes and I have been out there a dozen times since.

Board Member Pierro stated but at least we have been checking it. I am not saying that we have to go out there with Geiger counters but somebody ought to be checking this stuff.

Rich Williams stated we usually do go out after the fact to make sure it is done right.

Board Member Pierro stated again, I think we need to site walk this as the Chairman suggested but back to site walks,

Board Member Rogan asked why don't we cover that at the end.

Board Member Pierro replied okay we will cover that at the end.

Chairman Schech stated if they are digging anywhere near a service station you are going to get gasoline in the soil.

Rich Williams stated listen, this is soil coming out of a highly urbanized area. It is not going to be really good, clean fill.

5) WALLACE WETLAND/WATERCOURSE PERMIT

Rich Williams stated Mr. Wallace is on basically because Mr. Wallace keeps coming into the office saying what do I have to do next, what do I have to do next. He has basically submitted the same plan as he did before. They penciled in two bedroom house on it, none of the other details. I did give you a gentlemen a copy of the memo I had done a few months ago, most of the items still have not been addressed. In talking with the project engineer he is still of the same opinion that jeez, he does not understand what the issue is they are just in to dig a test pit and to do the curtain drain and not for the rest of the issues. It is still my opinion that you should be looking at the complete site activities and how it is impacting the wetlands not just one isolated little portion of it and then we will deal with the next isolated little portion later on. I think that needs to be clearly communicated to him.

Ted Kozlowski stated I think what the engineer is arguing is that if the septic or the perc tests fail then the project is finished and this is what he is trying to prove out but Richie is absolutely right in order for him to prove it out he has got to affect the wetland and again, I have said all along I oppose a septic in a wetland. I think he has most of that septic in the buffer. We did at the last meeting advise him to go to a two bedroom house to make it smaller so he did not need that size of a septic. I don't know, I did not look at the new plans if he submitted new plans if that septic and expansion area has been reduced to correspond with a two bedroom house.

Board Member Rogan stated it looks like it has. He is out of the wetland now but he is still in the buffer.

Rich Williams stated he has always been out of the wetland.

Ted Kozlowski stated I agree with Rich I don't believe that this should be used as a lab to find out whether it is going to work or not. You have all been to the site you know what a horrible site this is.

Board Member Rogan stated it looks like a lot of the proposed septic area is up gradient of half of the curtain drain that they are proposing on this plan. If you look at the configuration of the curtain drain at this point it only looks like about half of it benefits the septic area.

Rich Williams stated the only thing that I could think of is that the upper half is going to be the expansion area.

Board Member Rogan stated what I am saying is the curtain drain as it is proposed looks like it is way too big for the little bit that it seems to be doing.

Ted Kozlowski stated the other thing that I am leery of is that that whole neighborhood is four bedroom houses and big things how is a little two bedroom house going to fit that neighborhood.

Board Member Rogan stated it is not going to be that little. Who said little two bedroom house. We just said two bedroom house and with the changes in the bedroom count, it changes monthly but with the way they are doing it now I think they are allowing home offices on the first floor. A office just like a den so theoretically I mean it is still going to be the same size house as anything else. You can build a heck of a large two bedroom house. It still could be a three thousand square foot home.

Ted Kozlowski stated right so in reality a year after the house is sold is it really a two bedroom home.

Chairman Schech stated yes but how can we stop this.

Board Member Rogan stated that is not our, the bedroom part isn't ours. It is just the impact area. We can say it is just too large of an area and we think you need to reduce it. At this point, to throw at least one positive out on this we said from what I remember from last time when Jack was in or when they were in a couple months ago get all of the septic out of the wetland which last time some of it was still shown infringing on that wetland.

Rich Williams stated I don't recall any of it being actually in the wetland. It was right up against the wetland line. He pulled it back fifty feet away from the wetland, which is what we told him to do.

Board Member Rogan stated okay.

Chairman Schech stated get it out of the buffer.

Board Member DiSalvo stated he can't.

Board Member Rogan stated it is really not our purview, no the buffer, here is the wetland buffer referring to the map. It is not really our purview to say okay now we don't like the idea, if he can't fit within what we have asked him to get a three bedroom house or a two bedroom house it is not really our purview. That septic area is probably the best area he is going to get on this.

Chairman Schech asked why can't we say stay out of the buffer.

Ted Kozlowski stated you know I think we have to go back and look at the minutes because at least from my part I have always been saying along you stay, septic's should not be in buffer or wetlands. I mean that is part of the reason for this law.

Board Member Rogan stated but again, Ted I hate to keep arguing with you on this but you have got to go back to look at these lots around here they are all part of subdivisions that were previously approved by this Board. If we were looking at this as an individual lot right now or even as a new subdivision we would not be having this conversation but these lots already are approved and I keep going back on that. This is not the same as looking at a lot that somebody even in the back of the room today. It is not the same kind of lot.

Ted Kozlowski stated I understand that Shawn. I am just not convinced that they haven't explored it fully on whether there is someplace else to go. I have had conversations with the engineer.

Board Member Rogan stated as a reasonable person look at the topo and look at the lot and you can see that is the only reasonable place at all on the lot because the rest of it is all over twenty percent grade so reasonably speaking without having them explore, there is nothing else to explore on this. To take a hard approach we have to decide whether or not we are going to just deny this or approve fifty foot outside the buffer on this and I think other than that we are beating each other up on this.

Ted Kozlowski stated well, again Shawn I mean it is a lot that has got a lot of challenges.

Board Member Rogan stated it is a ridiculous lot, it is ridiculous.

Ted Kozlowski stated real challenges whether there is a wetlands law or not.

Board Member Rogan stated and if I thought we had a leg to stand on and these are the kind of ones that you want to take on and say okay it is too much deny it.

Ted Kozlowski stated and he has got another one down the street that is probably even worse than this.

Rich Williams stated Herb, to answer your question if you are going to tell him to stay out of the buffer you are denying the permit essentially. Just so you are aware of the ramifications.

Board Member Rogan stated you are denying the right of use on a lot that was approved by this Board not that long ago.

Chairman Schech asked how long ago was it.

Rich Williams replied 88.

Board Member Rogan stated that is not that long ago.

Chairman Schech stated that all depends on how old you are.

Ted Kozlowski stated I am not clear of the law but you know this property has changed hands over the years. This is not the original property owner who got the original approval. This was purchased from it was like a series of sales so I am not clear on the law. I don't know whether,

The Secretary stated in the minutes I believe Anthony touched on that. I can pull them.

Board Member Montesano asked have we asked for legal opinion back in 88 you didn't have the laws that you have today and it is not the original parties that got an approval for that project that are now commencing to build on it. Now, you are talking about a big difference. Have we ever got a legal opinion on it.

The Secretary stated yes.

Rich Williams stated yes Anthony has addressed it and I will give you my non-legal opinion but I do not agree with the decision of the U.S. Supreme Court that says a change of ownership doesn't matter. I firmly believe that you buy it, you buy it subject to the current regulations and you know what you are buying. The U.S. Supreme Court did not agree with that decision and actually has rendered a decision on point that said even though the ownership changes it does not matter a person has a reasonable use to a piece of property.

Board Member Montesano stated this is the same Supreme Court that told people that they don't have a right for eminent domain to argue if they want to take your house.

Rich Williams stated yes Sir.

Chairman Schech stated you are talking seventeen years you know this is not yesterday.

Rich Williams stated I am aware of that.

Chairman Schech asked now if he stays out of the buffer this whole entire section has to be septic.

Board Member Rogan replied if he stays out of the buffer he only has just this area here which is probably enough room for about maybe a one bedroom house with expansion.

Chairman Schech stated that sounds good.

Board Member Rogan stated that is fine if that is what you want.

Board Member Montesano stated we are not saying he can't build a house we are just saying that he can't build a,

Chairman Schech stated a small house.

Board Member DiSalvo asked how many gallons would a one bedroom house be, septic tank would you put in.

Board Rogan stated the tank isn't the, it is the Board Member Pierro stated it is the fields.

Board Member Rogan stated and the other thing is up until just recently the setback to the wetland was only fifty feet because they are approving things all the time for septic and they would say fifty foot because it was the separation distance in effect at the time it was approved. They are going back and giving waivers on stuff all the time based on what the original approval. They give permits to drill wells within seventy-

five feet of a septic system, today it is a hundred feet but back so many years ago it was fifty feet. You have got to do the best you can in some cases. They add things to improve the sanitary, double casing on wells, ultraviolet systems but ultimately people do approve things less than current code because of the time things were permitted. I think fifty feet off the wetland is the best they are going to I don't like the lot at all if you guys want to go ahead with denying this lot then let's come up with you know the reasons why and whatever otherwise let's get a plan in here that will work.

Ted Kozlowski stated there was another issue and I haven't looked at this yet but the last time his proposed curtain drain when he did it illegally created a stream and they never really addressed the impacts of this whole scenario and I have asked them to do that and the Kyle Kaylor report initially didn't really touch on it. Again, I have to go back to my memos and letters to him but I have asked for that information and I don't know if that has been addressed. There are functional impacts that you know a one sentence statement saying that there are no impacts is not sufficient. I don't think that has been addressed. Whether that is a hold up or something that is going to prevent this from happening or not I don't know. This is one of those projects that just comes in bits and pieces every so often then goes away. There is never really a clear resolution to this thing. It is kind of languishing out there.

Rich Williams stated every six weeks he is in my office what do we need to do.

Ted Kozlowski stated then when I talk to Jack every once in awhile we have a conversation and this will come up and he basically asks the same questions and I give him the same answers. This just never seems to get resolved.

Chairman Schech stated all right let's sit on that one.

Ted Kozlowski stated I will try to have more information by the next meeting

6) RIZZO WETLANDS/WATERCOURSE APPLICATION

Rich Williams stated this is a lot that is almost right across the street from Doug Wallace's lot.

Board Member Rogan asked the same subdivision.

Rich Williams replied the same subdivision.

Chairman Schech asked that is not the one on the hill that they are doing already is it.

Rich Williams replied no it is the other corner. It is a relatively level lot.

Board Member Rogan asked we walked this one already is this the one.

Rich Williams stated no.

Rich Williams stated however the whole property is bisected by a stream and they have got the septic system out of the one hundred foot buffer of the stream and that is all they have got out of the one hundred

foot buffer everything else, the house is twenty feet off of the stream channel. When you go out there the house site is currently staked and the stakes are twenty feet off of the stream channel.

Chairman Schech stated site walk.

Ted Kozlowski stated this has got to be a site walk guys absolutely.

Ted Kozlowski stated I can see it Flavio Franco.

Rich Williams stated well listen the whole site is wetlands. This is the whole subdivision from day one it was all the wetlands that was filled in.

7) BEAR HILL SUBDIVISION

Rich Williams stated Bear Hill actually,

Chairman Schech stated I thought we had that squared away I guess we don't.

Rich Williams stated well no let me,

Board Member Pierro stated they went away for awhile.

Board Member Rogan stated we did a site walk.

Rich Williams stated but let me give you a little bit of background about what is currently going on. They submitted partially what they needed to submit for the Planning Board for this last meeting. They called me up and basically said that their printer malfunctioned and they asked me to wait until the following morning from the cutoff date. The plans came in four days later so I have not reviewed it, I don't plan on reviewing it. We are going to pull it off the agenda.

Ted Kozlowski stated I will tell you I just quickly looked at it with regard to the wetland permit, last winter, February I sent them a letter saying that I did not agree with the wetland flagging and these latest plans,

Chairman Schech asked is this one with all the little critters having sex in the middle of the night.

Ted Kozlowski replied yes.

Ted Kozlowski stated the wetland flagging what these plans show are the flags from their consultant and then it shows my flags but not connected. It is not resolved. The other thing is the vernal pool they are recognizing the vernal pool although they are showing it but they are showing the driveway and house right on top of it and I want to be up front and forward I vehemently oppose this just so you know. I have told them that from the beginning. This is nothing new.

Board Member Pierro stated now this is in my opinion it is a different scenario in spite of the fact that this lot was subdivided many years ago it was not developed.

Board Member Rogan asked we are talking about the upper area.

Board Member Pierro stated right.

Board Member Rogan stated they are looking to subdivide it into four or five lots.

Ted Kozlowski stated this is going back to the developed site not the one that we walked through.

Board Member Rogan stated not the secondary parcel.

Board Member Pierro stated right this is all close to the road.

Ted Kozlowski stated right this is the one that we walked around last year.

Board Member Rogan stated it is a big chunk of property we are not even looking at it as a,

Board Member Pierro stated right but it would have been developed in the past by the initial developer if there was any beneficial property there. Somebody else made this decision a long time ago.

Ted Kozlowski stated this is another Doug Wallace site.

Board Member Rogan stated but in this case we have the ability when we are subdividing this property to say no this is not.

Board Member Pierro stated that is what I am saying.

Board Member Rogan stated yeah, you can do it keep it a hundred feet away from the vernal pool.

Ted Kozlowski stated if you look at the vernal pool I mean they are just skirting around everything.

Board Member Rogan asked did the plans reference the other parcel that we walked and any ideas for that because that was a mess.

Rich Williams replied no it showed the other parcel, it showed wetland delineations on the other parcel but no development.

Ted Kozlowski stated this is the one they had their consultant come in and say it is not a vernal pool.

Board Member Rogan stated well you are back up the hill now I was talking about the other part that we walked.

Board Member Rogan stated we have not had a chance to review it just pull it off.

Ted Kozlowski stated I will send a letter saying the wetland application is incomplete so that gets you off the hook it gets them off the agenda anyway.

8) DILMAGHANI SITE PLAN

Rich Williams stated they are looking to do tent sales out in the front, erect a tent for an extended duration.

Board Member Rogan stated what we said we were okay provided we did it on a short time frame.

Board Member Pierro stated yes.

Rich Williams stated do it on a trial basis.

Board Member Rogan stated sixty, ninety day.

Chairman Schech stated a ninety day frame.

Rich Williams stated and if they want to continue it again in the spring.

Board Member Rogan stated yes let's do it bring them through the end of the year or something. We are already into October. I think ninety day.

Ted Kozlowski stated you also have to look at is it going to be active only on weekends. What is that going to look like five days a week up for six months.

Board Member Rogan stated I can't see that it is even going to work.

Board Member Montesano asked now with all that property in the back of the building can't we put the tent up back there.

Chairman Schech stated yes but that is not attracting the attention.

The Secretary stated originally they were going to put it in the back.

Board Member Montesano stated then allow them on weekends to put a balloon and a light in the front.

Chairman Schech stated that is not attracting attention.

The Secretary stated originally when she came in that is where she wanted to put the tent and then she called and said they were thinking about moving it to the front.

Board Member Rogan stated people see a tent as they drive by they think it is some big bargain going on.

Board Member Montesano stated try going to Connecticut because Macy's had that wonderful tent sale going on and the only thing that was annoying was people ticked off because they had to park somewhere else.

Board Member Rogan stated when Dill's does their tent sales they get people that see it and pull off because they are selling the scratch and dent stuff and they get rid of a lot of stuff that way.

Chairman Schech stated I think it is a shot. It is a business guy whose got a problem let's give him a shot.

Board Member Rogan stated I agree with you.

Board Member Montesano how many days.

Board Member Rogan stated end of the year.

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

Board Member Rogan stated let's have the conversation with them when they come in and find out exactly.

Board Member Rogan stated as a condition of this we could have them reclaim those back spots though where the trees were growing out.

Rich Williams stated we should do that anyway our Code says you have got to keep your site in good condition.

Board Member Rogan stated that is over grown they lost probably half of thirty parking spaces because of that.

9) STEGER SITE PLAN

Rich Williams stated Steger I am trying to think of the other name that it is in under right now. This is an application for the small building next to the post office to open a grocery store, wire transfer, ATM.

Board Member Rogan stated the one we got the letter on.

Rich Williams replied yes and in addition there is a sign application. I have taken a look at the sign application. It appears that it conforms to all the zoning requirements including the Hamlet standards. It was a very good sign application that was submitted, very professionally done.

Ted Kozlowski asked something about Steger (unable to hear him no mic).

Rich Williams replied Allan Steger and his wife own the property that is not whose opening the store.

Ted Kozlowski stated because there is a Steger (unable to hear).

Board Member DiSalvo asked can they sell coffee and tea here too. Is there a problem with the water in that building.

The Secretary stated there is a problem with all the water.

Rich Williams replied if there is a problem with the water they would have to bring in bottle water or something like that but as far as the actual sales go retail operations are permitted within that zone then you don't further limit those retail sales as to what they can sell.

Chairman Schech asked this is basically they say is just dry goods though right.

Rich Williams replied that is what they are saying.

Board Member Rogan stated they have to get a permit from Ag and markets because it is dry. It is grocery.

Board Member Rogan stated Health Department is for on site consumption more. It is fifty percent or more.

Chairman Schech asked did anyone come across the sign.

Board Member DiSalvo asked this site plan is for the whole building or jus the mini-mart.

Rich Williams replied it is basically for that small section.

Board Member Pierro stated I have got it.

Board Member Pierro stated Chris & Jesse Mini-mart.

Board Member DiSalvo asked who is Chris & Jesse.

Board Member Rogan stated who cares as long as the sign conforms and it is in the colors.

Board Member DiSalvo asked where is it going on the building.

Chairman Schech stated right above the door.

Board Member DiSalvo asked and we are getting away from that free-standing sign that used to be on the post.

Rich Williams stated yes.

Chairman Schech stated I am getting tired of looking at an empty store there.

Board Member Pierro stated my only other question is in my other life I had heard through the grapevine that there were some violations in this building. There may be two apartments that are not supposed to be there.

Board Member Rogan asked is there an upstairs in that building.

Board Member Pierro stated yes and a building attached to it.

Board Member Pierro stated and I quite frankly would like to use this as leverage. The guy wants to rent it that is fine but he has to clean up the problems.

Rich Williams stated Dave, you have got to go talk to Code Enforcement. It is not going to do me any good to talk to him.

Board Member Pierro stated I know the boys are not playing in the sandbox very well this week so I will,

Rich Williams stated I want him out of my sandbox.

Board Member Pierro stated I will send him an e-mail.

Ted Kozlowski stated somebody kicked sand in somebody else's eyes.

Board Member Rogan asked what is currently here in this building.

Chairman Schech stated there used to be offices up there but it is probably apartments now. There is apartments right across the street in the garage too but that is Code Enforcement.

Board Member Pierro stated that one was legalized in the garage.

Chairman Schech stated it shouldn't be legalized because it never was there.

Board Member Pierro stated it was two years ago I did not take the listing because it wasn't legalized then eventually it got sold and it was made legal.

Chairman Schech asked how do you do that.

Board Member Pierro stated I don't know.

The Secretary stated unless we have violations you can't hold it up.

Board Member Rogan asked Rich, they are in for a sign approval but they are in for a site plan approval or a site plan waiver.

Rich Williams replied they are in for a change of use. Essentially, what it is within our Code I have the ability to sign off on a change of use if I think there might not be any improvements because of the lack of parking out there and the proposed use I was not comfortable signing off on this one. In that instance it goes back to the Planning Board. You guys have more discretionary approval than I do so basically what it was it was an educational center, it was a dance studio.

Board Member DiSalvo stated a beauty salon.

Rich Williams stated now they are coming back in for a grocery store and to me that is a little bit more of an intense use so I wanted you guys to sign off on it not me.

Chairman Schech stated and ten to one it is going to be an employment center too but you can't for see that right.

Board Member Pierro stated I understand people's fears about an employment center but there is just not a lot free standing employees. There is just not a lot of those guys in our Town. There may be a dozen.

Rich Williams stated Dave, they bought the building behind Jimmy's when they had the fire in there they tell me thirty-five guys exited the building.

Board Member Pierro asked who bought the building behind Jimmy's .

Board Member DiSalvo stated they fixed it up and they fixed the garage up.

Rich Williams stated you say there is not a lot drive down about seven, eight o'clock down Front Street you will find five or six now hanging out.

Ted Kozlowski asked but isn't that the train station coming from the train.

The Secretary stated that is up to immigrations isn't it.

Board Member Pierro stated it is not up to immigrations it is up to Code Enforcement. If there is violations.

Board Member Rogan stated the people.

The Secretary stated I am talking about the people.

Board Member Pierro stated no immigrations is not going to do anything.

Rich Williams stated it is both. If they are not here legally immigrations should they do not. We all know they don't.

Board Member Pierro stated they can't. It is a problem that just cannot be taken care of.

Rich Williams stated I hear what you are saying Dave but if somebody is here illegally my opinion is they should be deported.

Board Member Pierro stated we would be broke. The Country would be broke trying to get rid of these guys.

Chairman Schech stated where would I get my employees.

Rich Williams stated you know Herb you have got to learn what not to say on the record. You really do.

Ted Kozlowski stated for the record Herb was kidding.

Board Member Pierro stated but for the record if we as a community do not want to condone you know people standing on street corners getting employed then the answer to that is to have a system in place where multi-family buildings are inspected on a regular basis and over crowding and things like that are brought into the court and violations are written up and you have to have a process in place. I came from this, this is what I did as a law enforcement officer. We had teams of guys with Building Inspector's going out and we uncovered hundreds and hundreds of illegal apartments and subsequently tore buildings down. We changed the face of a community in lower Westchester by being aggressive and having a policy in place and it wasn't believe it, it wasn't against these people that happen to be South Americans because what happened is these people got stabilized and wound up buying buildings and renovating homes and creating a better community. They displaced the drug element which was an all together different nationality. We have to get aggressive and put a policy in place and start doing enforcement on every building in that area, every building in that area or else we are never going to solve the problem.

10) PLAZA AT CLOVER LAKE

Chairman Schech asked Plaza at Clover Lake what did he hear that I had my mother-in-law in there so now he is issuing violations there. (Everyone laughed).

Rich Williams replied yes as soon as his mother moved out.

Board Member Pierro stated I understand there is not enough side walks in that area.

Rich Williams stated I am not sure what,

Board Member Pierro stated outside the building if they ever had to have an emergency evacuation there is no place to wheel people out because it is all grass.

Chairman Schech stated they don't wheel them. They are not in wheel chairs. They are all walkable.

Board Member Montesano stated they are walking seniors.

Rich Williams stated regardless they did submit a very sketchy, sketch plans with basically no detail on it. I am not sure where all this came from. I did do a memo on it. I don't think it is appropriate. I did talk a little bit with Dave Raines about it. I think we are in agreement that what they should be doing is, how can I say this they should be putting side walks in that run directly away from the building to staging areas that are perhaps designed as little parks, people can use them during the day. These little parks should then have at least semi-improved limited access so people can exit the building, go to these areas and wait and if emergency services has to then move them from there they can drive in with vehicles and move them away. What they have got shown right now and we are guessing is sidewalks that run along side the building, well if there is an explosion the sidewalks are within the fall zone. If the building is fully engulfed you think these people are going to be walking alongside the building.

Board Member DiSalvo asked why wasn't this designed when you did the initial plan.

Rich Williams stated I don't know.

Chairman Schech asked isn't the road I have never been down there isn't the road big enough to walk on.

Rich Williams replied yes the road is big enough. What is going on apparently and I have not been there is they have emergency exits but they exit on lawn and the Fire Code and Building Inspector are looking for more.

Board Member DiSalvo stated aren't we creating more impervious surface.

Rich Williams replied absolutely you are but you are balancing it by saving it.

Board Member DiSalvo asked and this does not fall under any State jurisdiction like assisted living communities or like hospitals.

Rich Williams replied no they do need site plan approval. The buildings are very close to the pond that is out there. I don't know if any of this disturbance falls within that buffer because it is certainly not shown

clearly on the plans. That is another issue with this. The initial decision that has to be made by the Board is what level of detail are you looking for. Are you comfortable with what they are showing and the location that they are showing it in or are you looking for something more.

Board Member Rogan stated that is one to go over there.

Board Member Montesano stated we can site walk that one too.

Board Member Rogan stated I would think so.

Board Member Rogan stated I think it is one that if we went to site walk we could look at it and say hey, if the intent is for fire evacuation or terrorism evacuation and they are looking to get people away from the building then I agree maybe we take a look and say hey, this one corner a staging area. I think looking at it is a really good idea.

11) BUDAKOWSKI SUBDIVISION

Mr. Brendan Mayer, Attorney with Shamberg, Marwell and Mrs. Budakowski was present.

Rich Williams stated Budakowski, you have a memo from myself on the current plans.

Rich Williams asked did you get a copy.

Mr. Mayer replied no I did not.

The Secretary stated I did not know you had them done. I will go get them out of the office.

Rich Williams stated let's back up, there are memos from myself, there are memos from the Town Engineer and there is a memo from the Building Inspector. My suggestion is at this point we give them copies which I thought they would have had by now and maybe push this off for a little bit, let them digest the memos then we will come back to it.

The Secretary stated Rich, I just got Gene's memo sitting on my chair and I don't have your memo. Where are they so I had no idea that you did a memo.

Rich Williams asked do you have Paul's.

The Secretary replied I have Paul's.

Rich Williams asked so do you want to do that come back to this.

Chairman Schech replied yes.

Board Member Rogan stated just raise your hand when you are ready and we will go to you next. I am sorry we thought you had those already sitting back there.

Board Member Rogan asked Missy, do you want to get copies of those, Mrs. Budakowski do you want to read through those at the same time.

Mrs. Budakowski replied yes.

12) Couch Road Subdivision

Rich Williams stated Couch Road they have resubmitted for preliminary approval. I think the plans are ready for preliminary approval. There is a couple of issues that came up; one is the common drive. We are probably going to need to send them to the ZBA for a common drive because they are gaining frontage from something other than the access. The Planning Board is going to have to grant a waiver to allow a driveway within ten feet of the side property line. There is also this issue that Paul raised tonight and again, I am very unclear about what he considers a fire access road and what he doesn't and whether he is going to allow a common drive at all that is less than twenty feet in width. Other than that I think this thing is good to go for preliminary approval.

Chairman Schech stated but first we have to ship them to ZBA.

Rich Williams stated unfortunately they have got to go to the ZBA. We can have the public hearing, we can schedule the public hearing.

Board Member Rogan stated let me ask you a question. The part that Paul said is he talking twenty foot from Couch Road to the intersection of the two driveways.

Rich Williams replied listen I don't agree with his assessment. I gave you guys a copy of the Fire Code so you could take a look at it.

Board Member Rogan stated I think all things considered we did pretty well with this subdivision.

Rich Williams replied yes I do too. I think on Burdick Farms Subdivision that he was well within his jurisdiction to say what he did about the fire access lane. I think the current two issues I don't agree with them. I am still waiting for the fire tanks along the road.

Chairman Schech asked he didn't mention the tanks.

Rich Williams replied on Couch Road no. One of my issues is everything comes after you guys approve at the very end. Thomas, I got a memo on Thomas a month after the approval was given saying that Thomas had to put in a 30,000 gallon tank.

Board Member Rogan stated we had three different phases that we looked at with this Couch Road and any one of those phases would have probably resulted in the same amount of fire. There were basically you are talking five lots, seven lots it is the same.

Rich Williams stated and just so you all are aware,

Board Member Rogan asked why are we getting so disconnected as of late. This seems like the last two, three months we are working against each other now it seems like we are going backwards.

Rich Williams replied I don't know maybe I just don't play well in the sandbox. He gets copies of everything we all get every meeting. He gets them when you guys get them.

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

13) PUTNAM COUNTY NATIONAL BANK

Rich Williams stated the Town Engineer has reviewed it. He has got a few minor comments. I have taken a quick look at it and I will do a quick memo. I really don't have any issues with it. We haven't heard back from the Architect. I am going to pursue that hopefully get this thing wrapped up. I believe we need to make a decision on this prior to the next meeting so we are going to have to probably ask them for a waiver at this meeting.

Chairman Schech asked there is no time frame on construction on this.

Rich Williams replied no.

Chairman Schech stated they are going to get an approval and then just sit on it.

Rich Williams replied well they have a year.

(TAPE ENDED)

14) BUDAKOWSKI SUBDIVISION

Chairman Schech asked okay you read it all.

Mr. Mayer replied I read through it yes.

Chairman Schech stated are you as confused as I am or you have everything all squared away.

Mr. Mayer replied it depends on which questions you ask me.

Board Member Rogan stated Brendan just to cut to the chase on this though we have said all along, last meeting that the Board as a whole is comfortable with the project. The whole idea, we worked so hard on all this and we are not getting, Gene is not here but I would say these gentlemen their concerns and as a Board we are supposed to be here listening to the people that we are hiring to guide us and these people are telling us under no circumstances is this project ready to move forward to preliminary.

Mr. Mayer stated on the outset I appreciate you even putting this on your agenda tonight. Throughout this whole ordeal I find you to be a quite pleasant Board to deal with. However, it is my understanding in speaking with my client that Jack Karrell, the project engineer has basically said that everything that was asked for has been provided at least as much as the Board asked for last time. I believe the last time that we were here the one thing that was a major issue was the actually layout of the road and as we heard earlier tonight that has been provided. It seemed that was a major hang up. Now, I saw in reading through the thing that there are certain technical issues that relatively speaking are fairly easy matters to be resolved.

Board Member Rogan stated one would think so.

Mr. Mayer stated exactly. My pitch tonight is that the project should not be held up for something that we are having certain problems with certain people on the development team that may have to be replaced in order to satisfy Mr. Williams or any other of the professional staff and the Town of Patterson's concerns and that may be an option that the Applicant would want to consider. I would hate to recommend that to my client so late in the process however if that is something that needs to be done that is something that I would reserve as well.

Board Member Rogan stated Rich do you want to put your two cents in here on this please.

Rich Williams stated Jack was given a laundry list of things to do at the last meeting. Certainly, there is always based on the submission new details that we do request and new issues that do come up but for the most part he did address the laundry list. There were things that he did not address. There were some very specific technical issues mostly raised by the Town Engineer that still need to be addressed. They are technical issues and can be addressed certainly.

Board Member Pierro asked those are listed in item number two on your.

Rich Williams replied they are throughout the Town Engineer's memo.

Mr. Mayer asked and just for clarification we are referring to the 9/29 memo.

Board Member Rogan stated from Dufresne-Henry yes.

Chairman Schech stated you know we have moved along as best as we can from our end but from the other end it is not coming forth.

Mr. Mayer stated and Mr. Chairman, with all due respect as you heard Rich say the laundry list that was given to Jack has been addressed. There is new issues,

Chairman Schech stated most of it.

Rich Williams stated most of it.

Chairman Schech stated not all of it.

Mr. Mayer stated most of it.

Rich Williams asked well can I continue on here.

Board Member Rogan replied please do.

Rich Williams stated so, now having said that there are some outstanding issues that we have raised from day one that still have not been addressed that I am very concerned with this Board issuing a final approval on tonight. The really smallest of those issues is the fact that I have consistently asked for a completed application, subdivision application and we still don't have it. Yes, Jack responded in his memo that yes you have it well no we don't. I talked to John yesterday, I talked to Jack yesterday they were going to be working on it. I did talk to Catherine today who said she does have it. I don't see you handing it to us.

Mr. Mayer asked if you referring to the affidavit of ownership.

Rich Williams replied I am talking about, Mr. Mayer stated that we do have Catherine provided that to me tonight I will be more than happy to hand that up to the Board now.

Rich Williams stated that is one of the three supplementary forms that go with the application that we don't have. I faxed them all to John Budakowski.

Mr. Mayer stated the disclosure of interest.

Rich Williams replied that is one.

Mr. Mayer stated the authorization.

Rich Williams replied yes that is one.

Mr. Mayer stated and,

Rich Williams stated the other thing is there was a subdivision application that was submitted it needed to have certain questions responded to differently. Jack submitted an application form that responded to those questions it was never signed. Do we have that.

Mr. Mayer asked signed by Jack.

Rich Williams replied signed by the Applicants, signed by the owner, signed by anyone.

Mr. Mayer stated this is what I have this evening Rich. This is what I was provided and I believe that was already provided to your office at least that is what I have been told. (He handed copies to Rich Williams)

Rich Williams stated I do not recall seeing this. I do not have it in the file.

Mr. Mayer stated that is dated back in November of 04.

Rich Williams stated all right this is fine, no.

Board Member Pierro asked no what it was never provided.

Rich Williams replied I don't have this in our files.

Board Member Pierro asked we have a partially completed application in the file.

Rich Williams replied I still need the application signed by somebody.

Board Member Pierro asked can we take care of that tonight.

Rich Williams replied we can do that as a condition of that. That is not really the outstanding issue.

Board Member Pierro stated what is the other.

Rich Williams stated that is not one of the big major issues. My really big concern has to do with the stream crossing.

Board Member Pierro asked the pipe.

Rich Williams replied the pipe, the fact that we have been asking for that to be evaluated forever, it finally is, the drainage report is not complete but it is close so we have a good idea and we now understand that the pipe when it was installed was not installed properly, it was undersized and it has to be replaced. We need a wetlands watercourse permit. That process has not been started. My bigger concern related to that thought is that also now it involves New York City DEP and the DEC and these are agencies that typically the Board has not taken action on the application until they have at least gotten some feedback, have a comfort level to know where they are going. At this point, these agencies don't even know that this application is going on so we don't know what they are going to say and for this Board to approve this application you know leaves us exposed to what those agencies could do in the future.

Mr. Mayer stated and just to maybe allude to the Board's concern on that is that DEC as a State agency you know they are heavily regulated they are not going to whimsically issue any permits and again, it could be conditioned upon review and receipt of the DEC Permit to your approval. I mean I don't think the Applicants would have any problems submitting to that. I am more than happy to put that on the record that instead of just having the DEC permit issued because the last time this came up at our last meeting this is the new wetlands map and that is being done.

Rich Williams stated okay then let me be perfectly,

Chairman Schech stated we are setting a precedent which I don't want to set.

Rich Williams stated let me be perfectly blunt with my concern. It is this, DEP regulations do not allow any impervious surface within a hundred feet of a perennial stream which this clearly is what the Board has been talking about and getting ready to approve is something that directly conflicts with the DEP regulations. I can see a scenario coming up where the Board requires these road improvements, they do it conditionally, DEP steps in and says no way, no how, the Applicant takes the Town to Supreme Court and has the Judge vacate that condition so that this road is never going to happen.

Mr. Mayer stated and if you are referring to widening the road.

Rich Williams stated paving it.

Mr. Mayer stated paving it.

Rich Williams stated yes.

Mr. Mayer stated to Town Code specs.

Rich Williams stated yes.

Mr. Mayer stated it is my understanding that the only time that will be done is if there is another home put back there.

Rich Williams stated no.

Mr. Mayer stated it was just going to be the base.

Board Member Rogan stated we were just doing binder course.

Chairman Schech stated we are doing first course which is Town road specs.

Board Member Rogan stated I think you are thinking about the full width with an additional that is different.

Board Member Pierro stated even to do the twelve foot they are going to require the DEC Permit. You are going to have to do the pipe.

Mr. Mayer stated again, any condition (unable to hear too many talking at same time).

Rich Williams stated the DEP has always been there sitting on the periphery. The latest issue with the DEC is that they are now amending their wetland maps and they have decided that this is going to all be a DEC wetland going right up through O'Hara's property so now the DEC is also an involved agency.

Board Member Pierro stated it might be the first case for them to get sued because this woman can't get full use of her property. It may be the first one that we are going to be dealing with.

Rich Williams replied maybe but I don't think there is much grounds for that to happen and the reality is I have less concern with the DEC, State agencies usually act in a more reasonable manner than the City who, our experience is they never act in a reasonable manner. I mean that is my basic concern.

Board Member Pierro stated between now and the October 6 meeting is it possible to get some input from DEC.

Ted Kozlowski stated in a week, I am still waiting for a phone call from something else.

Mr. Mayer stated just to refresh the Board the reason why we requested this meeting tonight because due to the contract of sale we are under a deadline and again, we are willing to subject to any condition contingent upon DEC permit approval and review of your Board and DEP permit approval and review of your Board and the technical staff. The last thing that we are trying to do since I have been here is make any (unable to

hear) the Board or the Town and as I keep saying the Board has been very kind in the past and I just hope that they extend some compassion this evening as well. I don't want to put words in Rich's mouth but the majority of the technical stuff was taken care of and most of the other things are readily amendable, can be corrected in short speed so with that I would request the Board grant conditional final approval on this application tonight subject to DEC permit, DEP permit, a sign off by the technical staff and whatever other conditions the Board would like to throw in.

Chairman Schech stated there is too many but's.

Rich Williams stated straight up that is not my recommendation. I am not going to sit here and oppose you guys approving this application but I would ask that you deal with the Building Inspector's memo because and that is substantial.

Mr. Mayer stated and that is pretty easily addressable. The Building Inspector makes a big argument about the access of the road being twelve feet. As you know, this Board granted a 280a approval which basically does away with road requirements.

Rich Williams stated this is an issue that has come up before and you got a copy of my memo I attached the applicable section of Fire Code. The Fire Code, the Building Code has nothing to do with Town Law and that is what he is hanging his hat on.

Mr. Mayer asked I was wondering if there is any other times that the Building Inspector submitted a similar memo to any other twelve foot roads within the Town and how many times has this come across the Board where twelve foot roads were approved with the same thing and how come it came up at the last minute.

Rich Williams stated that is a great question.

Board Member DiSalvo asked how come this did not come up like last year with the Building Inspector. Would it would have come in next week if we were to give an approval tonight.

Mr. Mayer stated if somebody has an answer to that or to any other twelve foot approved by your Board. It just seems odd the timing of the Building Inspector's memo and I would just hope that the Board would take that into consideration as we all know how long this process has been going on, how widely publicized it has been and how at the last minute the Building Inspector decides to put his two cents in meanwhile I sat through many meetings here where twelve foot roads were approved and no mention of any Building Inspector or any Fire Code was mentioned. I just find it troubling that it arises at this late hour and I just hope the Board would take that into consideration.

Board Member Rogan stated I think taking that out of it we still have an awful lot here to deal with.

Mr. Mayer stated and I understand that like I said most of the conditions in my mind at least,

Board Member Rogan stated we are not technical people either to us it is all engineering that we see as them taking care of quite honestly.

Mr. Mayer stated exactly and when engineers speak they are in their own language and I try to understand as best as I can but from my understanding from what the project engineer has told my client that any

outstanding issues are readily addressable and that is subject to your Town Engineer's sign off. I mean there is not going to be any if, and or but's about that.

Board Member Rogan stated this seems to be an issue where and I am certainly sympathetic to the time frames and the time that everybody has spent on this project, where we are looking to get conditional final approval subject to doing everything. Basically, subject to,

Mr. Mayer stated conditioned upon.

Board Member Rogan stated conditioned upon the engineers doing their job, a wetlands permit being filed for a stream crossing and other agencies that have a weigh in on this.

Mr. Mayer stated and if those conditions are not accomplished there is no approval.

Board Member Pierro stated on the other side Shawn, this is a wetlands crossing that was done,

Board Member DiSalvo stated how many years ago.

Board Member Pierro stated years and years ago. I applaud the possibility that we are going to do it correctly the next time, put in the right pipe, the right size pipe.

Chairman Schech stated it was not done that many years ago.

Board Member Pierro stated well I don't know that we ever got an admission.

Board Member DiSalvo stated if this property got subdivided by the County with that pipe being like that.

Board Member Pierro stated right Mr. O'Hara arranged that.

Board Member DiSalvo stated so it has got to be these people's problem.

Board Member Pierro stated right I don't think we should penalize them.

Board Member DiSalvo stated no I don't think so either.

Chairman Schech stated yes but we are being penalized because of a contract which we did not sign.

Board Member DiSalvo stated we did allow Mr. O'Hara to throw some monkey wrenches in here and waste time a few months ago too.

Board Member Pierro stated I think we could get hurt on this as well because I think we, I think there can be an action taken against us although we have tried to do the right thing here. I am sure there could be one little issue that this Applicant could file an action against the Town on her loss.

Board Member Rogan stated Dave, I will only take an action on this provided I feel comfortable knowing that the issues will be resolved. I won't take an action on this tonight based on the fact that we may have done something wrong and we are going to be threatened with a lawsuit. I am not going to go down that

road quite honestly because I know sitting here myself that I have gone out on a lot of limbs on this with this roadway and such and supporting the way we have progressed with this.

Mr. Mayer stated I hope that the Board in no way thinks that I have ever threatened a lawsuit.

Board Member Pierro stated absolutely not.

Board Member Rogan stated jokingly Brendan you are not a very threatening individual.

Board Member Pierro stated but Brendan if I were representing that client,

Mr. Mayer stated I just don't want the Board getting the wrong,

Board Member Pierro stated right I am bringing this up but if I were representing that client that is what I would do. If you cannot mediate this,

Board Member DiSalvo stated so let's mediate it.

Mr. Mayer stated again, I think that the conditions that I suggested are reasonable.

Board Member Pierro stated right.

Mr. Mayer stated and it provides the Board with enough level of comfort and if they are not met then there is no approval and if anything I would just request a vote on that and if the Board decides not to take a vote then there is not much I can do but I would at least like to have a vote on it and see where the Board shakes out.

Rich Williams stated well before you go down that let me ask a question then, is there any Board Member that wants to make a motion on this.

Board Member Pierro replied yes.

Rich Williams stated okay well then I have done a resolution. (Rich handed copies of the resolution to the Board).

Board Member Rogan stated I would have to read that resolution.

Rich Williams stated before you start reading I just want to throw this one thing out. If you do make a motion and you second it and this thing goes down that stops the subdivision and you would have to start over and make a whole new application and continue on.

Board Member Pierro stated there is a risk.

Rich Williams stated there is a risk upon taking a vote tonight. If it goes down, if it does not get approved tonight then you have to start over. If you don't then you still have some options of maybe extending the contract or doing whatever you have to do.

Mr. Mayer asked is there anyway that I could read this before hand.

Rich Williams replied yes.

Board Member Rogan stated we are going to do it also.

Mr. Mayer stated I just want to talk with my client and let them know.

Board Member Montesano stated we have final subdivision plat here this is not a final.

Board Member Pierro stated this is final Rich. Can we,

Board Member Montesano stated you are asking for a conditional.

Board Member Pierro stated right I thought he was asking for a conditional.

Rich Williams stated right.

Board Member Rogan stated this is a final conditioned on these things.

Rich Williams stated trust me.

The Board reviewed the resolution for a few minutes.

Chairman Schech stated we are getting stuck right in the middle of something, a contract that we had nothing to do with asking us to do things that we never do.

Board Member Montesano stated we just said that,

Rich Williams stated gentlemen the tape is running.

Chairman Schech stated yes.

Rich Williams stated okay I just wanted to you to be aware that we are on the record.

Board Member Rogan stated the conditions are really pretty straight forward. They are pretty standard stuff.

Rich Williams stated the only thing is just so you are aware is one of the conditions is they have to do the improvements we talked about this before, and before the plat is signed and then rec fees.

Board Member DiSalvo asked in less than three years.

Rich Williams replied no they have got a year to do the improvements.

Board Member DiSalvo asked what is the three years then.

Rich Williams replied well the three years is for the bond.

Board Member Pierro asked Rich is there any wording, in a quick read there is no wording on DEC.

Rich Williams stated there is wording in there that says they have to produce, Board Member Pierro stated the Town permit, Rich stated any other agency approvals that are required.

Board Member Montesano asked if they need all these other approvals from other agencies how the hell do we go ahead and approve this.

Chairman Schech replied you can't.

Board Member Montesano stated even conditionally what are we doing. We are going to tell them we are about as professional as our friends from the other,

Board Member Pierro stated no we are telling them we are giving them a conditional,

Chairman Schech stated you can't.

Board Member Pierro stated we are telling them we are giving them a conditional approval.

Board Member Montesano stated but you are giving them something that,

Chairman Schech stated so from now on anyone who comes in here can get conditional approval until maybe they will get all these things.

Board Member Montesano stated then we don't need any other agencies. We can tell New York City to go to hell when they smack us down we will have a lawsuit.

Board Member DiSalvo stated we should tell them.

Board Member Montesano stated well we can't unfortunately.

Board Member DiSalvo stated well we have got to start somewhere.

Board Member Rogan stated I don't think they want this to go to a vote.

Board Member Pierro stated let's see what happens. It is their choice.

Board Member DiSalvo stated blame O'Hara for all this.

Rich Williams stated no you can blame everybody on the other side for this. Catherine argued about what she had a right to do and what she didn't. The surveyor showed plans that they never should have done.

Board Member Pierro stated I don't think we are without sin either Rich.

Rich Williams replied not me I am up for saint hood me and my sandbox.

Board Member Pierro stated I mean it is not our job to do the engineer's work or force him to do this work.

Board Member Rogan stated but you are rewarding it too by giving, we give conditional approvals all the time but they are condition on some very specific items not meet all of the items contained,

Ted Kozlowski stated I think that you also make it on conditions that look like very readily,

Board Member Rogan stated yes like put up a fence.

Board Member Pierro stated I don't think these are very difficult to overcome.

Board Member Montesano asked then how come they weren't overcome in all this bloody time.

Board Member Rogan stated the reality is that we are all exhausted with this project but that is not a reason to approve it to get rid of it.

(Unable to hear too many talking at the same time).

The Board was waiting for Mr. Mayer and Ms. Budakowski to return to the meeting.

Mr. Mayer stated thank you again for allowing me time to review the resolution. I have read the resolution, I have discussed it with my clients and we are agreeable that if the Board makes a motion we understand our rights and our clients have been advised of the risk that we take in going forward and we agree to do so.

Rich Williams stated it is tough being in the hot seat.

Board Member Rogan stated it is warm in here isn't it. It is easier dealing with land than people. That is the reality of it.

Rich Williams stated it is. That is why my job is so easy sometimes.

Board Member Rogan stated it is a wonderful feeling to help people and give them something they want. It is a damn thing to not do it.

Board Member Pierro stated what I think what we are doing here is we maybe just extending the inevitable because if it is that difficult to get DEP, DEC approval.

Board Member DiSalvo stated who said it is difficult.

Rich Williams stated to Board Member DiSalvo you got DEC but you did not get DEP.

Board Member Pierro made a motion in the matter of the Budakowski Subdivision that the Planning Board grants conditional final subdivision approval on with the eleven general conditions and three special conditions outlined in the resolution dated September 29, 2005. Board Member DiSalvo seconded the motion.

Upon roll call:

Board Member Montesano	-	no
Board Member DiSalvo	-	yes

Board Member Pierro	-	yes
Board Member Rogan	-	no
Chairman Schech	-	no

Motion denied by a vote of 3 to 2, thereby denying the Budakowski Subdivision approval.

Board Member Pierro stated so be it.

Mr. Mayer thanked the Board.

Board Member Rogan stated Brendan you are a gentleman.

Mr. Mayer stated it was a pleasure meeting you.

The Board replied it has been.

Ms. Budakowski stated thanks for all the attention you gave it.

15) FRANTELL SITE PLAN

Rich Williams stated Frantell, the Town Engineer has basically signed off on it. I have not had a chance to look at it but I will tell you this the Engineer signed off on it at the last meeting I took one look at it and said this couldn't be possibly be right, I called the Engineer up and he agreed the plans were not right so I don't know. I have not signed off on it. Apparently, Gene has taught me well because I am much more careful. I have to take a look at that.

Board Member Rogan asked we need an extension on Frantell.

Rich Williams stated I will get a waiver.

16) FOREST VIEW APARTMENTS SITE PLAN

Rich Williams stated Forest View, I do not believe Gene has done a memo on it. I have not had a chance to take a look at it. I can tell you I am a little disappointed that Harry responds back to my comments which basically said that we are evaluating it.

Rich Williams asked where is Ted.

The Secretary stated he just stepped out.

Rich Williams stated I don't know that we have actually ever had Ted verify the wetland boundary. I brought it to his attention a couple times so I don't know where that stands.

Rich Williams asked Ted, Forest View the wetland boundary.

Ted Kozlowski replied I have spoken to you, I have spoken to various other people they are telling me it is flagged, all the flagging is in place. I have not verified it but somebody went out there looking at landscape plans and viewed some wetland flags. I will go out there over the weekend and I will report back to you next Thursday.

Rich Williams stated I have talked to one of the Applicants on Forest View on the issue that I raised with the railroad crossing who has confided to me that there is no pipe under that which I kind of suspected. They are still trying to work something out with the railroad. I threw it out to him all I am really looking for is the engineer to certify that based on the material that there is sufficient ability for the water to infiltrate under the tracks and it is not going to affect the tracks. Like I said I just want his neck in the noose. I don't want the railroad coming back to the Town and saying you allowed them to do this.

Chairman Schech stated so they will have to get the railroad to say it is okay to do it.

Board Member Rogan stated no we have to get Harry to engineer it and certify it and Harry is the engineer saying I have certified the water coming off this property will not have a negative impact on the structure of the railroad. I would not want to stick my neck out. If a train wrecks out there Harry is you know.

The Secretary asked does the train run there.

Rich Williams stated just once a week.

Ted Kozlowski asked that is all it is.

Rich Williams stated that is a freight line.

Ted Kozlowski stated I was going to say I hardly ever here a train go through there.

Board Member Pierro stated you never know if diesel fuel ever gets to \$5.00 a gallon they may start hauling freight on there again.

17) CHESTNUT RIDGE SUBDIVISION

Rich Williams stated Chestnut, same question to Ted.

Ted Kozlowski stated the wetlands have been flagged, I initially had some problems, Beth Evans went back out there and adjusted the flagging.

Rich Williams stated okay good, having said that if you look at the plans there is all sorts of issues. I have done a memo on it. Basically everything is in the wetland buffer, everything just completely no respect. I actually ran some of the numbers for the drainage. He is running pipes through the wetland buffer that he could just as easily run along the driveway and keep it out of the wetland buffer but what the hell the buffer is there.

Board Member Pierro asked who is this engineer.

The Secretary replied Harry.

Rich Williams stated I don't know that we are going to be able to get all the stormwater improvements out of the wetland buffer.

Ted Kozlowski asked Rich, can I ask you something. Now, this is a subdivision that has not had any previous Health Department approvals.

Rich Williams stated right.

Board Member Rogan stated a raw piece of land.

Ted Kozlowski stated when we go into this one let's remember Deerwood now called Wyndham Homes and let's remember Doug Wallace. I think everything should be out of the buffer, out of the wetlands period and if it doesn't work it doesn't get approved because it is just going to be a mess like Deerwood. Let's remember the same engineer for this one is the engineer that did Deerwood and now we are paying the price in Deerwood. I really don't want to do it again.

Rich Williams stated just so you know one of the issues they are going to raise is the fact that our cluster provision within our Code lays out a maximum lot count and they expect to get that lot count.

Board Member Rogan stated tough. That would be perfect land so. That would be wonderful. We would love it if they would get that lot and if they can put it off the wetland buffer.

Ted Kozlowski stated I think just state from the get go when they are in front of you keep it out of the buffer period, wetlands none.

Board Member Rogan stated right you will get your approvals done in no time if they do that. I agree.

Ted Kozlowski stated so there is no misconceptions, there is no misunderstandings everybody is on the same page.

Chairman Schech stated it sounds fair to me.

Board Member Rogan stated it sure does.

18) DUNNING SUBDIVISION

Rich Williams stated I have a picture of Dunning. They are back in and you know I am very disappointed because this was a very easy, very straight forward subdivision.

Ted Kozlowski stated and no wetlands.

Board Member Rogan stated is the one on the corner of,

Board Member Pierro stated 292.

Rich Williams stated every time they come back in they make changes on it. One of the Board's concerns were keeping that vegetated buffer along 292 which this is 292 and this is Harmony Road, the house is substantially in the same location as it has been right along and I have been certifying to the Board that they are basically out of that buffer. The septic system on the current plans has been enlarged somewhat before it came back to here so they still had this row of trees pretty much in tact. They had a pretty good I though stormwater plan running these really, uniquely designed swales down the driveway. They still have that but now in addition they are proposing a whole line of infiltrators right down here on the corner so basically now this buffer that the Board was very interested in maintaining is gone.

Board Member DiSalvo stated I know those neighbors are very concerned about that.

Rich Williams stated I have not had a chance to get into the drainage report to see exactly why they feel they need these infiltrators or if we can move it around someplace else.

Chairman Schech asked is that a good idea to put these things this close to a road.

Board Member Rogan asked the infiltrators.

Rich Williams replied it depends on the underlying hydrology. I mean if you are going to have a first water table then certainly that water is going to flow right under the road and that is an issue.

Chairman Schech stated like Fair Street it bubbles right up in the road since they put those retention ponds in.

Rich Williams stated the one that I am most familiar with is Country Hill Estates where there is all sorts of problems with the road. If it is going to perc down into the ground,

Chairman Schech stated that is what it is supposed to do.

Rich Williams stated if it is going to do that then it is going to be fine. Anyway, that is the latest proposal and I kind of laid it out on the GIS to show you what the impact of the vegetative buffer figuring you are not going to like that.

(Too many talking at the same time).

Rich Williams stated I don't think and they have reconfigured the driveway so it kind of curves around. I don't think Dan Dunning is going to be crazy about this. I am going to do a memo of course and say hey, listen this isn't going to work. It is crazy because this is a very simple, straight forward subdivision that should have been approved months ago.

19) EUROSTYLE MARBLE & TILE SITE PLAN

Chairman Schech asked what are they doing back on here I thought we were finished with them.

Rich Williams stated Gene has got a memo, there are some minor issues with it.

The Secretary stated they didn't show up last month.

Rich Williams stated right at the last meeting we had the reso. I called them up and frankly they didn't know why they weren't here.

Board Member Rogan stated we have a resolution on them from last meeting.

20) D'OTTAVIO SUBDIVISION

Rich Williams stated now this is not the site plan. This is a piece of property off of Haviland Hollow. This is well worth looking at.

Ted Kozlowski stated we are going to need a gondola to get up here.

Rich Williams stated it is a fourteen acre parcel.

Board Member Rogan stated Steve is not using Harry.

Rich Williams stated no he is not.

Rich Williams stated this is Lois Sweet's property. It is down by Goldsmith.

Rich Williams stated I took a look at it and based on my calculations actually under the cluster provision which says where you have got environmentally constrained piece of property, you subtract out all the environmentally constrained areas, (unable to hear others talking at same time). This is a fourteen acre site and they don't qualify for a subdivision period.

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

Board Member DiSalvo asked is anybody living in the house now.

Board Member Montesano stated no there is not a house there is nothing there.

Board Member DiSalvo stated there is a house on the property now right.

Board Member Montesano stated there shouldn't be.

Board Member Montesano asked Richie there is no house on the property.

Board Member Pierro stated it is a potential house isn't it.

Rich Williams replied no there is a small house, there is about I am guessing an eight hundred and fifty square foot house and it is one of the issues that I raised in the memo is the fact that they are proposing a property line which actually on a straight conventional subdivision the house does not meet the setback requirements. It is only eight hundred and fifty square feet, on one side there is a non-conforming side property line, on the other side is the septic. You know where are you going to put an addition. You have

steep slopes on either side, you have got wetlands and you know that nobody is going to keep an eight hundred fifty square foot house.

21) OTHER BUSINESS

a. T & T Associates – Request for an extension

Rich Williams stated I have got the plat in which I shouldn't have at all and a letter saying we have now got the bond and inspection fees which we don't have. We are still trying to work it out. The Board at the last meeting granted an extension until the next meeting.

b. Thomas Subdivision

Rich Williams stated the new owners do not like the proposed road name. They are suggesting Old Oakes Court. I checked with OEM, interesting situation going on there is nothing within the immediate area, within the 12563, 10509 zip code but they would not like us to use the road name because there is a road name, a similar road name using Oakes over in Phillipstown.

Board Member Rogan stated we can still allow it.

Rich Williams stated we set the road names and they cannot stop us from setting the road names.

Board Member Rogan asked how many Main Streets are there.

Rich Williams stated there is a concrete effort between the fire department and OEM to have no similar road names anywhere in the County.

Chairman Schech asked you want to change it then.

Rich Williams replied the new property owner has requested a change not me.

Chairman Schech asked all right so can we use this.

Rich Williams stated there is nothing that would prohibit us.

Chairman Schech stated it looks good to me.

Board Member Rogan stated so you are saying we can't allow a second Nosh Kola.

c. Fox Run Phase II

Chairman Schech stated Fox Run we are going to get an opinion from the Attorney.

Rich Williams stated you have got the opinion from the Attorney, you got it a couple of months ago. We actually need to act on it and release it. You guys need to review it and say okay we are releasing it then we can give it to the Applicant because they do have a pending application.

Board Member DiSalvo asked did they actually submit an application.

Rich Williams replied yes we have the fees.

d. Donald King Wetlands Watercourse Permit

Board Member Rogan stated that was just from the site walk.

Rich Williams stated yes that was the site walk.

Board Member Pierro asked are we going to make grade that is my concern. Are we going to make grade on that driveway if we do a common.

Rich Williams stated as I told Dave, they are going to have to resubmit plans at least under the Erosion Control Permit.

Chairman Schech stated I can't see how they are going to make grade.

Rich Williams stated if they go to a common drive like that then it is probably going to fall outside of the wetlands watercourse permit so they won't need that but I still have to review it under an Erosion Control Permit so they are going to have submit revised plans and we are going to make sure it meets grade.

Ted Kozlowski asked do you notice a trend here with these applications. It is just getting,

Board Member Rogan stated there is nothing left.

Ted Kozlowski stated it is getting very challenging.

e. Site Walk Discussion

Board Member Pierro stated we received information that we are back to limiting what we are going to get paid for.

Chairman Schech stated we are not back we are,

Board Member Rogan stated no we never have just really resolved anything. The issue came up awhile, how long has it been a year now, awhile ago because we were doing a lot of site walks. A lot of these sites we go on where we are walking around the site it just seems to me like if we are going out on a Saturday and we are doing four site walks and we are

getting paid for one of them I mean obviously because Marianne is on Zoning every site they go on to they get it seems like anyway they get put in for and unless I am hearing from like Mike or somebody saying hey, you guys are blowing our budget it seems like we are running all over out there.

Rich Williams stated hey, you guys you are blowing your budget.

Board Member Rogan asked we are, no we are not.

Rich Williams stated well this year, (too many talking at the same time unable to transcribe).

Board Member Pierro stated it sounds like they are not budgeting enough money.

The Secretary stated yes because we did not budget for wetland, fill site walks.

Rich Williams stated because always in the past basically you guys were not going out on wetland applications, you were not going out on fill permits, you were not doing two and three site walks so based on what had happened the past year I would set what I anticipated a reasonable number of site walks for you guys to do. This year you started doing all sorts of things and expecting to get paid for it. Now, I don't decide what you should get paid for and what you don't but clearly this year you are over what we budgeted for because you are doing a whole bunch of additional site walks.

Board Member Rogan asked what is the budget for.

Board Member DiSalvo stated you budgeted more last year than this year.

Rich Williams stated I budgeted more last year than I did the year before and I budgeted more this year than,

Board Member DiSalvo stated you have to do ten percent like you do a budget.

Rich Williams stated well I did a hell of a lot more than ten percent this year but I also did go with talking with Mike over the budget, I did strongly suggest that Mike sit with the Planning Board and come up with a policy about what you guys are going to walk, you are not going to walk, what you are going to get paid for, what you are not going, we did this once before years ago and years ago it was decided that the Planning Board would get paid when they went out for a maximum of three site walks if they did five, if they did ten, if they did whatever the max that they would ever get paid for on any single day was three site walks.

Ted Kozlowski asked could I say something in their defense.

Rich Williams replied yes.

Ted Kozlowski stated as we just said tonight more and more almost every application they are much, more challenging. It is not a Dan Dunning Subdivision. It is wetlands, it is steep

slopes it is issues that on paper are quite different than reality and why can't and Rich I am just asking the question but why can't the Applicant pay for the site walk.

The Secretary it is it is in the application fee.

Rich Williams stated no it is not always in the application fee.

Ted Kozlowski stated because that should be a standard thing anything approvable by the Planning Board,

Rich Williams stated understand this I don't care how many site walks they do, I don't care how many site walks they get paid for I just need to know. When we are doing a site plan or a subdivision the application fee assumes they are going to do one site walk and that is where we come up in part with these application fees. This is not true with fill permits where we are getting \$25.00, \$50.00 or the wetland.

Ted Kozlowski stated the wetlands they should be going because they are approving the application.

Chairman Schech stated you are usually dealing with a homeowner and you are tacking on another four or five hundred dollars for a permit.

Board Member DiSalvo stated and that is not right.

Ted Kozlowski stated not for wetlands.

Board Member Rogan stated in that case it becomes a situation of the Town absorbing it.

Chairman Schech stated yes if we are all going out on it.

Ted Kozlowski stated but you are not usually dealing with a homeowner with a wetlands permit. You are dealing with developers.

Board Member Pierro stated but on the other side a guy like, Wyndham Homes we have been back there four times in the last year. They have only paid one fee.

Rich Williams stated no they have paid.

Ted Kozlowski asked but do you folks think you are wasting the Town's time by going out.

Board Member Rogan stated that was what I was saying,

Board Member Pierro stated absolutely not.

Board Member Rogan stated I don't think we are.

Ted Kozlowski stated this is the only way to understand the project.

Chairman Schech stated we started going out because we starting get screwed. That is why we started going out.

Board Member Rogan stated you can still sit back and say the Planning Board for all intent purposes is a volunteer Board but when you are going out on these site walks and these Saturdays and stuff.

Board Member Pierro stated I am getting to a point where you know what I can't afford not to pay attention to my business on Saturday mornings. It is the biggest day of the week.

(TAPE ENDED)

Board Member Rogan made a motion to adjourn the meeting. Board Member Pierro seconded the motion. All in favor and meeting adjourned at 9:30 p.m.