

**TOWN OF PATTERSON**  
**PLANNING BOARD MEETING**  
**October 4, 2007**



**AGENDA & MINUTES**

	<b>Page #</b>	
1) <b>Charalambous Wetland Permit Application – Public Hearing</b>	1, 5 -10	Public Hearing postponed for new mailing.
2) <b>Frantell Site Plan – Request for Extension</b>	1	Request granted at 9/27/07 Work Session.
3) <b>CWCWC – Presentation</b>	2 – 5	Discussion of CWCWC Goals.
4) <b>Wireless Edge Telecommunications Tower – Continued Review</b>	10 – 14	Recommendation made to Zoning.
5) <b>Papitto Site Plan – Continued Review</b>	14 - 18	Public Hearing scheduled for November Meeting.
6) <b>Patterson Machinery, Inc. – Fill Permit/Wetland/Watercourse Permit</b>	18 – 25	Discussion with Applicant of options for existing site.
7) <b>Other Business</b>		
a. <b>Dunning Subdivision – Request for Extension</b>	25	Request granted at 9/27/07 Work Session.
b. <b>Keasbey Subdivision – Request for Extension</b>	25	Request granted at 9/27/07 Work Session.
c. <b>Barjac Site Plan – SEQR Determination</b>	25 – 27	SEQRA Determination granted.
8) <b>Minutes</b>	27	August 30 <sup>th</sup> & September 6 <sup>th</sup> Approved.
<b>Cornwall Hill Estates Sight Easement Discussion</b>	27 – 35	Discussion of Stern Property & Other Easements throughout the subdivision.

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**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF APPEALS**

Howard Buzzutto, Chairman  
Mary Bodor, Vice Chairwoman  
Marianne Burdick  
Lars Olenius  
Martin Posner

**PLANNING BOARD**

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

**Planning Board  
October 4, 2007 Meeting Minutes**

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

**APPROVED**

Present were: Chairman Rogan, Board Member Pierro, Board Member Montesano, Board Member DiSalvo, Board Member Cook, Rich Williams, Town Planner, Gene Richards with the Town Engineer's office, Stantec Consulting Services Inc, Anthony Molé, from the Town Attorneys Office, Curtiss, Leibell and Shilling P.C., Ted Kozlowski, Town of Patterson Environmental Conservation Inspector, David Raines, Town of Patterson Building Inspector, and Mrs. Ginny Nacerino, Town of Patterson Councilwoman.

The meeting was called to order at 7:30 p.m.

Michelle Russo was the secretary and transcribed the following minutes.

There were approximately 10 audience members.

Chairman Rogan led the Salute to the Flag.

**1) CHARALAMBOUS WETLAND PERMIT APPLICATION – Public Hearing**

Chairman Rogan stated thank you please be seated. Do we have anyone here for Charalambous Wetlands permit. No, I mean from, the Applicant. The gentleman said he was going to come.

Rich Williams stated he did say he was coming.

Board Member Pierro stated okay.

Chairman Rogan stated do you want to hold off on the public [hearing] then until.

**2) FRANTELL SITE PLAN – Request for Extension**

Chairman Rogan stated Frantell Site Plan, which is number two, there was a request for an extension for the audiences edification, two 90 day extensions were granted on that at the work session.

**3) CWCWC – Presentation**

Ms. Susanna Gliden from the CWCWC was present.

Chairman Rogan stated we have representative here this evening from the Croton Watershed Clean Water Coalition who is going to do a brief presentation tonight, if you would like to please, come up and please state your name for the record and you can take the microphone out if you'd like.

Ms. Gliden stated thank you, Susanna Gliden from Croton Watershed Clean Water Coalition, thank you for having us. I am going to pass these out.

Chairman Rogan stated thank you very much.

Ms. Gliden stated thank you again for having us, we really appreciate it because in our work that we try to do what is really important is working with one another. It looks like it is up to us to do the protection work because our regulated agencies aren't on the scene very much. So you will see in our plan, our mission statement, that you have it open to, we are a coalition of 54 members groups in Putnam, through Westchester and into New York City and our mission is to keep the Croton Watersheds water as great as we can for not only New York City residents who get it from the reservoirs but our well own well water, safe and sufficient. So between pages five and six we have what we call the measles map, showing a partial accounting of all the on going and proposed developments, yes into the, beyond the introduction in the center of the main part of the plan. Of course there are new developments coming on board this map everyday and as I said, the regulating agencies are really doing very little to help us stop the assault of over development in the watershed so it is up to us, the environmentalist, hand in hand with lead agencies in our Croton towns to do the protection work for our water. The regulators may feel that the massive chemical treatment filtration plant down in Van Cortland park underway, is going to take care of this toxic mess that we are creating but they can add extra tons of chemicals, they can throw extra cash at it, it is not going to help the taste of the water but that is all of course for the water south of plant, not for us north of the plant, so what do we do to keep our well water sufficient and pure. Katonah filled in, you may know, filled in its wetlands, over developed it business section and recently had to shut down one of its four main water supply wells, contamination by nitrates from over development and lack of septic capacity. Carmel has reached a very critical sufficiency point with further develop, in North Salem we are facing a water sufficiency situation that I will refer to later. So we all know most land that is suitable and easy for development is built out in the watershed and the usual new proposals now, all impact wetlands forest, their buffers, steep slopes and more and more development, causing more and more impervious surface of roads and roofs, the roads with their polluting vehicular run off, including very carcinogenic PAH's, polycyclic aromatic hydrocarbons, and even the bad habit of too many acres of lawn that take on the characteristics of impervious surface. Instead of a beautiful wildflower meadow, is now dramatically decreasing the waters infiltration and purification into our ground water and probably if we evaluated and we understood measures needed to protect our water we would all call for a building moratorium in the watershed but failing that and being realistic, here are the basic things, well you know that we can do, that we want to underscore tonight. Pages five and six, we would love it if you would joins us wherever you can in persuading New York City to set aside enough funds for more land acquisition in the Croton, that is the best method of water protection. Twenty-five percent of the watersheds land should be permanently protected with either outright purchase or conservation easement according to EPA guidelines for multi barrier protection both filtration and protection. Westchester has done pretty well, we are almost at twenty-five percent, but Putnam needs land acquisition badly, seventeen thousand acres are outstanding to

purchase or conserve that would bring that up to twenty-five percent. Page seven depicts the problems created from not controlling storm water run off and you will note at the bottom of the page, John Keane did a wonderful study on all of the most egregious storm water sites in the shed. DOT has fortunately taken care their share of them and hopefully next years 2008 storm water regulations will take care of the rest of them and prevent new bad sites from developing. Now we suggest on page eight that phosphorous allowances in the reservoirs be lowered because the pollution from phosphorous in the last ten years, has increased in the Croton reservoirs rather than decreased to the target levels as mandated. More phosphorous of course means more chlorine to combat it, with the resultant very nasty disinfection by products, one pound of phosphorous creates 115 pounds of algae, that is why you see so many green covered ponds, probably from the phosphorous in the lawn fertilizers that run off into the ponds. We really ought to think about in the watershed banning fertilizers, or at least banning fertilizers with phosphorous, there are things called lake friendly and Lake Capatcon has done a wonderful job of cleaning up their lake by having their local Home Depot supply lake friendly fertilizers. We are also advocating on page eight for DEP and DEC to lend their expertise to help us towns to comply with our phase two programs. Page nine refers to keeping imperviousness to ten percent or below in sub drainage basins, unless a developer can prove based on site specific data that proper mitigation methods can maintain the phosphorous run off at its predevelopment levels. Page ten, I am going through this quickly, forgive me, if you want to stop me anywhere do, if I can later answer anything, please be, our number is on the front of the plan, anything we can answer I would be happy to. Page ten encourages the use of pervious driveways and parking lots, among homeowners and businesses, we have to all work together to find ways to snow plow on pervious surfaces, that seems to be the big challenge. Pages eleven to thirteen deal with a vitally important issue, the use of the correct phosphorous export coefficient for forested lands in the Croton, which should be .0466 pounds per acre per year, rather than double the amount that is being allowed innocently by lead agencies of .1 pounds per acre per year, it is a section of three pages, two and one half, to please read through carefully to understand it as clearly as you can because if you get your mind around this and realize what is happening here, that we haven't updated our phosphorous export coefficient it can help have a big impact on not contributing to such over development in the shed. Page thirteen deals briefly with reducing impacts to Bog Brook and East Branch reservoirs as well as to our sacrosanct Great Swamp in the proposed widening of Route 22, we are all in discussions for less damaging alternatives to the widening have to be found. A regional solution should include Connecticut and Dutchess County, thoughts are coming in from Congressman Hall, overhead ramps, John Dunford I know if proposing this too, instead of traffic lights, longer turning lanes, park and ride areas, other creative ideas, it is a big, big issue. Wetlands now, their buffer zones and forests, these are the greatest cleansers of pollution our ground water can receive, pages fourteen through twenty present the wetlands case well, you will also see a color photo of the Great Swamp, wetlands prevent flooding, their plants absorb pollutants, such as pesticides, heavy metals, sediments and chemicals. Wetlands degrade bacteria and recharge ground water aquifers, before they were slaughtered in the 1700 and 1800's for the hat and coat markets of Europe, a vast beaver population across the country built dams that created huge wetlands rich with biodiversity which also augmented the cleansing process, so now we are at the point of being faced with near extinction of beavers and wetlands and we must please protect what is left of our wetlands.

Chairman Rogan stated did you say near extinction of beavers.

Board Member Pierro stated not up here ma'am.

Ms. Glidden stated not up here, maybe but they are gone in the west.

Chairman Rogan stated we have a great population of beavers in Patterson.

Board Member Pierro stated I was in the swamp last week and I canoed three miles and had to climb over five dens.

Ms. Glidden stated no kidding.

Board Member Pierro stated they are all over the place.

**Edie Keasbey** stated they are reaching the point of they are a nuisance.

Ms. Glidden stated that is very interesting.

Chairman Rogan stated Edie Keasbey said beavers are a nuisance.

Ms. Glidden stated thank you for telling me, because we in North Salem, we are down to about two that we know of and DEC doesn't allow us to relocate them, they have to be killed.

Chairman Rogan stated we are creating wetlands everyday in Patterson to help with water quality, the beavers (inaudible – too many speaking).

Ms. Glidden stated I am happy to hear it.

Chairman Rogan stated come by during the day and see the new lake that we have on the corner of [Route] 22 and [Route] 311, within the last three or four years.

Edie Keasbey stated yes.

Ms. Glidden stated from the beaver dams.

Chairman Rogan stated yeah, its probably seven or eight acres maybe even more of impounded water.

Ms. Glidden stated oh my gosh, that is wonderful to hear. Well thank you for telling me, I will look.

Chairman Rogan stated we have a good, Patterson is beaver friendly right now.

Ms. Glidden stated apparently they have migrated right to you.

Chairman Rogan stated I guess so.

Ms. Glidden stated thanks for telling me, I will pass it on too, we would like to see that big one.

Chairman Rogan stated sorry to get you off your track.

Ms. Glidden stated well please, if a developments access road is proposed to go through a wetland, have them build a bridge over it, rather than compromising the integrity of the wetland, its flow, even compromising it is a problem because it changes the whole course and page seventeen forward addresses preserving the effect of buffer zones. No storm water management devices should be allowed within the buffers, now in Westchester an all too common practice, buffers should remain thickly vegetated to slow the run off and all the infiltration into ground water to help replenish wetland recharge area and well water supply, rather than transformed into lawns. Increasing the width of a wetland buffer zone in the watershed

to 150 feet, is an option that can be considered, we have noted that the issue of it constituting a takings is defended by case law on page nineteen, that ruled it an invalid argument because the owner is not being deprived of all use. Page twenty, the science of wetlands mitigation progresses, until it does progress well beyond the current hit or miss stage; we are saying that no mitigation really should be acceptable as a substituted for wetland destruction. At the least, its monitoring should be extended from five years to the entire lifetime of the mitigated wetland. Forest protections, twenty-one through twenty-three, trees their natural terrain, slow the storm water run off, allowing infiltration and again like wetland plants, the tree roots absorb pollutants, keep our water clean, the leaves when unfurled, disperse the rainfall rather than wash out, trees absorb air pollution, give us back oxygen, keep our temperatures lower, which is an increasingly important point with air pollution increase, global warming increase, trees around the world are being decimated. Fishing hiking, camping, hunting, cross country skiing, are recreationally important they need healthy forests to sustain them as well as to protect the water. Strong tree protection laws in town codes are required and keeping them carefully enforced is a very difficult challenge we know but we have to all find ways to do it. Macro invertebrate of streams especially, are very impacted by road sand run off, erosion run off from forest removal and steep slopes, which smother the benthic, the bottom dwelling layer of these critters and it reduces the pollution cleansing which then degrades our water quality and the recreational value of our streams and lakes. Now there are other issues in the plan I haven't covered but these that I have are the ones that apply locally, we have also learned since publishing this and it is an organic document, so we update it every year so next years version will have the issue that no big use draw down is mandated by the state regulators to be reported, so we at this point, we have no idea how much our aquifers are being depleted in certain areas of our county and we have, as I mentioned before in North Salem, we have a very concerning issue right now, we have a proposal of 85 condominium units, coming into a development, right near that is the Durkin, former oil, now water company, they got approval from Southeast last year to increase their holding tank from 36,000 gallons, to 486,000 gallons, saying that they weren't increasing their use but at the same time they bought a new fleet of 6,000 gallon tankers, they have just bought multi new tracks of land across the street, they are opening more wells, they have pumps under pressure that can fill tankers four at a time in about twenty minutes. You know, if this isn't reported, we just don't know where we stand, so it would be wonderful if you would help us where you can, to advocate for this and if you know of any water privatizations going on, please give me a call, the front of the plan, we would appreciate knowing because this is more and more a global problem, the privatization of our water and really more than oil, water is our basic survival resource and it is going to come down to graduating from oil wars to water wars in our own country very soon. I am not going to take more time, thank you very, one other thing, we have new newsletter, not even in the mail yet, I brought copies up because it is on the issue of impact fees, the suggestion of having the developer pay for the maintenance of the infrastructure instead of sticking the taxpayer with it, just the opening of the conversation.

Board Member DiSalvo stated those 85 houses, is that the affordable housing going in, in North Salem.

Ms. Glidden stated ten percent of it. Thank you so much, appreciate it.

Chairman Rogan stated thank you very much.

Board Member Pierro stated thank you Ms. Glidden.

Board Member Cook stated thank you for coming.

**1) CHARLAMBOUS WETLAND PERMIT APPLICATION – Public Hearing**

Mr. Charalambous, the application was present.

Chairman Rogan stated Michelle, is anyone here for Charalambous, can you please, do you need something.

The Secretary stated yes.

Anthony Molé stated apparently there is an issue with the public hearing, the notice requirement of the public here was not followed as required is certified mailing with return receipt, and I am told that it was just a certified mailing. So technically that is a material defect in the notice and you will have to reschedule the public hearing.

Chairman Rogan stated it sounds like, so in other words it wasn't sent with the return receipt so that we would have confirmation that the neighbors within five hundred feet were notified in order to be here. So, I think sir what you are going to need to do is re-notify the neighbors in the proper format, so that the Planning Board can be assured that anyone within five hundred has been given notification of this public hearing.

Mr. Charalambous stated I already did.

Chairman Rogan stated it sounds like it was done.

Anthony Molé stated half of it, not the entire thing, it was sent certified but not return receipt requested.

Board Member DiSalvo stated it only went certified not with return receipt.

Chairman Rogan stated okay, so sent certified we have no way of knowing that they were actually received because there not something received, how does that work if someone mails something certified.

Anthony Molé stated the Code requirement is that it is sent return receipt, so if it not sent return receipt, then he hasn't complied the Code requirement for notice (inaudible – not using microphone).

Chairman Rogan stated okay.

Board Member Pierro stated do you know what portion was sent return receipt.

Chairman Rogan stated sounds like none of them.

Anthony Molé stated ah.

The Secretary stated none of them were sent return receipt, they were only sent certified mail.

Board Member DiSalvo stated how many residents are we talking about.

The Secretary stated I don't know.

Mr. Charalambous stated there were 38 of them but five of them had three or four houses, so it was about 35 that.

Board Member DiSalvo stated that you mailed out.

Mr. Charalambous stated yes.

Chairman Rogan stated I think the reality of it is, and correct me if I'm wrong Anthony, even if it was only one neighbor within five hundred feet we would be remiss in holding a public hearing not knowing that that person hadn't been properly notified. We don't have the opportunity to.

Anthony Molé stated correct, the Board doesn't have the (inaudible) to waive that.

Chairman Rogan stated correct. Because of the mistake that you apparently made mailing those notices out, we are powerless to even hold the public hearing that was scheduled for tonight because by law, we can not be assured that your neighbors were properly notified about this and that is something that we don't have the ability to waive, so there for we can not proceed with holding your public hearing.

**Audience Member 1** stated what location is this for.

Chairman Rogan stated this is right here on Route 312.

**Audience Member 1** stated 1098 on 311 [Route].

Mr. Charalambous stated 1098.

Chairman Rogan stated 311 [Route], yes I am sorry.

**Audience Member 1** stated 1098.

Mr. Charalambous stated yes.

**Audience Member 1** stated I was one of the people that received notice and I signed for it.

Chairman Rogan stated you signed for it.

**Audience Member 1** stated I am here only because of that because I am curious to know what is going on.

**Audience Member 2** stated I signed for it too.

Chairman Rogan stated we have two people.

Anthony Molé stated I am wondering, is it possible they were sent out return receipt and return cards were not received.

The Secretary stated on the certified mail, it breaks down the fee and there is no return receipt fee charged.

Anthony Molé stated okay.

Board Member Pierro stated that doesn't mean that no return receipt was mailed out.

The Secretary stated he would have received all the green cards back, they would have had his return address on them.

Board Member DiSalvo stated what did you sign when you received the letter, did you sign a green card from the postman or did you have to go to the post office.

**Audience Member 1** stated I went to the post office and I signed, I think it was a tan card, I signed my name.

Anthony Molé stated that is because it was certified, it wasn't the actual return receipt.

Chairman Rogan stated certified.

Board Member Pierro stated right, I still don't.

Anthony Molé stated she signed for the mail, she didn't sign for the return receipt.

Board Member Pierro stated I understand that it is inconvenience sir.

Chairman Rogan stated but why don't we do this though, even though we don't have to hold the public hearing, we can certainly for the people who did show up tonight, we can at least review the project and this way at least their questions may be answered by just an overview of the project, it is not a formal public hearing but it certainly gives them the information, it is continued review. We also can find out from you sir how you made out on the fence issue.

Mr. Charalambous stated I moved the fence.

Chairman Rogan stated can you come on up for a second please.

Mr. Charalambous stated yes.

Chairman Rogan stated so, just give me one second please. For the audience and the people that did show up, this application is for a wetlands permit, this gentleman, I believe that you know the location, it is out here on Route 311, what is the actual address, 1098, was proposing to modify the back of his house and add a deck on the rear of the residence, it is within 100 feet of the wetland and so the Board did a site walk approximately six weeks ago and the Board was concerned because the fence that was installed at this gentleman's residence, appeared to be off his property line, so we asked that he confirm the location of that in regards to his survey, the survey that was provided to the Board seemed to indicate that the fence was not on his own property and may actually be constructed in the wetland, so the Board didn't have any major concerns with the addition that he is proposing on his house, the deck or the changes, we didn't believe that that would impact on the wetlands but we were concerned that he resolve the fence issue because we are not going to approve a wetlands permit, we certainly couldn't approve a wetlands permit with an intrusion into the wetland that was off his property. So the fence issue, where are we on that sir.

Mr. Charalambous stated I moved the fence, I realized that it was my mistake when I went over the survey.

Chairman Rogan stated okay.

Mr. Charalambous stated I was supposed to be 120 feet from the sidewalk to the back and I was 134 feet, so I moved fence, so I am on my property right now.

Chairman Rogan stated and the fence is okay to be installed if it is on the property line, okay.

Mr. Charalambous stated did you go up and stop by and.

Rich Williams stated no I didn't.

Chairman Rogan stated so we probably want to make sure that that is actually on his property.

Rich Williams stated that's not an issue.

Mr. Charalambous stated you can stop by any time, you can see where it used to be and where it is right now.

Chairman Rogan stated okay.

Mr. Charalambous stated because as I said, I did not realize it but it was my fault and I have to be 120 feet.

Chairman Rogan stated can you speak for a second about the specifics on what you are planning to do on your house.

Mr. Charalambous stated yes, on the back of the house I have a one story addition, I would like to extend that on the second floor and add a garage underneath and plus put a deck on the back.

Chairman Rogan stated so the actual extension of the house closer to the back yard is just the deck because you are just squaring off the back of the house if I remember correctly, it is like an L alcove.

Board Member Pierro stated it certainly isn't going to further impact the wetlands.

Mr. Charalambous stated no, the only, the wetland is the fence I put in the back, beyond the property line.

Chairman Rogan stated recognizing that this is not a public hearing tonight, if the people from the audience who showed tonight expecting a public hearing, if you have concerns and you can not make the next months meeting when we will have the public hearing, you can certainly send those in writing, you can send them in at anytime and we will make that part of the record and part of the, the information that we look at before rendering a verdict on this or a judgement on this. But unfortunately, because of while you are here, there may be other people who would be concerned who have not been notified, we need to re send those so you will probably be getting a second mailing on this and unfortunately that is not within our power and we can not do anything to help you on that except to make sure that you speak with the Planning office and ensure that what you are mailing out meets the requirements, so unfortunately we will have to set a public hearing for next meeting. Can I have a motion in that regard.

Board Member Pierro stated in the matter of Charalambous, 1098 Route 311 Patterson, I make a motion that we extend the date of the public hearing to the November 1, 2007 meeting.

Board Member DiSalvo seconded the motion.

Chairman Rogan asks for all in favor:

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

Motion carried on a vote of 5 to 0.

Chairman Rogan stated so I think all you need to do at this point sir, is just make sure that you resend those property and unfortunately it is a mistake that I wish would have been avoided, okay.

Mr. Charalambous stated thank you, alright.

Chairman Rogan stated thank you.

**4) WIRELESS EDGE TELECOMMUNICATIONS TOWER – Continued Review**

Mr. Tom McHugh from Wireless Edge, was present.

Chairman Rogan stated okay, Wireless Edge Telecommunications Tower.

Board Member Pierro stated Wireless Edge.

Chairman Rogan stated I know the gentleman is here for that.

Board Member Pierro stated he is shuffling.

Board Member DiSalvo stated its on the bottom.

Board Member Cook stated Dave, did you say something.

Chairman Rogan stated November 1<sup>st</sup>, yes.

Board Member Cook stated okay.

Chairman Rogan stated good evening sir.

Mr. McHugh stated good evening folks, for the record I am Tom McHugh from Wireless Edge, appearing again. I received a letter of a comments this afternoon, so I thought that I would just like to work off of those if.

Chairman Rogan stated great, sure.

Mr. McHugh stated if you don't mind.

Chairman Rogan stated no, that's sounds good.

Board Member Pierro stated excuse me Tom.

Chairman Rogan stated excuse us one second.

Board Member Pierro stated Mr. Charalambous, please.

Mr. Charalambous stated sorry.

Chairman Rogan stated thank you sir.

Board Member Pierro stated thank you, have a good night, alright Tom.

Mr. McHugh stated item one the SEQRA, we since our last appearance here applied to the New York City DEP, regarding the wetlands and we have met with them, we met with them just this past week, regarding the variance process and we are going to pursuing that. One of the things that they said was that they are going to need their SEQR, so I notice here in the text that it says it is a coordinated review but what I would like to ask is that DEP be included in the SEQRA process so that they don't have to do a separate one on their own.

Chairman Rogan stated what does that mean.

Rich Williams stated coordinated review.

Chairman Rogan stated no, I'm saying that, we do coordinated reviews all the time, so we would just proceed with our and we would not be able to do a final decision until we heard back from DEP and the other involved agencies.

Rich Williams stated correct but in this instance because the Zoning Board of Appeals you know has more statutory authority in reviewing the application. It is my recommendation to let the Zoning Board of Appeals do the coordinated review, in which case what we would do is identify all the agencies that might have an approval over this project and send them all notice.

Mr. McHugh stated I think that the coordinated format is the one that they ask for, they just specifically asked if they could be included in the process.

Rich Williams stated always are.

Mr. McHugh stated okay good. Next is the requirement for the survey, I guess overall we have been working off of the 1931 subdivision plat and there are some call outs, some bearing, some distances, but it is not a complete survey, so I understand for instance on the property line between the town parcel and the PLCC parcel, really there is a bearing on the map but it goes from a designated point in the center of the road to the water line, so I think what we could show is a bearing but is it the Board's position that we should show a distance to the water line that is marked also, I just wanted to clarify that.

Chairman Rogan stated unless you want to step in Rich.

Rich Williams stated certainly the bearing needs to be shown, other dimensions needs to be shown where relevant. In this instance it is you know, determining the high water mark is somewhat ambiguous and a surveyor is not going to be able to pin point it down with under a foot accuracy.

Chairman Rogan stated with certainty, right.

Rich Williams stated so I doubt if any surveyor and I can check with Tom, I doubt if any surveyor is going to come up with an exact dimension but what they can do is show plus or minus six or seven feet, I don't know if a surveyor actual can do something like that. We can check with our individual who does this for our Town, Tom McGinn.

Chairman Rogan stated it would seem like they would try to take some kind of bench mark, you know just like they a bench mark elevation, do a bench mark for the water line and work off of that and then anything above or below that is plus or minus, it would seem that at some point somebody should just set that water mark.

Gene Richards stated I guess one thing that they could do.

Chairman Rogan stated thank you.

Gene Richards stated if the high water mark was based on a specific elevation for the water in Putnam Lake, they could certainly, if they found that elevation information they could find out where that lies on the edge of the shore line and that that would be that line, that is probably about the best they could do.

Mr. McHugh stated I guess as a subsequent matter, really the bearing of the line and where it comes off of the road, is the critical substantial piece because that would show the relationship of the plan improvements and the property line, where it actually ends and where the water is, is sort of well beyond what the project that is proposed.

Chairman Rogan stated and I think that Rich's concern is just making sure that we have a survey that has as best we can, metes and bounds description.

Mr. McHugh stated right.

Chairman Rogan stated we are comfortable with the property that you are utilizing.

Mr. McHugh stated okay, I understand that one. I guess in the letter it talks about the equipment structures being principals structures for the site. Obviously there is no wireless ordinance in the Code so there is no specific designation but I guess these, as we have talked about in previous meetings, these installations can take two forms, they can take the form of an outdoor cabinet on a platform or an unmanned structure, we call it a shelter or a shed with the equipment inside. So, I guess the letter states the Planner's opinion and I just want to clarify it was the Board's position on whether they are considered principals structures or accessory structures.

Rich Williams stated if I can interject, it is really not, Anthony jump in if I go astray here, but it is really not the position of the Board to render opinions on Zoning, that would be something that the ZBA would do.

Mr. McHugh stated okay, and we will take a look at it also, in the mean time. and then obviously three will be this complete list or some change in that based on what comes to be with that.

Chairman Rogan stated it sounds like you are taking a small trip over to the Zoning Board of Appeals for a little bit of work and we will probably coordinate with ZBA to do a coordinated site walk, I think that would make sense.

Rich Williams stated that is typically what the Board has done in the past, yes.

Chairman Rogan stated yeah, does the Board have any questions or comments, from this evening.

Board Member DiSalvo stated when you do go to the ZBA, are you going to give any renditions of what those structures will look like to them or.

Mr. McHugh stated you mean like a photo sim or the plans include some details on that but.

Board Member DiSalvo stated a photo sim.

Mr. McHugh stated yeah sure, we do that all the time.

Chairman Rogan stated would you like a set of those sent over to the Planning, if that is possible when you send those, make sure we get a copy of those, that would be great.

Mr. McHugh stated okay.

Board Member Pierro stated as far as a time frame for getting to ZBA, when do they have to be in to get to the next meeting because November is a tough month for both Shawn and I, we are both away a lot during the month and I don't want to schedule a site walk if we don't have to in November when we possibly won't be here.

Chairman Rogan stated we will do our best.

Rich Williams stated it is likely that the ZBA would not schedule a site walk before they go to the November meeting and even more likely it would not occur until at the very earliest, the middle of December.

Board Member Pierro stated okay fine.

Chairman Rogan stated does the Board feel comfortable with making a referral to the Zoning Board of Appeals.

Board Member Pierro stated yes.

Chairman Rogan stated can I get that in a motion please.

Board Member Pierro stated in the matter of Wireless Edge, I make a motion that we refer this application to the Zoning Board of Appeals.

Board Member DiSalvo seconded the motion.

Chairman Rogan asks for all in favor:

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

Motion carried on a vote of 5 to 0.

Chairman Rogan asks for any opposed.

Mr. McHugh stated thank you very much.

Chairman Rogan stated thank you sir, have a nice evening.

Mr. McHugh stated you too.

#### 5) **PAPITTO SITE PLAN – Continued Review**

Mr. Robert Cameron from Putnam Engineering and Mr. Vince Papitto were present.

Chairman Rogan stated Papitto Site Plan, Mr. Cameron.

Mr. Cameron stated good morning, excuse me good evening. Robert Cameron, Putnam Engineering.

Chairman Rogan stated good to see you too.

Mr. Cameron stated I have a bit of a cold, I slept pretty late today. We are here before the Board with revisions to the Papitto Site Plan, this is a commercial building in the IO Zone, on Fair Street, actually it is the old Von Essen house. We are proposing to place a 100' by 60' garage structure towards the rear of the lot. This have been reviewed by the Board before, some of the most recent revision to this plan include the elevations, we also did some minor revisions to the plan with retaining wall, grading, parking location and we have received the comments from both Rich and Gene and we recognize that there are issues that we still have to address, mostly with the storm water and erosion controls, which we recognize and as you have mentioned, we will try to get a meeting together, last month it just wasn't in the cards for us to get together, we just has some conflicts that we couldn't get together but I do recognize that will try to get a meeting together to resolve some of these things, there was also the issue with the construction sequence, we had a discussion with the owner about the construction sequence and we will be looking at that as well, to refine the construction sequence so that things are done in the right order. Rich had made some comments about sediment basins or maybe that was Gene.

Gene Richards stated I think (inaudible).

Mr. Cameron stated we can look at doing something like that yes, maybe if we just scoop it out a little bit deeper because we still need to get in through that area, so we are going to have to figure out some way to get in and out and also create a sediment basin at the same time, we'll look at that and see if there is a

different location that we can put, I mean I might think about moving it up, I don't know yet but we will have to look at and that is something if we get a meeting together I would discuss that and see what alternatives we have because I don't want to disturb too much area down towards the bottom here.

Chairman Rogan stated I believe that we got color samples, we had them for the work sessions.

Board Member DiSalvo stated the tan and the green.

Chairman Rogan stated yeah.

The Secretary stated do you want them.

Chairman Rogan stated no, we looked at them at the work session and they seemed fine.

Mr. Cameron stated what did we have, the tan or something, the grayish tan and the hunter green for the roof.

Board Member Pierro stated tan and hunter green.

Chairman Rogan stated it will blend right in.

Board Member DiSalvo stated and the trim.

Chairman Rogan stated I noticed that Rich caught on discrepancy between the building, the height of the building, the architectural drawings show it as 31 foot to the peak of the roof and the plan shows it as 20 foot in height.

Mr. Cameron stated I will have to take a look at that, I can adjust those sections.

Chairman Rogan stated I am just curious.

Mr. Cameron stated lets' see, here we go, this is what we are talking about on this page here, is that the height of that building, I think that it shown at about 20 some odd feet.

Rich Williams stated yes that is correct but.

Mr. Cameron stated and it would be taller, it would be more like the size of that building over there.

Rich Williams stated correct but I don't recall the Board ever raising the appearance of the building from the road as a real issue.

Chairman Rogan stated I don't think that you are going to see the building quite honestly.

Rich Williams stated so I don't know if we even need to go to this level of effort.

Chairman Rogan stated I was just wondering what our total height was going to be on this building, that's all. It is shown as a discrepancy and I was wondering what the clarification on it would be. We talked about, you had mentioned about meeting with the Town Engineer, are you going to get together on that in the next couple of weeks.

Mr. Cameron stated yes.

Chairman Rogan stated clear up, because.

Mr. Cameron stated that is the majority of the comments that, three or four pages mostly have to do with construction sequence and a lot of the details related to the erosion control and how we are going to sequence this thing and where we are going to put things and how things are going to work.

Chairman Rogan stated we have no done lead agent on this yet and we probably.

Rich Williams stated yes we have.

Chairman Rogan stated we have, did you miss you on your memo.

Board Member Pierro stated we did SEQR.

Rich Williams stated I didn't change the memo over.

Chairman Rogan stated I don't remember doing it to be honest with you.

Rich Williams stated it should be going out tomorrow or the next day or Monday rather.

Chairman Rogan stated okay, so basically we can get some of the technical issues cleaned up, we will probably be in a better position to set a public hearing and I think that the Board, does anyone have anything on this that they are not comfortable with because I think that we have gotten to a point where the Board's concerns have been pretty well established and addressed.

Board Member Pierro stated the only issue that I have is on what we reacted to in a waiver from a few weeks ago on the platform area, the driveway and the steepness of the grade, does the County have to sign off on that, no, fine, then I have no.

Rich Williams stated it is a waiver from our requirements, not the County's.

Board Member Pierro stated right, okay.

Mr. Cameron stated we will conform with the County requirements for the access.

Board Member Pierro stated okay, fine.

Mr. Cameron stated what I would like to ask the Board is at the last meeting our discussion was that if I were to come back with the elevations and the materials for the building, that we would be in a good position to set a public hearing for tonight for next month and I think that a lot of the technical issues with the erosion controls and all like that I don't think that they would impact the public's concern on this matter and I think where the silt fences were, we have the erosion control pond and thing of that nature, I don't think are that significant and I was hoping that tonight we would be able to set that meeting and at least get that public hearing open and if you so decide that you might not want to close the public hearing on that but I would like to at least get to that point.

Chairman Rogan stated and I would never blame you for asking and I will of course defer to our capable professionals here to see if they are comfortable with setting a public hearing because this Board is certainly comfortable.

Gene Richards stated I would agree with Rob that any of comments that we have we can certainly address and I don't see that as being an impediment to holding your public hearing and we can address those comments as part of that process or after it is closed, it doesn't matter.

Board Member Pierro stated Rich.

Rich Williams stated by next meeting we should have lead agency out, we should have received back comments from other agencies knowing where they are going to stand, we should be in good shape for everything.

Board Member Pierro stated on a motion.

Chairman Rogan states sure.

Board Member Cook stated on the matter.

Board Member Pierro stated on the matter, go ahead sir. Age before beauty.

Board Member Cook stated on the application of the Papitto Site Plan application I make a motion that the Planning Board hold a public hearing on November 1, 2007.

Chairman Rogan stated November you are right, I'm sorry, my months are off.

Board Member Cook stated November 1<sup>st</sup>.

Board Member DiSalvo seconded the motion.

Chairman Rogan asks for all in favor:

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

Motion carried on a vote of 5 to 0.

Chairman Rogan stated make sure that green cards get signed off and returned.

Mr. Cameron stated we have been doing this long enough that we are pretty good at that.

Chairman Rogan stated that is enough right there.

Rich Williams stated (inaudible).

Board Member Pierro stated okay Rob, thank you.

Chairman Rogan stated so we have public hearing next month.

Board Member Pierro stated November 1<sup>st</sup>.

The Secretary stated two.

Board Member Pierro stated two.

Chairman Rogan stated two of them you are right.

Board Member Montesano stated did we reschedule the public hearing.

Chairman Rogan stated we did, we did a motion on that.

Board Member Pierro stated yes.

**6) PATTERSON MACHINERY, INC. – Fill Permit/Wetland/Watercourse Permit**

Mr. Steve Leardi of Patterson Machinery was present.

Chairman Rogan stated is anyone here for Patterson Machinery.

Mr. Leardi stated certainly I am.

Chairman Rogan stated sir.

Mr. Leardi stated Steve Leardi, how are you.

Chairman Rogan stated hello Steve, how are you sir.

Mr. Leardi stated I'm okay.

Chairman Rogan stated we have fill permit and a wetlands/watercourse permit for your site and the Board was out at your site, as I'm sure you are aware.

Mr. Leardi stated yes I heard.

Chairman Rogan stated yeah, it was interesting. Do you want to walk us through with how we got to where we are.

Mr. Leardi stated absolutely.

Chairman Rogan stated wonderful.

Mr. Leardi stated I was in Florida for two months last winter.

Chairman Rogan stated you are rubbing it in alright, aren't you.

Mr. Leardi stated it was a wonderful time. Have you ever family work for you in a small business, they do you favors, well they did me a favor, my boys while I was away. They dumped rock over the edge of the bank and it will be stable, it will be this, it will be that, what are you kidding me, so that is the whole story and here we are and I have to do whatever I have to do to make it right, whatever you guys think I should do. It seems that I am the only one that gets hit in the head when they do me favors.

Chairman Rogan stated okay, I'm sorry it seems like.

Mr. Leardi stated I am the guy that always has to face the music after the.

Chairman Rogan stated the boss always has to (inaudible).

Mr. Leardi stated relatives take care of everything.

Chairman Rogan stated I understand, Ted we are Patterson Machinery.

Ted Kozlowski stated alright.

Chairman Rogan stated when we were on site were trying to ascertain of course, what impacts had been created by the placement of all the rock and what the Board, we were trying to look at it with the standpoint of if it hadn't been done, what would we be willing to accept out there and what the impacts were to the wetland, because it goes downhill but there is a little bit of a swale, it comes back up and then goes down into the wetland on the right side of the building. We made mention of trying to establish, like drawing a line in the sand so to speak, where we would say you can use everything on one side of the fence, you can not use things on the other side but it brought up a lot of questions and we talked about this at the work session and any one jump in when you would like to. That the rear of the facility, that you are currently using and we have some pictures of what you have out there.

Mr. Leardi stated right.

Chairman Rogan stated was never approved to be used and it looks like you want to use that area, you want to be able to access it, I don't know if there is a plan in the future to access that as a full drive through up and around.

Mr. Leardi stated you mean all the way around.

Chairman Rogan stated yeah, it looks like grading wouldn't prevent that.

Mr. Leardi stated no, no, what happened in the beginning and there has to be record of it here someplace, we put the building up.

Chairman Rogan stated okay.

Mr. Leardi stated and in the process of putting the building up, they are filling out around the corner, so at the time it was a problem. We have problem from the beginning because we moved the building, the dummies that we were at the time and I have since figured out that when you go and get a site plan, you have to do it the way it is on the plan, so we did that and filled in around the corner and then at the time,

Rich was here and I think that you (Board Member Montesano) were here, you probably don't remember you go through so many of these things, we had to re-topo to the back.

Chairman Rogan stated he remembered.

Mr. Leardi stated and it was re-topoed and that was the way it was until these guys went and put these rocks over there and you know we always scooted around the building there are no plans to go, its all right, you know.

Chairman Rogan stated yup, if I remember correctly when we spoke about this last month, we had two options that we were going to consider, the first was basically what we have outlined in Rich's memos, setting up a again I called it a line in the sand, but an area that we said you are allowed to use on one side of the fence we are shutting down the other side. The second option if I remember correctly was to ask you if you wanted to do a site plan modification because you obviously want to use the back of the building and the first instance would not allow that, the first option.

Mr. Leardi stated we have stuff back there, we need the space, it looks better if the stuff is back there where nobody sees it then all piled up on the side of the driveway, so that is true. I don't know what works best for you guys, is that the best thing for you guys if I do that.

Chairman Rogan stated well I think that the Board wants to be comfortable with how you are using the site and trying to at least understand what your use of the site is, making sure that we balance any environmental concerns.

Mr. Leardi stated right.

Chairman Rogan stated personally when I looked at the topography of your site plan, I wasn't as concerned with the rear of the site as I was to the side where you had filled in because of the way the topography is there.

Mr. Leardi stated the side.

Chairman Rogan stated in terms.

Board Member Pierro stated where you put the rock.

Rich Williams stated the west side.

Chairman Rogan stated the west side.

Board Member Pierro stated down towards the wetlands.

Mr. Leardi stated towards [Route] 84.

Board Member Pierro stated towards the buffer.

Chairman Rogan stated yeah because of the run off from that area, vehicles being wash down.

Mr. Leardi stated you know what happened was, the slope was like this, they filled it in, all they did, it is at the space at the bottom as it was before.

Chairman Rogan stated so the toe of slope is still the same.

Mr. Leardi stated the toe of the slope, if you go down, you can see the rocks on the bottom, they have been there for a long time, they have algae and stuff growing, stuff that is just on top. They made the slope steeper and it was not a big, it was not a big gain, I never expected to use that area. The area behind the place we kind of need the space, we don't need to go out.

Board Member Pierro stated Mr. Leardi this is an ever evolving site.

Mr. Leardi stated well.

Board Member Pierro stated and it has got to stop, sir.

Mr. Leardi stated I don't have a problem with it, I am here for you guys to tell me what you want, I will do whatever you want me to do.

Board Member Pierro stated I think, I have been in that place numerous times and I see you have some really, you are loaded down with equipment that doesn't appear to be used on a regular basis and I am just wondering if there is anyway you can clean up the rest of that place. There is a lot stuff there.

Mr. Leardi stated there are sheeting boxes that get used when we put man holes down thirty feet in the ground, they might get used every once a year, they might get used once every two years but we still use them.

Board Member Pierro stated right.

Mr. Leardi stated that is why we have a piece of industrial property so that we can have the stuff there, it is not going to be pretty, it stays in the ground, it gets beat up, it gets rusty but it is functional, there is no junk there and I wish it was all pretty but its not, it is heavy construction machinery.

Board Member Pierro stated the last time I was there, there were a few of Leo's abandoned cars.

Mr. Leardi stated Leo collects stuff, I make him get rid of it on a regular basis he's got, I have to because Leo just collects things but most of the big ugly stuff that is in there, is stuff that we use.

Board Member Pierro stated right and I have seen your son and Danny Rominello move mountains, you know, I just don't want to have to go back there and find out that they are breaking the rock out from behind the back of the building for another access driveway.

Mr. Leardi stated listen, there is no, the rock that is there, didn't come from there.

Board Member Pierro stated I know.

Mr. Leardi stated because that rock is brutal, we have no interest in spending a fortune blowing up our shop and knocking out the rock.

Board Member Pierro stated I don't know what is going to happen the next time you go to Florida.

Mr. Leardi stated that is not going to happen and there is no more going but that is between me and the boys but they are not going to do anymore favors for me.

Ted Kozlowski stated let us know when you go to Florida next time.

Board Member Pierro stated we'll keep an eye on the place.

Mr. Leardi stated I will, that would be a good idea and as far as that goes.

Chairman Rogan stated Rich, in your memo, the first option which we had discussed and the Board was amendable to was to put up a chain link fence, it says and only allowing the building to be accessed, the rear of the building from the east. Is it even accessible from the east, that would be from Commerce Drive, that is what your saying.

Mr. Leardi stated no.

Chairman Rogan stated there isn't any access from that side is there.

Rich Williams stated there are things in the way that have to be moved but the original site plan, I'm sorry, the amended site plan, when we came back in the second time and looked at it, had access to the septic system on the east side of the building, there was no access, there was actually supposed to be a twelve inch berm running from the south west corner all the way around preventing access and preventing storm water from running off in that direction.

Chairman Rogan stated okay.

Rich Williams stated which is why we talked about you know, option a and option b, if you want to use the site we really need to file a wetlands permit to do that and an amended site plan to do that if that is what everybody is comfortable doing.

Mr. Leardi stated I can't drive around, I will never be able to get down there from Commerce Drive.

Chairman Rogan stated no.

Rich Williams stated no, no, not from Commerce Drive, from the east side of the building, the side opposite 84 [Route], the side opposite the wetland.

Mr. Leardi stated the side that is on.

Chairman Rogan stated how would you.

Rich Williams stated it is very tight.

Mr. Leardi state the way I go around now is the only way I can go around the building.

Chairman Rogan stated right.

Mr. Leardi stated I can't go around the other way, nothing will fit.

Chairman Rogan stated yeah.

Board Member Pierro stated you can't even fit.

Rich Williams stated I am just saying that the site plan shows that the access is from the east side of the building.

Chairman Rogan stated so does this sight plan show significant grading to accomplish that.

Rich Williams stated off the top of my head, I don't recall, it must have shown that there was access through there.

Chairman Rogan stated I think, where the Board stands is really putting back onto what you would like to do, there really are two options, either file an amended site plan application, wetlands/watercourse permit application to try to utilize more of what you have kind of gotten into out there or go along with locating the fence where it was shown on the amended site plan, Rich can meet you out on site to show you exactly where that would be and you can decide at a later date, I just can't live with this I've got to come back in and then you've got to get your engineer.

Mr. Leardi stated if it is the right thing to amend it, then I will do it.

Chairman Rogan stated I won't guarantee that you will get everything that you are asking for, I will tell you that right up front.

Mr. Leardi stated will I get what I have, I can keep what I have but I have to put a fence up, is that what you are telling me.

Chairman Rogan stated no.

Rich Williams stated you would lose the whole rear, you would lose all the use of the rear of the property that you currently have now.

Chairman Rogan stated the fence was shown kind of going from where you had filled in towards the corner of the building, the rear.

Mr. Leardi stated then I wouldn't be able to get around the building that way.

Chairman Rogan stated if you want to get around the rear of the building like that you have to go for a amended site plan.

Mr. Leardi stated okay.

Board Member Pierro stated it cleans a lot of the issues up, correct Rich.

Rich Williams stated correct.

Board Member Pierro stated we just can't keep going on the way we are going.

Mr. Leardi stated listen, I said I have to come in here and do what you want me to do.

Chairman Rogan stated I appreciate that you are here tonight.

Mr. Leardi stated the original, after we re-topoed the thing, we had access around the building from that time, that hasn't changed.

Chairman Rogan stated from something that we have on.

Mr. Leardi stated yeah because when we got our C.O.

Chairman Rogan stated it didn't show that.

Mr. Leardi stated we had an amended grading plan, it didn't show a driveway but the grading.

Chairman Rogan stated the grading.

Rich Williams stated the grading allowed it but also on that amended site plan, there was a twelve inch berm to prevent any access to behind the building and to prevent.

Mr. Leardi stated it was a curb.

Rich Williams stated a big curb a twelve in curb.

Mr. Leardi stated I don't think it was.

Board Member Pierro stated because we looked at it on the plans.

Chairman Rogan stated we looked at it.

Rich Williams stated and that was to channel storm water away and prevent access to behind the building.

Chairman Rogan stated when was that amendment done, did you say.

Rich Williams stated 1995.

Mr. Leardi stated we put our septic system in, our septic system is up on top and the pipe runs up the hill behind the barn. Okay so I have to go to an engineer.

Chairman Rogan stated I think that is the only way that this Board can proceed is to either go back to what is approved or ask for what you are trying to get.

Rich Williams stated if that is the direction that you are going, the only thing that I ask is that you keep the office informed of your progress so we know progress is being made.

Mr. Leardi stated I will get someone right away, we will see what we can do.

Board Member Pierro stated thank you Mr. Leardi.

Chairman Rogan stated thank you, we appreciate your time.

Mr. Leardi stated I was trying to kick those rocks out of the wetlands and I broke my foot.

Chairman Rogan stated he's good.

**7) OTHER BUSINESS**

**a. Dunning Subdivision – Request for Extension**

Chairman Rogan stated under other business, for the audiences edification we had a request for a 180 day extension for the Dunning Subdivision, which we approved at the, we approve two 90 day extensions at the work session.

**b. Keasbey Subdivision – Request for Extension**

Chairman Rogan stated we had a request for the same for the Keasbey Subdivision, the Board approved two 90 day extensions on that and we now have Barjac, is anyone here for Barjac.

**c. Barjac Site Plan – SEQR Determination**

Mrs. Theresa Ryan of Inside Engineering was present.

Chairman Rogan stated I heard that you were on vacation when someone needed to do a site walk.

Mrs. Ryan stated with the ZBA.

Chairman Rogan stated yeah.

Mrs. Ryan stated that was a funeral.

Chairman Rogan stated I apologize, that is a reason enough to miss but Rich showed them the site.

Mrs. Ryan stated its okay, yeah I heard, thanks Rich.

Chairman Rogan stated I understand that Zoning was in a position to render a decision on this and realized that procedurally we had not done SEQR.

Board Member Pierro stated done a referral.

Chairman Rogan stated SEQR determination and the Board generally doesn't do those at a work session, we will do extensions and such but is the Board comfortable with rendering a SEQR determination at this time.

Board Member Pierro stated I am.

Chairman Rogan stated anyone, do you want to do that, Charlie are you in a position to, you are getting good practice on this.

Board Member Cook stated I will defer to Dave on this.

Board Member Pierro stated in the matter of Barjac Realty Corporation, Equestrian Center Route 311 Patterson, I make a motion that the Patterson Planning Board grants a negative determination of SEQR.

Chairman Rogan stated can I have a second.

Board Member DiSalvo seconded the motion.

Chairman Rogan stated I think Maria got that one.

Chairman Rogan asks for all in favor:

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

Motion carried on a vote of 5 to 0.

Chairman Rogan asks for any opposed.

Chairman Rogan stated motion carries.

Mrs. Ryan stated thank you very much.

Chairman Rogan stated does anyone have anything that they would like to discuss on Barjac.

Board Member DiSalvo stated did you have the public hearing with the Zoning Board.

Chairman Rogan stated yes they did.

Mrs. Ryan stated yes.

Board Member DiSalvo stated how did that go, any comments.

Mrs. Ryan stated yeah there were a couple of people who didn't like the idea of putting an equestrian use next to the cemetery and.

Chairman Rogan stated that is interesting.

Mrs. Ryan stated and one of the Zoning Board members has issues with that. So what we are going to try and do is provide a buffer, there are some existing trees along that common line and we are going to save some of those trees and plant some additional ones if it is not deep enough.

Board Member DiSalvo stated with the dust falling.

Chairman Rogan stated I never even thought about the dust. Charlie, anything on Barjac, Dave. That is it.

Mrs. Ryan stated did I miss Frantell.

Chairman Rogan stated you did, we granted the extension at the work session.

Mrs. Ryan stated okay.

Chairman Rogan stated two 90 days I think it was.

Mrs. Ryan stated great.

Chairman Rogan stated thank you very much.

Mrs. Ryan stated good night.

Board Member Pierro stated good night.

## 8) MINUTES

Chairman Rogan stated minutes, did we do those.

Board Member Pierro stated no.

Chairman Rogan stated okay.

Board Member Pierro stated I make a motion that we accept the minutes of August 30<sup>th</sup> and September 6, 2007.

Board Member Cook seconded the motion.

Chairman Rogan asks for all in favor:

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

Motion carried on a vote of 5 to 0.

Chairman Rogan stated does anybody have anything else.

## Cornwall Hill Estates Sight Easement Discussion

Mrs. Nacerino stated I do.

Chairman Rogan stated please come up and state your name for the record.

Mrs. Nacerino stated good evening I am Ginny Nacerino, Town Councilwoman. I believe that you all received some correspondence pertaining to the Stern Residence.

Chairman Rogan stated yes.

Mrs. Nacerino stated I just would like to at this time provide some clarification as to what transpired regarding this, on September 11<sup>th</sup> Mr. Raines issued a violation to the Stern's for the trees in the sight easement, upon receiving the letter Mr. Stern called me, unaware the sight easement was on his property.

Chairman Rogan stated hold on one minute Ginny.

Mrs. Nacerino stated I'm sorry.

The Secretary stated go ahead Ginny.

Mrs. Nacerino stated Mr. Stern called me and asked me if there was any recourse for this situation at that point in time I called Mr. Raines because to me as a motorist, a cyclist, and a walker, I personally do not think that it was prohibiting any line of sight. The trees are set back from the stop sign and I think Ms. DiSalvo can attest to that because she took a drive by today as well. I called Mr. Raines who in turn also took a drive by and concurred that that was not prohibiting the line sight at this time whereby he issued a memo stating his opinion, which was only his opinion. In addition to that there is a memo from Mr. Williams.

Rich Williams stated Charlie Williams.

Mrs. Nacerino stated yes, I'm sorry, Charlie Williams, indicating that the roadway is in the process of being dedicated and this sight easement should certainly be taken into consideration. It also stipulates that this, let me see here, there was something I wanted to cite, sight easements to be provided at all intersections on all project roadways within a subdivision. I live on Somerset Drive, across from my house is Hampshire Court and Somerset Drive, where there are mature trees in the sight line, so I am thinking that this should be continuous, that if there is a sight easement on one cul-de-sac, that certainly this rule should apply to other as well, so I think that we were all a little bit remiss and maybe not aware that this has, there is an obstacle within the subdivision as well, not only on the corner of Cheshire Court and Somerset Drive but at Hampshire Court and Somerset Drive. So that is it, I will respect this Board's opinion and determination but I just thought that it was important that you understand what transpired and how this all came into light. Thank you.

Chairman Rogan stated thanks.

Board Member Pierro stated Ginny, it has come to my attention that this applicant, Mr. Stern was asked to move these trees last fall upon being notified that they were in the sight easement and he said no, my landscaper won't do it because it is not the right time to move trees.

Mrs. Nacerino stated I am unaware of that that was the reply.

Board Member Pierro stated well, this was, this is the information that was being brought to me. The fact of the matter is that the fall is right time and I am not an arborist but the fall is the right time to move

plantings like that. I understand and I applaud your desire to do your best for your constituents but the liability, as far as I am concerned, being a former accident investigator, the liability issue that we would be assuming if we could grant a waiver on this would be huge. The fact of the matter is that this Board can not grant waiver for sight line because this subdivision has already been completed, we have that option and Rich correct me if I am wrong we have that option during the process when we are designing this subdivision to waive sight distance requirements. We don't have that option now, the only way I see it, the only way around it is to change Town Code.

Mrs. Nacerino stated Dave, I am not arguing the point, I am just here to clarify the point and I said, as I said, I respect this Board's opinion and determination, I am not here to protest the point, I am just here to tell you what transpired in the last few days, that is it.

Board Member Pierro stated fine.

Mrs. Nacerino stated in addition to that, the only that was conveyed to me by Mr. Stern was that the trees were very expensive and would not withstand being moved and that was a concern for him. He was unaware that the sight easement existed on his property and was not aware until the violation was issued to him. Whether or not he, maybe he knew prior I can't attest to that and I will not attest to that, I am just telling you what I know to the best of my ability.

Chairman Rogan stated sure.

Board Member Pierro stated right.

Mrs. Nacerino stated at this time. If this can not be done, it can not be done, I certainly respect the integrity of this Board and the Town Code, I just wanted again to explain the situation to you.

Chairman Rogan stated a couple of things that we need to first clarify. I am not familiar with the reference that Dave was making, is it true that even if we wanted to, we couldn't act on this on a waiver on this.

Rich Williams stated that would be my opinion yes.

Chairman Rogan stated okay, honestly before I would I would want to see it anyway.

Board Member DiSalvo stated let's have a legal opinion.

Anthony Molé stated I would have to take a look at the section of the Code and I believe that is the case procedurally, once a subdivision has been finally approved, this Board has the jurisdiction to grant them a waiver but I have to take a look at the Code.

Chairman Rogan stated okay.

Mrs. Nacerino stated that also begs the questions why the other cul-de-sac has trees in the sight easement as well.

Anthony Molé stated the second question is do the trees actually impact the site, that there intent, the purpose of the sight easement was created.

Chairman Rogan stated right, we would have to go back to the approval process, what was looked at and analyzed, there are certainly areas where we require sight line easements and then in other areas don't because they are not necessary based on curvature of the roads and based on certain engineering issues, a couple of issues. One I would want to know what kind of trees they were, whether they are something that are going to get very large or just ornamentals that are just going to stay a certain size.

Board Member DiSalvo stated crab apples.

Rich Williams stated I believe that they are white pines.

Board Member Pierro stated one was a white pine, the ones that I looked at last night, one was a white pine and the other crab apple.

Chairman Rogan stated that is tough.

Mrs. Nacerino stated crab apple.

Board Member DiSalvo stated a crab apple about five feet tall.

Board Member Pierro stated it was taller than that.

Board Member DiSalvo stated well I just went by.

Anthony Molé stated (inaudible) Charlie Williams.

Mrs. Nacerino stated yes he has.

Board Member Cook stated there are three white pines.

Board Member Pierro stated there are three, I don't know if all three in the easement.

Mrs. Nacerino stated I think there are four Dave, I think there are four.

Board Member DiSalvo stated there are three white pines but one looks like it is dying already though.

Mrs. Nacerino stated the white pines sit back from the stop sign, they are back and I think that if you do take a drive by or sight walk to see that and that is what trigger this whole thing, we did not think, in our opinion that it appeared to be in any sight or any sight obstruction. Whether or not five years from now or ten years from now, certainly that is something to debate or conclude. However at this time it is not obstructing any line of sight for any motorist, I am a walker, I ride my bike, I drive by, it is not a problem as it exists now.

Rich Williams stated Ginny, can I ask you a quick questions.

Mrs. Nacerino stated sure.

Rich Williams stated we also have a sight line easement out at the intersection of Somerset [Drive] and Cornwall Hill Road and there is a fence in it, what do you think about the fence in the sight line easement.

Mrs. Nacerino stated that is a dangerous, dangerous situation.

Rich Williams stated and that is exactly why we require sight line easements to ensure things like that from happening.

Mrs. Nacerino stated and again, in that situation that is a definite obstruction, it definitely jeopardizes the safety of walkers, pedestrians, and motorists at this point these trees do not.

Rich Williams stated well I understand.

Mrs. Nacerino stated all Mr. Stern did, Mr. Williams is ask to see if there is any recourse, if there is not then that is it.

Rich Williams stated I want to be clear, you came here for clarification, I want to be clear why we do this.

Mrs. Nacerino stated I didn't come for clarification, I came to give clarification.

Rich Williams stated I think that you said to the Board the only reason you were here was to give clarification.

Mrs. Nacerino stated no, to give clarification of what transpired, what triggered this correspondence.

Rich Williams stated correct, sure.

Chairman Rogan stated let's not get carried away here and I am still Chairman of this Board, if I remember correctly.

Rich Williams stated yes.

Chairman Rogan stated what I would like to know first is if we don't have the recourse to do anything with this, then we are all spinning our wheels here, before we did anything, I would not make a decision on this nor ask the Board to make a decision on this until we did a site walk. I won't even schedule a site walk until we know whether or not there is an action that we can take, so if I can get Anthony a request to just review this to confirm either that we can or can't make a decision on this and then you know.

Rich Williams stated would you like me to go and get a Code book.

Board Member DiSalvo stated there is the other lot across the street that is not developed, when I was there today, the lot if you are coming out of Cheshire [Court], to the left, there is a lot, or a retention pond or whatever is there, I had trouble with those weeds sticking up and encroaching more towards the road, then I did with the little crab apple sitting there by itself.

Board Member Pierro stated and I thought that there was remediation going on there.

Rich Williams stated everything should have been mowed within the Town right of way at this point.

Board Member Pierro stated yeah.

Board Member DiSalvo stated but does that qualify for sight distance restrictions too on that side.

Rich Williams stated yeah it would and I would have to go and take a look at it.

Board Member Pierro stated my understanding is when a house is purchased in this case and there is an easement filed that a copy of those easements are normally tendered to the buyer.

Chairman Rogan stated we have actually been working very diligently on these most recent subdivision, I'm thinking of a couple we have been working on lately, to make sure that any restrictions on the property are being duly notified to the owners because we have been trying to not create subdivision that then force people to go to the Zoning Board right off the bat because in our opinion that is not good planning.

Mrs. Nacerino stated right, I understand that.

Chairman Rogan stated and it is sometimes difficult knowing that when the people buy the house, they are not reading the documents and a year later they are going to come before the Zoning Board and say that we didn't know, we bought this beautiful this house and we don't have room for a pool.

Mrs. Nacerino stated and Mr. Stern indicated to me that he was unaware that there he was unaware that there was sight easement on his property and I said that you attorney should have advised you accordingly apparently he did not, again I would like to reiterate I am here just to clarify why this correspondence transpired and what triggered this whole situation and I certainly respect your decision.

Chairman Rogan stated thank you, I appreciate that Ginny.

Board Member Cook stated thank you.

Rich Williams stated if I could just, one last thing on this, one of the things that we have seen, we did two road dedications this year, one was with the Deerwood Subdivision and one was with Cornwall Hill Estates and we have found a reoccurring problem that has been happening just so that the Board is aware of it. In the instance with the Deerwood Subdivision we ended up with three stone walls that were built slight encroachments but encroachments none the less within the Town right of way because the property owner didn't bother to check. I was just corrected to two, okay. Cornwall Hill Estates had three stone walls and two sight easement issues where people constructed improvements within the sight easements and stone walls within the right of way and this seems to be a growing problems with our subdivisions.

Board Member DiSalvo stated but those walls are still up.

Anthony Molé stated what happened with them was, the Town Board reviewed it and determined that due to the distance from the actually road bed that these stone walls were, they didn't feel that it was risk to have the stone walls remain. One of the encroachments range from one and one half feet to five feet, I think one of them was five feet, so what we did was granted these homeowners, we are in the process of granting them a license agreement whereby they are allowed to keep it there, as long as they name the Town as additional insurer on the insurance policy, and at any time the Town can revoke that license.

Board Member DiSalvo stated so that could apply to the trees as well or in this situation.

Anthony Molé stated the Town, potentially, a sight easement I am not sure but the Town may be able to do a similar type thing for a sight easement, but we need to get an opinion on whether these trees impact the purpose of the sight easement.

Board Member Cook stated Mr. Chairman.

Chairman Rogan stated yes, sir.

(Board Member Pierro cell phone rings).

Board Member Cook stated are all four trees in the wrong place.

Dave Raines stated yes they are, all three are within the designated easement.

Board Member Cook stated okay.

Dave Raines stated which is on Mr. Stern's survey. And while I am standing here, the reason I've been standing here all night, is I just want to clarify one thing and maybe we can move forward, this isn't about anything more than a little bit of lack of communication, there is nothing in the Building Department file that indicates that Mr. Williams, the Highway Superintendent had addressed this at all. So when I act on a Zoning violation, which I did from the Planning Board, I sent him a violation and saying hey, your trees are still within this easements and then the issue came up and well listen is there relief, I said I looked in the Code and I can't give you any relief, so not being an attorney I referred it back to the Planning Board. Which I don't feel that the five of you should really take exception to it, if I did the wrong the thing just send me a memo back saying hey listen, in the future don't refer it back to us because we can't but it doesn't seem like any of the five you have a legal answer to that either, so I am not sure what my recourse should have been other than.

Chairman Rogan stated nor do I think that we took exception with that.

Dave Raines stated I feel that members of the Board have, we can take that off line, we don't need to do that in a public session.

Chairman Rogan stated not at all.

Dave Raines stated so I am not sure exactly, our Code isn't so complete that I would know and Mr. Williams doesn't seem to know and I am sure that the Attorney has to do some research. So, if we want to avoid this in the future, you know, we have to come up with a process to make sure that this documentation reaches the Building Department files.

Board Member Pierro stated Dave.

Dave Raines stated further more with the dedication of the road, there are several other sight line issues that were addressed in the September memo from the Highway Supervisor and the Town Engineer that haven't been addressed, they are a lot more significant than these three trees, so I think we are really remiss in let's, if we tell Mr. Stern no, listen trees have to go out, he will go to court next, he has already has his notice of violation, I will send him an appearance ticket but I need some kind of documentation from the Planning Board saying listen, we can't take action, he has no recourse under Town Code and I will send him to court and we'll hopefully have the trees taken down or he will be fined but.

Chairman Rogan stated I don't know the other specifics that you are referring to in terms of not being completed but generally when the Board, and use you as an example, if we ask the Building Inspector or

the Town Engineer or the Town Planner or the Town Attorney or even the Wetlands Inspector, what their opinion is we usually hold that opinion in high regard because that is what we are paying you guys for, to take your advice. I defiantly would do a site walk but having the Highway Superintendent say this is in direct conflict with what I as the Highway Superintendent want for this and need for this roadway for safe operation. This potentially would be a can of worms if we waive this and.

Board Member Pierro stated it is.

Chairman Rogan stated then there was an accident out there.

Dave Raines stated they wouldn't anticipate that you would be asked to waive that.

Board Member Pierro stated it is clear cut, you did the right thing by protecting the Town from liability and we have no authority over this as this point.

Dave Raines stated unfortunately by doing that, now we need to address the other issues from the Highway Superintendent and the Town Engineer memos because they create significant sight line issues and the basis are not clear from brush.

Board Member Pierro stated that is what we are supposed to be doing, right Dave, so be it.

Dave Raines stated we need to make sure that we close the process though because we can't walk away now with these open issues, whether it is fences or brush or rock walls or curbs too high or too low, we need to address that.

Chairman Rogan stated it seems like we are continually having problems complete the details of these projects.

Dave Raines stated and unfortunately, Mr. Chairman, it is the work that happens post certificate of occupancy.

Chairman Rogan stated I understand.

Dave Raines stated because that is what keeps biting us, the walls, the swales, the driveways, the things that happen after the fact that we don't have any administrative control over other then going back to site plan, which puts it back in your court.

Chairman Rogan stated I understand and I am sorry that you got the feeling that we mind at all that you are hear tonight or this is inconvenient.

Dave Raines stated I don't mind being here because it is always a learning experience but I don't know what other recourse I have other then to kick it back, whether it is a Zoning issue or a Planning issue, the appropriate Board and have them digest it, we know we can't take action based on legal council or yeah we can and we will take another look at it.

Chairman Rogan stated sure, so Anthony where can we, can we get your opinion on this.

Anthony Molé stated you can certainly get my opinion on this, what I will do is I will take a look at the Code and see if there is something that this Board can do at this point, if there is, there is, if there isn't,

there isn't. As far as what I said before about the license agreement, I'm not sure how that would apply to an easement or if that can be done in an easement that is a little bit different than a right of way issue, not that it is in consideration for this Board, that is a Town Board (inaudible). It also (inaudible).

Chairman Rogan stated okay, it seems like it should be a pretty straight forward review. Yes.

Mrs. Nacerino stated also, if you do plan on taking a site walk to this area, I would respectfully request that you also go up to Hampshire [Court] and Somerset Drive and look at the trees at that intersection too because if liability is the concern, then we can't stop with just one corner, we have to continue with through out the whole subdivision.

Chairman Rogan stated Ginny, I don't think that we will do a site walk unless we get notification from the Town Attorney that.

Mrs. Nacerino stated well if liability is a concern then you still have to follow through, I brought it to your attention that there is a line of easement. There should be something he has.

Chairman Rogan stated we don't have to (inaudible – too many speaking).

Dave Raines stated I got it, as Zoning Enforcement Officer.

Mrs. Nacerino stated then it should be, if liability is a concern and safety is a concern, then there are mature trees at the intersection of Hampshire [Court] and Somerset Drive and that should be looked at.

Chairman Rogan stated sure but certainly it doesn't need to be looked at by this Board.

Mrs. Nacerino stated maybe not this Board but it still is a concern if it impacts a safety or liability issue and that might very well be Mr. Raines but if you are taking a site walk I would like you to go pass by that as well.

Chairman Rogan stated sure, thank you, okay, thank you. Any other business, Rich.

Rich Williams stated can I just finish up with saying, we are talking about a sight line easement, an easement held by the Town is a responsibility of the Town Board.

Chairman Rogan stated okay.

Board Member Pierro stated okay.

Mrs. Nacerino stated that is fine (inaudible).

Chairman Rogan stated motion to adjourn.

Board Member Montesano stated I make a motion to adjourn.

Chairman Rogan stated it is nice hearing from you Mike. Second.

Board Member Pierro seconded the motion.

Chairman Rogan asks for all in favor:

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

Motion carried on a vote of 5 to 0.

The meeting adjourned at 8:47 p.m.