

TOWN OF PATTERSON
PLANNING BOARD MEETING
November 22, 2005 WORK SESSION
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Planning Board
November 22, 2005 Work Session Meeting Minutes
Held at the Patterson Town Hall
1142 Route 311
Patterson, NY 12563

Present were: Chairman Herb Schech, Board Member Mike Montesano, Board Member 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.

1 member in the audience.

1) WYNDHAM HOMES LOT 28 WETLAND WATERCOURSE PERMIT

Rich Williams stated Wyndham Homes we re-scheduled their hearing, we haven't heard anything so I don't know what is going on with them.

2) FOX RUN SITE PLAN

Rich Williams stated why don't we put Fox Run off until the end of the meeting and wait for Dave to get in here and get settled.

3) KISCO ENTERPRISES SIGN APPLICATION

Rich Williams stated here is a memo on Kisco Sign.

Board Member Rogan stated Kisco, they have done a really nice job of renovating the inside of this place. I have been in it several times. The sign I don't even understand what it is. It is an Irish, it will be an Irish Pub.

Board Member Pierro entered the meeting at this time and stated my forgiveness.

Board Member Rogan stated they have really gone to some great length to keep it as kind of an Irish Pub or something maybe even an English Pub.

Chairman Schech asked what was it before.

The Secretary stated the Castle.

(Unable to hear too many speaking).

Rich Williams stated I also took a couple of pictures of what is out there currently. They don't have a sign hanging but they have got a sign frame, the awning.

Chairman Schech asked is that what they are going to put up will build to suit.

The Secretary stated no that is Endico.

Board Member Montesano asked tell me something are the two outlets going to break down and have bulbs in them and is that proper.

Rich Williams asked are they going to be shielded.

(Too many talking unable to transcribe).

Chairman Schech asked so they are going up on the same posts.

Rich Williams asked are we all set on that one.

Board Member Pierro asked he is proposing something for the stanchion.

Board Member Rogan showed Board Member Pierro the paperwork.

4) ENDICO SIGN APPLICATION

Rich Williams stated the next sign application you have is down at the intersection of Haviland Hollow and Route 22, where the Patterson Deli is and the furniture store. The property owner is looking to put up a sign will build to suit.

Board Member Rogan asked will build what to suit whom.

Board Member Pierro stated he is talking about taking down the existing structures there.

Board Member DiSalvo stated maybe doing a strip mall.

Rich Williams stated the Code permits a real estate sign of the size that he is proposing. He does not have any other free-standing signs out there. The question is, I will throw it out to you guys whether you would consider this a real estate sign or not because it is not for sale.

Chairman Schech stated is it going to be, it might be there forever will build to suit.

Rich Williams stated this is a sign permit that is issued good for a period of one year so after a year he has to either take it down or renew it.

Board Member Rogan stated I think it isn't typical of what we see for a real estate sign.

Board Member Montesano stated to me that is not a real estate sign.

Board Member Rogan stated I agree.

Board Member Montesano stated that is a builder's excuse for saying I will do anything you need but that is not a real estate sign.

Board Member Rogan asked is the intention of the real estate sign that they were temporary that it might be up for a few months and therefore were allowable. Where a sign that is advertising a service or something to that affect would fall under the sign code and be more appropriately regulated.

Board Member Pierro asked is this guy the property owner now.

The Secretary replied yes he has been.

Chairman Schech asked does he have a size on this.

Board Member Pierro replied yes six by four, twenty-four square feet.

Chairman Schech asked what is he allowed.

Rich Williams replied twenty-five square feet I think.

Board Member DiSalvo stated he originally wanted it to be eight by four I kind of advised him to knock it down to twenty-four square feet.

Board Member Pierro asked where is he going to place it in the grass island.

Chairman Schech stated the State frowns on that.

Rich Williams replied no he has given you a sketch plan it is about fifty feet off of the corner of the north corner of the building so it is really out of the way or at least that is what it appears. He doesn't actually say the sign is going to go here but he has got it marked out fifty feet.

(Unable to hear Board Member DiSalvo's question)

Board Member Rogan stated I am at a loss for what property this is.

Board Member DiSalvo stated Patterson Deli.

The Secretary stated where Heritage All Wood is the furniture store at the light.

Chairman Schech asked where is his sign location I don't see it.

Board Member Rogan replied I think it is off the corner of the building.

Board Member DiSalvo stated it is going like up the hill a little bit.

Board Member Pierro asked in the area where the old house was.

Rich Williams replied no much before that. The old house was on the other side of the DOT right of way.

Board Member Pierro asked so this is to the left of the,

Board Member DiSalvo stated the antique place.

Board Member Pierro stated the antique shop fine.

Board Member Rogan stated so maybe they are going to build furniture to suit. It is not a very clear sign based on the businesses that are there, an antique shop and an all woods furniture and it says will build to suit.

Board Member Pierro stated I think his intention is there is a rumor floating around that his intention is to take down the existing structures.

Chairman Schech stated before they fall down.

Board Member Rogan stated that would be an improvement. Those buildings are in pretty poor shape.

Rich Williams stated they have always got with the site the fact that it has the DOT, the old New York Route 22 DOT right of way running through the property.

Board Member Rogan asked can he petition the State to abandon that and convert it back.

Rich Williams replied no the State cannot abandon their right of way. They can by an act of the State Legislature sell it to them.

Board Member Rogan stated then that is probably the approach they should take.

Rich Williams stated yes that is what he should be pursuing.

Board Member Pierro stated in the Association of Towns there was an article on that a few months back.

Chairman Schech stated so for one year that is an okay.

Board Member DiSalvo stated yes.

Board Member Pierro stated as a property owner wants to improve his property, wants to do something there give him a permit to put up a sign.

Board Member DiSalvo stated this is part of the Endico that did the big food place.

Chairman Schech stated Endico potatoes. That is what they started with potatoes. They used to own my property.

5) JCM GRANITE SIGN APPLICATION

Rich Williams stated next up is another sign application for JCM Granite. They were a business that was located next to Jimmy's food mart, they have since moved to the building behind the bodega.

Chairman Schech asked behind it or in it.

Rich Williams replied behind it.

Chairman Schech asked then what the hell is the sign doing in front of the bodega.

Rich Williams stated don't tell me it is up.

Chairman Schech stated there is two signs in front of the bodega.

Board Member Pierro stated there is two lawn signs that rotate, the wind blown lawn signs that say tile and marble.

Rich Williams stated they have submitted an application for three signs. I called the woman up they didn't submit where they are going to put the signs so we have no idea where they are going to put the signs. I have done a preliminary memo but didn't finish it pending getting that information. I don't know that I am actually going to get it though or if the Board is going to get it.

Chairman Schech stated well when they come we can ask them where.

Rich Williams stated well she seemed kind of put out when I asked her to tell us where the signs are going.

Board Member DiSalvo stated you don't want it too close to the bodega.

Board Member Rogan stated that is a lot of information for a small sign, then we are in the Hamlet so we have the Hamlet colors.

Rich Williams stated the sign she submitted does not meet the Hamlet colors.

6) PADDOCK SIGN APPLICATION

Rich Williams stated next up is the Paddock.

Board Member DiSalvo stated not to be confused with Paddock View.

Rich Williams handed the Board copies of his memo.

Rich Williams stated this is the Boomer's site. I guess they are remodeling and changing the name.

Board Member Rogan stated we just changed their name from Boomer's to 22 Roadside Grill.

Rich Williams stated that is the corporation.

Board Member Rogan stated but we changed it for their operating what they were going to put on the outside of the place. I guess they changed their mind.

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

Rich Williams stated I took pictures of the existing sign so you could see because one of the issues is the lighting on the sign.

Board Member Montesano asked you mean the ones that blind you when you are driving down the road.

Board Member Rogan asked does it.

Board Member Pierro replied yes.

Rich Williams replied it can.

Board Member DiSalvo asked this is going to be a double sided sign too.

Rich Williams replied I believe so.

Board Member Rogan stated when you change the name of the place but you don't change anything about the place, maybe a few items on the menu you wonder what.

Rich Williams stated under new management everybody comes running in to see what it is like.

Chairman Schech asked wait is it going to be Boomers or is it going to be Paddock.

Rich Williams replied no it is going to be The Paddock. Boomers is the existing sign.

Board Member Rogan stated the lighting that is existing look like two flood lights that shine down on it.

Board Member Pierro stated it was there from when it was.

Rich Williams stated then there is actually a third light that in the center that points out that looks like it is not operational.

Board Member Rogan stated maybe it lights up the parking lots for the patrons.

Chairman Schech asked so we don't like the lights or we like the lights.

Rich Williams stated the lights are existing the question is do you want to talk to him about changing the lights.

Board Member Rogan asked what would be an improvement up-lighting on this would not be so appropriate because it is a parking lot, people are parking on either side.

Board Member Montesano stated shielding the lights.

Rich Williams stated he could put a little island right there and put the lights in the island, put some landscaping there, dress the sign up.

Board Member DiSalvo stated anything will help.

Kristina Burbank, Kellard Engineering entered the meeting at this time.

7) DIPASQUALE WETLANDS WATERCOURSE APPLICATION

Rich Williams stated DiPasquale why don't we put off until Ted gets here. Ted is running a little late.

8) DUNNING SUBDIVISION

Rich Williams stated Dunning Subdivision has resubmitted with a new design again.

Board Member Montesano asked how many times has he resubmitted these plans.

Rich Williams replied until he gets it right. That is all I can tell you.

Board Member Montesano stated no what I am asking is are we, we don't have to go out and review his other than sitting here reading the paperwork and everything else.

Board Member Rogan stated just these guys.

Rich Williams stated it is pretty much the same thing.

Board Member Rogan stated it is like a revision.

Board Member Montesano stated I am just hoping we don't have another field trip to waste our time with.

Rich Williams stated the issue is though, we did have a public hearing on it last meeting so we do need to either make a decision this meeting or get a waiver. I have been through the plans and there are some little items that they have to address. There is two big issues; one, is they have not submitted a subdivision plat in several months which address the issues with the subdivision plat so obviously we can't do anything

there. The other issue is they are clearly disturbing more than acre of disturbance so they have to do a full blown Stormwater Pollution Prevention Plan for two lots which is crazy. I know one of the big issues with the Board is the clearing along the road so what I did was I plotted out on the aerial photo, the septic system. On the current plans they have a sediment trap in front of that so there would be additional clearing there unless I can figure out a way to minimize that sediment trap.

Board Member DiSalvo stated if that is cleared more you are going to see it going around the turn.

Chairman Schech asked is this the one that they pulled all the way down to the road.

Rich Williams stated well they pulled everything back, they got rid of the infiltrators which is the good news but they replaced it with a temporary sediment trap so I don't know what they were trying to gain. The other thing that we really haven't talked about seeing as the Board has been very concerned about the view shed along 292 whether you want to go so far as to actually request that a conservation easement be placed on that area so that the trees are going to stay there, somebody isn't going to come in and clear out the trees.

Board Member Pierro asked are there tax implications if we request a conservation easement.

Rich Williams replied there might be some beneficial tax implications to the property owner.

Board Member Pierro stated for the Applicants or the property owner.

Board Member Montesano asked this whole area that exists that is clear you mean he can't get a house and a septic in that area, he has got to put it here.

Rich Williams replied you will have to ask him that. I have no idea. I didn't do any of the septic testing. I don't know what the limitations are out there.

Board Member Montesano stated we had the public hearing so now we are going to get limited on time. Is there any indication what I am looking at is if we hold a public hearing can we, what I am looking at is now he has changed this again, now do we have to accept this thing and run by that public hearing clock or can we say we want another public hearing you changed your plan.

Rich Williams stated you had your public hearing there is no statutory requirement for a change in plan and holding a second public hearing. That is one of the reasons why I caution you on making sure everything is really complete and we know exactly what we are going to get before we do that but regardless you are at that point where if you are not comfortable with the plans you have two options; you can get them to grant you a waiver from that time requirement so the clock stops ticking and we don't have to worry about it anymore or you deny the project.

Board Member DiSalvo stated I ran into a few neighbors on 292 working the polls, the election the rumor is that he is changing everything around and we hear he is cutting all the trees down on 292.

Board Member Pierro stated that is only conjecture.

Board Member DiSalvo stated and I told them that we were pretty adamant,

The Secretary stated they were not here for the public hearing.

Board Member DiSalvo stated well that was before the change the public hearing. I told them we were pretty adamant about keeping that tree line along 292.

Chairman Schech stated we will ask him for a waiver.

Chairman Schech stated I thought we had a Ted.

The Secretary stated he is here he ran into the office to get his stuff.

9) BURDICK FARMS SUBDIVISION

Ms. Kristina Burbank, Kellard Engineering was present representing the application.

Rich Williams stated at the last meeting we talked about the road improvements for Burdick Farms and there is some discrepancy and some discretion about exactly what the road improvements need to be. Gene and I met with Kristina and John Kellard out into the field and actually walked all the road improvements.

Ms. Burbank stated we met last week in the field and I apologize for not having a revised set of plans. We decided to walk, you guys are familiar with OP-1 and OP-2 and what those basically proposed and why we proposed. Those plans proposed substantial re-grading and widening along Bullet Hole Road and one of them proposed significant retaining walls as well. Our plan what we came in with you is a lot less than that so when we went out in the field I think we came to a general agreement about what an improvement on our plan was relative to a compromise for OP-1 and OP-2 and for the public meeting I will have a revised plan and a profile showing the proposed re-grading but just to walk you through, up in this area referring to the plan, we agreed that we should cut back and enhance site distance. We just showed a road widening. We are going to identify the right of way and it is my understanding we have the right to work twenty-five feet off the center line so we are going to cut back here. The grade seemed pretty good until we got to this area here where we had proposed enhancing the site distance from the project entrance, relocating the stonewall and I think in general we were in agreement that as we proposed the widening and the site distance improvements that worked generally. We have acknowledged that the work in this area here that the wetlands so we will need to include that in our wetland permit application. When we were walking this section of roadway there is a hump and I am not sure that it is really represented well on the grading that we have here but what we are going to do is cut out slightly along and there is a mailbox in this driveway here and we are going to re-work the road profile in this area. We are expanding the site distance, widening the road a bit and then taking out a hump to enhance the site distance there. As we work down Bullet Hole Road we had proposed some site widening improvements here we are going to go ahead we wanted to get probably about twenty-one feet if we could but we decided that this proposed road widening really wasn't beneficial and there might be some negative impacts on the existing vegetation and trees so we are just going to widen it as best we can to twenty-one feet in this area. We talked a little bit about possible workings with this property and Vinny continues to negotiate with this property owner and the owner of the barn property as well. As we worked our way down it is my understanding there was some concern about some site distance on our side of the road where our open space parcel is and Vinny wants to as we do here actually provide an easement for site distance and road widening purposes that if you were to extend, not

entirely that whole stretch down by that lower basin but the majority of it where it is beneficial so that will be included on our plan as well.

Board Member Rogan stated that is that curve that you were so concerned about Dave.

Board Member Pierro stated right I just think for traffic purposes later on it might be best to have the ability to augment that.

Ms. Burbank stated and we saw how that could be beneficial.

Board Member Pierro stated especially when you have busses coming around that corner.

Ms. Burbank asked do you agree that was pretty much a summary of what we agreed.

Rich Williams stated that was a very good summary.

Board Member Pierro asked and we are going to have a designation for this so that we could throw out OP-1 and OP-2. This will be the latest.

Ms. Burbank replied yes the latest and greatest. We can either provide it as a sheet as part of the plans or a separate plan that we will label otherwise. Right now we have this as sheet nine we will clean it up, provide the road profiles and include it in the overall plan.

Rich Williams stated yes I would include it in the overall construction plans.

Board Member Pierro asked but this stands to change pending any agreement with that property owner above the original barn.

Ms. Burbank stated you see that is interesting I don't know how we would handle that. Would that be integrated into the plan sheet as well.

Rich Williams stated once we come up with a clear idea about which property is going to be available then we are going to have to have a serious conversation about whether we are going to do the work, they are going to do the work and how that is all going to work. That is still out there at this point until we know which way we are going to go I don't think that we can have a serious discussion about it.

Ms. Burbank stated I agree.

Board Member Pierro stated one step at a time as long as we can,

Ms. Burbank asked are you guys comfortable with.

Chairman Schech stated it appears fine.

The rest of the Board stated yes.

Chairman Schech stated you still have a lot to do on that corner and down further.

Ms. Burbank asked I don't know if you want to talk about, I understand there was a request for an analysis about the potential need for variances on the lots.

Board Member Rogan stated you and I spoke about this at one of these meetings it seems like a year ago and my only concern I will just say it once again is that I don't want to end up with houses situated on lots where we don't have room in the back yard for a shed, for a pool, where we are pushing people with brand new homes to the Zoning Board because everyone of these people is going to want a shed and a pool in the back yard. In some cases, we have drainage easements that run between houses and septic areas. We have got some difficult situations and so when we had the conversation awhile back you had said you were going to look at those lots and kind of see what was available.

Ms. Burbank stated your point is well noted and the zoning has changed since we first did the EIS. I took a quick look at the figures we used in terms of accessory structures and how that would affect coverage and even on the tightest of lots so to speak if I added 2,000 additional square feet which would be a pool, a patio. We already included the driveway and also a shed so roughly 2,000 square feet. We were still well within the maximum coverage requirements. Also, accessory structures are a little more lenient with respect to the setbacks we had an extra ten feet. I will craft you up some diagrams to show how those lots work.

Board Member Rogan stated I will tell you what you probably could do that would be appropriate is pick some of the worse lots out there in terms of the drainage easement, I don't know the lot numbers off the top of my head but if we looked at the plans we could probably pick out a few that just you can tell by looking at it they are going to be a little difficult and having the area to do it versus the area that someone would want to do it. I know we can't control. It is very difficult when we are put in a situation of making a recommendation to the Zoning Board on a subdivision that is only three years old.

Ms. Burbank stated the issue that comes to play because I have looked at it is not so much a need for a variance. It is that the sites are so constraint and most specifically because of the septic and the smaller sizes of lots that you can actually do the improvements but you are pushed back towards the house, which is fine for a pool and a patio and a deck so in general I would say it, works. The constraints are more site constraints, physical constraints meeting the twenty foot off the septic or the ten off the curtain drain or what have you. It will work but it all becomes very, very tight. The general question about whether you are going to be kicking lots back to the Zoning Board I don't think is the easy. It is that the potential for those improvements may not exist on certain lots. Some of the houses are way at the rear property line setback. You can meet zoning and do the improvements and then other ones the septic takes up the useable area in those setbacks so people simply won't be having pools. How you choose to deal with that at that point in time.

Board Member Rogan stated theoretically you could put a house on the rear of the building envelope for the property and then not be able to put anything else on the property because you can't have a pool or a shed or whatever in the front yard.

Ms. Burbank stated we did have at least one lot like that.

Board Member Pierro stated I thought that there was more than one but I also believe firmly that disclosures ought to be placed in the selling perspective by the builder, notify potential buyers that there is a limit to the use of the rear yards.

Ms. Burbank stated again, I don't know if that is something as your Board you would be putting notes on plats or,

Board Member Rogan stated the problem is that people don't get copies of the plat when they buy a house. That is the reality of it.

Board Member Pierro stated especially buyers. Buyers are looking at the dollars and they are looking at the pictures of the plumbing and the room sizes but if we ask that the notifications be placed in the selling perspective and people see them when they are sitting down and getting ready to sign a purchase agreement they are going to know. Any Broker or any Real Estate Agent even if it is an in house Real Estate Agent because I know this is not going to a public brokerage it is going to be done by Toll Brothers' people. Those people there should have the paraphernalia, the paperwork there that says there is a limit to what you can do on the rear of this property because of the zoning constrictions.

Board Member Rogan stated the people are still going to ask for the variances but the reality is it will be a tool to the Zoning Board to at least say,

Board Member Pierro stated you have been previously notified.

Ms. Burbank stated it is going to be the Health Department though really because those setbacks,

Board Member Rogan stated not for a shed or something.

Ms. Burbank stated okay a shed.

Board Member Rogan stated if someone wants to put a 12 by 16 shed or even a pool they are just going to say stay away so much from the septic area.

Rich Williams stated there are two or three lots that are pushed really far back that are going to limit what you can do behind the property, maybe we can talk to Anthony, I mean it is very unconventional but putting a deed restriction in the deeds, requiring a deed restriction for those lots saying you may not be able to do anything.

Board Member Pierro stated as well as a note on the plat.

Ms. Burbank stated I think there is some kind of mechanism,

Board Member Rogan stated can you imagine though, spending seven or eight hundred thousand dollars or whatever these are going to be, they are going to be expensive and not be able to put a swimming pool on your property. I think the expectation when people spend that kind of money is that they can get a certain use of that property. I would know as a consumer that looks into what you are buying that you know what you are buying but these people don't do that. They don't know anything about septic's. They don't know anything about wells. That was the original intent and those lots scare me because those are the ones that basically come back to say the Planning Board did not do its job in laying these out so they can be used appropriately. It is not a matter of a lot count to me it is a matter of those people getting the use that in the end they are going to come in and they sit here and they have two babies, one on each knee and they say we need to have a garage or we need to have whatever and I feel bad for the people. I am glad I am not on the Zoning Board.

Board Member Pierro stated what is tough with the real estate industry now is people's expectation of value and of their dollar. People expect to be able to do what they please on a seven or eight hundred thousand dollar parcel and they can't always do that.

Ms. Burbank stated I can talk to the builder about what kind of mechanism they maybe have used in the past.

Chairman Schech stated they must have come across this somewhere along the way.

Board Member Pierro stated excellent.

Ms. Burbank stated so we can work towards that. So, the sheds potentially would be the issue that could come up,

Board Member Pierro stated and the pools.

Board Member DiSalvo stated additions to the house.

Ms. Burbank stated but the pools, when you see the layout and where the septic's are there is only one place (too many talking at the same time unable to transcribe).

Chairman Schech stated notes on the plat I just noticed I was reading in the paper that one of the attorneys that come here stated that the note on the plat is just something that the surveyor happened to throw on there and it doesn't really matter.

Board Member Rogan stated I saw that. What was that we were looking at.

Rich Williams stated Triple J.

Board Member Rogan stated barn to be removed but it wasn't a stipulation of the subdivision plat it was stated because that was what they assumed that was going to be done or barn to remain I am sorry. It said existing barn something to that affect.

Chairman Schech stated but it was a note on the plat.

Board Member Rogan stated and the people thought well that means it is going to stay forever and they said well no they are just showing existing conditions. That is I think what it was and now they said for obvious reasons we want to remove the barn. It is not safe and the people are up in arms because it is the rural character of that neighborhood.

Mr. Noblet asked a question which I was unable to hear, no microphone. It was in regards to the barn property.

Ms. Burbank replied Vinny is still negotiating with the property owner of the barn.

Board Member Pierro asked Kristina, from a real estate point of view, one time you get a customer that comes in and puts money down and then finds out that they can't put that shed there it will negatively

impact the sales on the rest of the subdivision so I think it behooves you guys and Toll Brothers to come up with an easy way to disclose up front that there are limitations. I think it will make the sale of all the other houses go a lot smoother. I really think it is vital.

Ms. Burbank stated I understand.

Board Member Pierro stated it would benefit the subdivision if people were to know right up front.

Board Member Rogan stated Rich, it sounds like we are all proponents of sprawl doesn't it. You need this, you know you need the area to do these things.

Ms. Burbank stated well I mean to be honest your maximum lot size came into play on here.

Board Member Pierro stated we are well aware of that.

Board Member Rogan stated I guess if the houses were smaller, (too many talking at the same time unable to transcribe).

Board Member Montesano stated the property is the problem so we have to work it out and unfortunately it is not a good selling point.

Board Member Pierro stated maybe it is time to re-visit our overlay district.

Rich Williams asked how so you want bigger lots.

Board Member Pierro stated maybe bigger lots that don't require variances.

Board Member Montesano stated the object is it is not the lots, it is not the variances, the object is we are saying that you must have for arguments sake ten acres and nine of them are straight up and you are trying to tell me that you are entitled to it because you have the ten acres because you don't because it is not sensible.

Board Member Pierro stated they don't have useable acreage.

Rich Williams stated the issue isn't bigger lots the issue is less density.

Ms. Burbank stated some communities take those environmental constraints and say that no more than a certain percentage of the lot, minimum lot size can (unable to hear) steeper slopes and things like that so then when you have the environmental constraints your lots get bigger.

Board Member Montesano stated we tried that about 1985 it didn't work.

Chairman Schech stated after this winter when they finish heating these four thousand square foot house they will probably look at smaller houses.

Board Member Rogan stated I guess our issue to resolve is whether or not we are going with option "A" or "B" for road improvements down gradient either the barn or the corner. Once we can firm up that and know where we stand and as Rich said, take a hard look at it then we will be better able to proceed with this.

Chairman Schech stated tell Vinny to get his act together.

Board Member Pierro stated I think Vinny knows what he has to do, he is well aware.

Board Member Rogan stated he was here he is working on it. That is up to him.

Ms. Burbank stated we submitted to DEP we are getting a letter from them I think it is dated today there are two small items that we have to address in order to be considered complete and I imagine that won't take much time.

Board Member Pierro thanked Ms. Burbank.

Ms. Burbank thanked the Board.

10) DIPASQUALE WETLANDS WATERCOURSE PERMIT

Ted Kozlowski stated DiPasquale, nice gentleman, if you are not familiar where the location is it is,

Rich Williams stated White Hawk Trail, Laura Parker's.

Ted Kozlowski stated Laura Parker's subdivision. Do you guys remember that.

Board Member Pierro stated yes.

Ted Kozlowski stated Richie and I went out to the site to look it over basically the guy wants to put a pool on his big lot but his septic fields are directly behind the house and that is where I would have wanted him to put the pool because it is out of sight, it is private, it is open and it is just lawn. He can't put it there because of the septic. He wants to put it on the side of the house in the lawn which again I don't have a problem with however it is within I would say part of that is going to be within the buffer of the wetland and the stream.

Rich Williams stated two thirds of the pool.

Ted Kozlowski stated there is a stream corridor but it is all grass. It is really a non-functioning wetland buffer other than being a lawn however the plans that he provided is not really the area he showed us now, correct Rich.

Rich Williams stated he has moved it up the hill so there is going to be more grading involved it crosses now over a two-tier retaining wall.

Ted Kozlowski stated so that is a logistical thing. I also wanted him on the plans and I explained this to him when I was out in the field with Richie that he really needs to show the buffer line and the accurate wetland line. What I think he did was just take the subdivision approved site plan and just showed everything but that is not really true. It is a relatively minor detail but he needs to correct that. Do I see this as a big stumbling block for an eventual approval no but it is kind of. I haven't read Richie's memo but,

Rich Williams stated it is what we talked about. The only issue I think that I raise in there that you haven't raised is if you look at the plan, there seems to be sufficient room outside of the buffer to put the pool. Now, the question is if he can put it outside the buffer why do you need to put it in the buffer.

Board Member DiSalvo asked does he still want it over here or where is he moving it this way more.

Rich Williams replied no he originally when Ted and I went out there, Ted Kozlowski stated it was pretty much on line with the house now he is moving it up the hill.

Board Member DiSalvo asked why doesn't he want to put it here.

Ted Kozlowski replied I don't know.

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

Ted Kozlowski stated he is showing the septic, if that is a true septic then the pool should go right there.

Board Member DiSalvo asked did you suggest that to him.

Ted Kozlowski replied yes but he said it was his septic but if you look at those plans.

Board Member Rogan stated maybe we should make sure this and the as built.

Rich Williams stated I compared it with the as-built and

Board Member Rogan asked it is pretty consistent.

Rich Williams replied yes.

Board Member Rogan stated he doesn't know where his septic system is then.

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

Ted Kozlowski stated this is all lawn.

Chairman Schech asked is it fairly flat.

Ted Kozlowski replied it is kind of a slope he is going to have to put a little retaining wall.

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

Rich Williams stated the reality is they are nice people.

Board Member DiSalvo stated they are.

Ted Kozlowski stated he is a very nice man.

Board Member DiSalvo stated he designed golf courses.

Rich Williams stated but they have done significant encroachments within the buffer. We were out there he has got a vegetable garden in the buffer that he shouldn't have there now he just wants to put a pool.

Ted Kozlowski stated my recommendation and Richie's I think where we are going with this is if it is not interfering with the septic then it should go in that lawn area outside of the buffer.

Board Member Rogan stated especially if there is available area outside the buffer than I think we would probably be,

Ted Kozlowski stated I mean he get what he wants and we are protecting the wetland. He might just want to look out at the big lawn area out the kitchen.

Ted Kozlowski asked do you want him in front of the Board because he really technically has an incomplete application.

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

11) FRANTELL SITE PLAN

Rich Williams stated Frantell has resubmitted you have got Gene's memo on it. I haven't had a chance to get into it as of yet. I know they addressed some of my issues, some of my issues they haven't. It is close but I don't think it is quite there.

Board Member Rogan asked do you think the issues that they don't address they ignore.

Rich Williams replied I don't know I want to talk to them about it. For example, one of the issues that I had was the New York State requirements are you have to treat the initial first flush coming into the basin with a fore bay so they took one half the site ran it through an over sized fore bay which equals the total volume and then took the other half of the site and just ran it straight into the basin. You can't do that.

Chairman Schech stated Insite does not usually ignore you they usually address all the comments.

Rich Williams stated no they don't. I don't know if they have got a new kid. If you look at Gene's memo they resubmitted the Stormwater Report but they put in two narratives, they put in two (unable to hear). They just missed stuff all over. I don't know what it was but we will work it out.

12) KESSMAN SUBDIVISION

Rich Williams stated Kessman is back in, the last meeting or the meeting before the Board issued a Conditional Final Subdivision Lot Line Adjustment approval. One of the conditions was the cabana be removed, Mr. Kessman agreed to do that because it didn't meet setbacks. They have since had a change of heart they want to keep the cabana so it is requiring an additional lot line adjustment.

Board Member DiSalvo asked how good of shape is that cabana in.

Board Member Rogan replied it looked like I tell you what remember when we saw it though they had like a cooking area. It looked like it was nice when we saw it. That was about a year or two ago wasn't it.

Board Member Pierro asked what are the ramifications of the lot line.

Rich Williams replied no impact.

Board Member Rogan stated let's see the map. Let's see what they draw it up as.

Rich Williams asked do you have it, do you want me to open up or do you want me to go get it.

Board Member Pierro asked did they re-draw it.

Rich Williams replied yes. I reviewed it. There is a couple of outstanding issues. Here is a new resolution.

The Board reviewed the plan for a few minutes.

Board Member Pierro asked is there any impact on that moved lot line on the driveway.

Rich Williams replied not anymore than there was.

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

13) JUST 4 KIDS DAYCARE AMENDED SITE PLAN

Rich Williams stated Just 4 Kids is a daycare center that is out along Route 22 near Robin Hill Corporate Park they have to move. They are moving up into where Harry Nichols building is which is the old Patterson Medical Center up near the top of the hill.

Board Member Rogan stated behind Al's Barber Shop up in there.

Board Member Pierro asked so what do they need.

Rich Williams stated so anyway they are looking for site plan approval, they have actually also requested a waiver. There are no, it is a permitted use within the Zoning District what they are going to be doing is fencing in a 2,500 square foot area.

Board Member Pierro asked outside in the rear.

Rich Williams replied outside in the rear. They have given you a sketch showing you where it is going to be.

Board Member DiSalvo asked is there enough room there.

Rich Williams replied yes.

Chairman Schech stated there is nothing in there.

Board Member Pierro stated there is a lot of yard back there.

The Secretary stated people moved out of there.

Board Member DiSalvo stated I don't know I had to wait for a parking space yesterday.

The Secretary asked did you go around back.

Board Member DiSalvo stated the Pediatrician there they were packed.

Rich Williams stated so that is basically what they are looking for site plan approval or a waiver there from so they can fence in a play area.

Board Member DiSalvo asked but what happens when the other offices get rented there.

Board Member Pierro stated Maria have you seen the map, the play area is the grass area on the rear of the building.

Rich Williams stated except for Mother's dropping off there should only be three or four parking spaces used.

Board Member Pierro stated it is to the right of the cul-de-sac.

Board Member Montesano asked is there a viewing area.

Board Member Pierro stated they may see them but it is going to be up hill from the driveway my recollection of the site.

Board Member Rogan stated they run a nice operation.

Rich Williams stated my two cents the really big issue is the entrance coming in and out of there on to 22 and that is not the best thing in the world but it is what it is.

Board Member Pierro stated it is there we didn't approve that.

Board Member Rogan stated and it is not something that we are building.

Rich Williams stated and you can't tell the property owner now you can't use your building.

Board Member Pierro stated there is a need for it in the community.

Board Member DiSalvo stated well just a few times that I have been a Harry's office this last couple of weeks coming down the driveway to get out is,

Rich Williams stated it is tough.

Board Member Rogan stated that is not our decision though it is a business decision.

Board Member DiSalvo stated I know but just an increase in cars and stuff I don't know I think you may have a problem there later on.

Board Member Rogan stated and I think it is a good point I just don't know what we can do about it.

Chairman Schech stated nothing.

Board Member Montesano stated you are not DOT unfortunately it is there.

14) FOREST VIEW APARTMENTS SITE PLAN

Rich Williams stated it is a Harry Nichols I have not gone through it yet.

Ted Kozlowski stated I have not seen remember at the last meeting, I asked Harry to address the wetland issues.

Rich Williams replied and I do not believe he has.

Ted Kozlowski stated and the latest plans still shows the wetland line making a nice little fish hook and ending.

Rich Williams stated the good news is I think we got the Stormwater squared away.

Board Member Rogan stated really.

Rich Williams stated he completely re-designed it the way I asked them to do it and it seems to work. Even though it is deceiving because it appears to be more disturbance but the problem was Harry consistently has been showing two on one slopes, which we tell him you can't do so now he went to three on one slopes. It is actually less disturbance but it spread it out more because he went to the right slopes.

The Secretary stated I don't know if it was Forest View or D'Ottavio Harry did call asking for Ted's memo which the one we found was like July.

Ted Kozlowski stated I was going to say add to that he never responded.

The Secretary stated I don't know which project it was I would have to look.

Ted Kozlowski stated I was going to say D'Ottavio was the next one. I sent him before I went on vacation in July, early July.

(Too many talking unable to transcribe).

15) D'OTTAVIO SITE PLAN

Rich Williams stated he submitted the things, Gene has done a preliminary review on it said there is a bunch of foolish things that need to be addressed still and certainly he has not touched anything with the wetlands, watercourse just like totally blowing it off.

Rich Williams stated the one thing that I owe everybody is I said I was going to go out, take pictures, and look at that head wall so that we would have pictures to talk about the condition. I will do that before the next meeting. I have not had a chance as of yet.

16) KING WETLANDS WATERCOURSE PERMIT

Rich Williams stated we have got a resubmission in by King. They have taken the Board's advice and are proposing now a common driveway. There is still a little bit of intrusion in the buffer of the wetland what is shown as the stream so he still needs a wetland watercourse permit.

Ted Kozlowski stated my concern is the hillside. It is a steep hill. I would be very concerned about erosion.

Rich Williams stated I have not had a chance to take a look at it but I will.

17) WHITE BIRCH REALTY SITE PLAN (a.k.a. YONKERS REALTY)

Ted Kozlowski stated my comment is I asked Bibbo Associates to put the wetlands on the plans and only part of it is showing.

Rich Williams stated but obviously there is a miscommunication here because Ted asked to have the wetlands shown on the plan and they didn't do that but they didn't have anything in the wetlands now they still haven't shown the wetlands but they have got everything in it.

Ted Kozlowski laughed.

Ted Kozlowski stated if you open up the plans it is like you have got to guess. You know there is a stream there, you know there is a pond there.

(TAPE ENDED).

Board Member Montesano stated why are we looking at the plans if they don't want to listen.

Rich Williams stated basically it is a new property owner and he came in with a new design.

Board Member Montesano stated to hell with him let him get the old property owner and find out what he is supposed to be doing.

The Secretary stated they did come in and get the old files.

Board Member Montesano stated they read the letters I am sure and then they just disregard it and then they are put on a Board meeting to have another meeting, why until they get what we requested done then the hell with them. Why are we wasting our time discussing it with somebody that doesn't understand English.

Rich Williams stated because if you don't tell them what is broken they can't fix it.

Board Member Montesano stated we told them.

Board Member Pierro asked what is Yonkers use going to be.

Rich Williams replied as far as we knew it was going to be Eurostyle Marble, Zottola and the bus garage.

Board Member Pierro stated okay I just wanted to make sure I was in the right spot.

Chairman Schech asked is this just a name change or is this a.

The Secretary replied it is an owner change, new owner.

Rich Williams stated the other issue is they have divided up the interior space a little bit differently so they can have four users and are proposing a driveway into a difference section of the building which is all located within a hundred feet of the stream and new impervious surface is not going to be permitted under DEP regulations so that is going to go.

Board Member Pierro asked they have been informed of this.

Rich Williams replied first time in.

Board Member Rogan asked and breaking up the different spaces, if they are breaking them up with walls and all that stuff do they have separate bathrooms in those spaces and all that kind of stuff.

Board Member Pierro asked will the current septic system handle all those.

Board Member Montesano stated they use the busses. Aren't the busses for the bathrooms.

Rich Williams stated and they are proposing to finish up the work that was supposed to be done with the original plan such as; putting headwalls into the stream, things like that. They have a new lighting scheme. They have got some other changes. You see the reconfiguration for the parking lot.

18) BEAR HILL WETLANDS WATERCOURSE PERMIT

Ted Kozlowski stated I just want to have your undivided attention for a few minutes because this thing keeps popping up and the reason it keeps popping up is the Applicant wants to say or try to prove that this vernal pool is not a vernal pool therefore it won't be regulated and therefore they can do whatever they want there. The Town of Patterson regulates vernal pools. This is a vernal pool by definition. The Applicant's Consultants recognize the characteristics of a vernal pool in here. They are making the

argument of the degree of productivity of this vernal pool with regard to amphibians and I am not going to get into a nit picking contest with them on what is there and what is not there.

Board Member Pierro stated nor are we.

Ted Kozlowski stated but I will tell you this I have looked at this pond on three occasions in the winter months, actually early spring months when you are supposed to be looking for amphibian breeding. This Applicant hire Tim Miller Associates a little bit late in the game after the breeding season really was in full force. What I observed there is far more than what they are claiming is there. They are making the argument that it dried up, yes it did dry up. In their functional analysis they are saying the weather was fine, well the weather was not fine. You have a memo from me. I checked with the National Weather Service. Tim Miller Associates was here in May, on May 5th meeting, the last time I was at that pond was April 3rd, the pond was full of water from that time on. We didn't have a drop of rain in this area. As you know this summer was a very dry summer, a very unusual summer. I have personally had experienced with this pond over the last fifteen years, I have seen water in it, I have seen salamanders breeding it. It is a productive pond. Tim Miller Associates has looked at this pond a total of three times after April 5th. I don't think that qualifies them to say whether that is or is not a productive amphibian pond but regardless it meets all the definitions set forth in the Town of Patterson Wetland and Watercourse Code so therefore it is a vernal pool. Having said that in the functional analysis that they put together which to me seems a little bit lacking. I am not going to make a big issue of it other than to say the following; if you would look what they don't address which I think is a very glaring error of the assessment, these yellow lines represent existing homes right here. The only true east, west, untouched corridor for wildlife and flow is between this wetland system. We walked this site this is that huge sixteen acre parcel, it is quite diverse. This is the only green belt in this area that connects this area to a large, vast, open area over here. This is a wildlife corridor it is not addressed at all in the assessment because you have a pond here and a pond within a wetlands system that is just mentioned. This wetland, Wetland "B" that they are calling does have vernal characteristics on part of it. It does have standing water. It is not addressed in the wetlands assessment. They are claiming it is something else. In addition, with this wetland which is a regulated Town Wetland they have the house, the septic, the driveway all within the buffer. In this one, they have almost more than half of the septic in the buffer yet in the Environmental Assessment they are saying that the septic expansion area is only in the buffer, well tell me which is the expansion and which is the real septic. It is not shown here. To me this is just like what we are seeing on Michael's Way, most of that septic is in the buffer.

Board Member Rogan stated it shouldn't make any difference whether it is primary or expansion just consider it septic.

Ted Kozlowski stated they are saying well if it is, they are making the argument that if it is expansion it is not going to be touched unless it has to be touched.

Board Member Rogan stated so then we consider it touched.

Ted Kozlowski stated the other thing on this plan which I can't find maybe they are there I don't know where the wells are. Wells are not shown so you have got to believe that the well is going to be in buffer at least in this one. I don't know where the well is on here either. Also, at the last meeting remember I asked them to revise the wetland flagging here is another glaring mistake, here is my flags that I put last winter, okay they have the flags shown but they are not recognizing it as a connection. It is omitted. I believe this wetland assessment was hastily put together to meet deadlines whether you reject it or not does not matter

to me all I am saying is the argument that this is not a vernal pool is a weak one at most. It is very debatable how productive it is for amphibians but that does not matter our Code does not regulate this on the degree of productivity. It regulates it on whether it is or is not a vernal pool and that keeps coming up for the obvious reason. The only other thing I do stand corrected I checked with Missy today and she gave me a copy of the minutes I said that, I indicated in my memo to you that they were only out there when the pool was dry but clearly in the minutes he said he was out there when there was water in it but he was clearly there beyond the time frame that I was in.

Chairman Schech stated the vernal pools do dry up though.

Ted Kozlowski stated my argument is this and the National Weather Service backs that up because it had no rain. It is dependent upon rain. It dried up a lot vernal pools in the area dried up, a lot of ponds dried up. There is a big pond along Fair Street. The guy wanted to come in and dredge, the fish were flopping in that pond along Fair Street. A lot of ponds dried up this summer. If this gets developed which again this is all in the buffer area. The house is forty-five feet from the vernal pool. You could only imagine what this will look like once it is developed. This wildlife corridor will be shut off. There is a serious impact there and it is just glossed over.

Chairman Schech stated all right you sold me.

19) EASTERN JUNGLE GYM SITE PLAN

Chairman Schech asked they are back.

Rich Williams stated they are in for their annual review.

Board Member Montesano stated no next.

Rich Williams stated they shifted some things around. I was out there on another matter, they shifted some of the sheds around, they have moved them back in away from the road a little bit so they are not in the right of way any more. I haven't had a chance to open the plans and look at it. I don't know what they are showing. I did have a conversation with Rob Cameron who indicated that they still have a lot of activities going on so they needed more room. They wanted to know if there was any flexibility if they could move closer to the stream or do something other things. I don't know what they are proposing to do I haven't had the chance to look.

Board Member Rogan asked what was the first initial use of that building when it was first built.

Rich Williams replied I don't know.

The Secretary stated the newspaper was in there at one time right.

Board Member Rogan stated I mean it wasn't something that had the extent of outdoor storage that.

Rich Williams replied no.

Board Member Rogan stated so the reality is the building and the site was never designed for that use.

Rich Williams stated that whole back is in the one hundred foot flood plain and what are you really going to store back there.

Ted Kozlowski stated we had asked them to do something about that stream, the stream behind the building comes right at it and then makes a ninety degree turn. We asked them to address that as far as I know they haven't.

Board Member Montesano stated that is how they addressed it they didn't.

Ted Kozlowski stated they are successful business they just out grew the site. They are bigger than the site.

Board Member Montesano stated right now they may be out growing it but if things don't go well.

Rich Williams stated they have actually moved, they have out sourced their manufacturing.

Board Member Rogan stated let me ask a quick question. They came before us because of a violation Paul issued.

Rich Williams replied I believe so.

Board Member Rogan stated they didn't have site plan approval for what they are doing.

Rich Williams replied right.

Board Member Rogan stated so they obviously are going before Triccinelli or John King or someone I wonder if they are coming back before us because they are due in court and they have to tell.

Rich Williams stated I have no idea.

20) BARNES SUBDIVISION

Rich Williams stated we have got a new subdivision application for a two lot subdivision along Route 164 south of the Thomas Subdivision. The gentleman just put up a new house in there. It was formerly the Axel Subdivision.

Board Member Rogan asked that was the one they came in before us they wanted to realign where the driveway is going in and ultimately ending up building what was approved right.

Rich Williams replied yes.

Board Member Pierro asked Axel Development is no longer involved in this correct.

Rich Williams replied no they sold it to Harvey Barnes.

Board Member Pierro stated because I did not realize.

Rich Williams stated you are clear.

Board Member Pierro stated I am clear. I didn't realize the first time out well I wasn't with them then but.

Rich Williams stated no you weren't that was a few years ago.

Rich Williams stated essentially what it was is Axel Development came in for a four lot subdivision they had Insite Engineering as their engineers. After awhile Insite Engineering walked away and just ended up doing a two lot because they felt they could not get septic system on the site which meant Health Department requirements. Harvey Barnes does but I think they are trying a new tact in that it is a 4.6 acre lot I think they are breaking off.

Board Member Rogan stated 4.783.

Rich Williams stated but they are going to try to get Health Department non-jurisdictional approval so they can get the lot without worrying about the septic system.

Board Member Rogan stated that is a gamble.

Rich Williams stated my recommendation to the Board is they get the septic system whether it is a non-jurisdictional or not.

Board Member Rogan stated right especially since they are showing a proposed use.

Rich Williams stated and they are showing a septic system on a slope of with an average of sixteen to seventeen percent. It really border lines.

The Secretary asked who is the engineer.

Rich Williams replied Badey & Watson.

Board Member Rogan stated Badey & Watson.

Rich Williams stated and they are usually pretty good so I don't know what to do with this.

21) OTHER BUSINESS

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

a. SITE WALKS

Merlotto Fill Permit, Rizzo Wetland Permit

The Board still has not done the site walks.

Board Member Montesano asked what happened to our meeting with the Town Board. We don't know if we are going to out if we get paid or not.

Rich Williams stated the Town Board was going down the agenda and I had to go out in the hall for two seconds and I came back in and they were by it and never asked me anything so at the end of the meeting so what is the story. Mike said we didn't know why the Planning Board wanted to meet so we didn't do anything about it.

Board Member Montesano stated then we will wait until next year until we get a new budget.

Rich Williams stated we have to go back to a few in the beginning.

Wyndham Homes

Rich Williams stated I have not heard or seen anything. We did re-notice their public hearing.

Fox Run Site Plan

Rich Williams stated the other issue is Fox Run

Chairman Schech stated we are going to deny.

Rich Williams stated yes. I have gone back and forth with the Attorney on this and I have been fairly concerned about the direction he was taking. I think you all know that. I actually did reach out on my own to another Attorney that has some municipal background that I have got a little respect for and he brought up a number of issues that I had not even considered but said you really need to be doing a comprehensive resolution. Mike Griffin has also talked to another Attorney and has talked to Danny Seymour. Ultimately, Danny came back to me today with a resolution that you have got in front of you that while I think it could be more comprehensive I think it certainly is sufficient for what you guys need to do. I am trying to get out of the way of this as much as I can. I think this resolution will work for everybody.

Board Member DiSalvo asked did you write it or did the Lawyer wrote it.

Rich Williams replied well I wrote it, he rejected it and then slowly but surely he keeps throwing my things back in on it. I have worked with Danny before and he is very good on this stuff but he has left me concerned because every time I ask him (unable to hear too many talking) he says I have got to get back to you. He does not have the answer.

(Unable to hear Board Member DiSalvo's comment).

Rich Williams stated for me when you are doing any resolution you have got to have a findings of fact this is government you have to substantiate your position.

Board Member Rogan stated sure otherwise you are leaving yourself wide open.

Rich Williams stated I am also still concerned that he doesn't want us to release that legal opinion because in any other situation I would say he is absolutely right we don't want to give everybody else the ammunition to shoot you with but unfortunately we are government and we have to act in a different manner and I think maybe he is more used to dealing with private clients than how government works. We are always working at a disadvantage because we have to work for the people.

Chairman Schech stated for all the people.

Board Member Rogan stated isn't it under the FOIL request information.

Board Member Pierro stated I understand your concerns Rich but my concern is that if this thing does go through the shooter then we are definitely, this is going to litigation.

Rich Williams stated well that is my concern also which is why I have been so conservative.

Board Member Pierro stated but we have already given these guys more than enough to bang our heads up against the wall with. I don't want to have to answer the question why didn't you listen to our Attorney because whether our Attorney is right, wrong and you are right. I don't want to have to answer the question why didn't we take the suggestion of our Attorney. They hired an Attorney for us to deal with this let him deal with it because the sh- is going to float back to them.

Rich Williams stated I understand but I don't want the Town to be liable for losing the case that we didn't need to do. If the question is we need to get a different Attorney because we need one that is better versed in municipal affairs then that is the conversation that we need to talk about.

The Secretary stated it brings up the point that I was just saying. I just asked Rich the other day that opinion is in the file. If I am not here and Rich is not here and Michelle gives that file and is not aware what do we do it is in the file. People are going to see it. It is in the file.

(Too many talking at the same time unable to transcribe with regards to information in the file and FOIL requests)

Board Member Montesano stated excuse me there is only one problem here and one major problem that we are over looking the Lawyer, the Attorneys were paid with public funds, taxpayers money no matter how you look at it and the taxpayer has the right to see what he paid for. He may have to go to court.

Board Member Rogan stated that would be like saying the public is able to get into executive session there is a reason why.

Board Member Montesano stated no executive session there is nothing in the book that says you can get into but if I am going to spend my money you have got to give me a reasonable explanation and you have got to prove it.

The Secretary stated what is in our file is FOIL-able.

Board Member Rogan stated that is not necessarily true what Rich is saying is that it is because of the way you do it. It is not necessarily the right way to do it and it is not necessarily the way that it would be best to do it.

Rich Williams stated Shawn, let me say this I know what is and what is not FOIL-able. I know what has to be redacted and to the best of my knowledge, seventeen years being associated with the department the only document that has even been suggested and I don't agree with that needs to be redacted, can't be viewed by the public is the opinion from Danny Seymour. I have got legal opinion after legal opinion from Attorney's and not one of them Attorney, Client privilege, you can't show it to anybody.

Board Member Rogan stated we redact stuff all the time and our Attorneys, we send it up to them and they tell us what to redact on it on a weekly basis. All the time.

Rich Williams stated maybe you are collecting information,

Board Member Rogan stated some of it is complaint information so that is confidential but you guys get complaints in the Building Inspector's office.

The Secretary stated the Building Department may have different rules.

Board Member Rogan stated so you are saying the content of what you guys do is not necessarily,

Rich Williams stated it is not context sensitive.

The Secretary stated well this document sits in the file that is all I know.

Rich Williams stated we have to mark it is what we have got to do.

Board Member Rogan stated but I agree with you if the public is paying for a legal opinion.

The Secretary stated I think the Applicant is paying for this one.

Board Member Montesano stated I have seen it done because that is how it came out and depending on what the Judge's attitude with and the Judge went with it.

Rich Williams stated this is my non-legal opinion if somebody FOIL for it and we deny it and they challenged it we would lose.

The Secretary stated the Applicant pays for this.

Rich Williams stated and he is not allowed to see it.

Chairman Schech stated it is not fair.

REAL LIFE SITE

Ted Kozlowski stated Commerce Drive, Real Life next to Lea-Rome. It is a landscape company well they landscaped the wetland. They went in, they filled it, and they put a road through it. They have got stuff stored there. They made a connection all the way to Fair Street. They told Richie we didn't,

Rich Williams stated and guess what according to him what their principal business is, wetland restoration.

Ted Kozlowski stated I called Army Corp. today, we called DEC. We have got to. This is,

Chairman Schech asked where did they go to Fair Street.

Ted Kozlowski stated they went to Fair Street. I have photos of the fill piled in there to get the vehicles in. I didn't put fill there. There is concrete there is everything. You can see the tire marks going through the wetland. It is incredible.

Chairman Schech asked they are making Commerce Drive worse than it was.

Rich Williams replied yes.

Chairman Schech stated that is impossible.

Ted Kozlowski stated Herb, guys and Maria it is worth seeing.

Rich Williams stated he has also expanded his parking lot into the wetland buffer. He has got steel containers.

Ted Kozlowski stated and it is so obvious from 84.

Chairman Schech stated I used to go in there once a week then I kept getting sick because this place is disgusting.

Ted Kozlowski stated it is incredible.

Ted Kozlowski stated actually I think it is worse than Shkreli.

Rich Williams stated it is.

The Secretary stated I just don't understand why he would want to make a road to Fair Street.

Ted Kozlowski stated it is not that out of the way to take Commerce Drive.

Rich Williams stated because the issue is he wanted a place to store his plant stock. He was going to turn that into a big storage area. He is already doing it where he could haul his plants in over the winter and have an easy access out to Fair Street to get to it.

Board Member DiSalvo asked have you seen the plants there.

Rich Williams replied yes.

Board Member Pierro asked where does it intersect with Fair Street.

Board Member Rogan stated through the wetlands.

Ted Kozlowski stated right by 84, before the 84 over pass is, fifty feet off the bridge.

Rich Williams stated we talked about this afternoon didn't we.

Board Member Pierro stated yes but I had not been out there to look at it. Did he make an incursion into the wetland already.

Board Member Montesano stated he is through it.

Ted Kozlowski showed the Board the pictures.

Board Member Pierro stated so we all agree by no way shape or form is he ever, ever going to be able to utilize that road. He has to remediate the whole damn thing.

Ted Kozlowski stated he is a wetland expert he is going to practice it.

Board Member Rogan stated this is terrible.

Rich Williams stated this is the most blatant, egregious thing I have ever seen. I was told he has been doing it a little bit more every Saturday and nobody seen it going on and then the leaves dropped.

Ted Kozlowski stated and now you can see it from 84.

Board Member Pierro asked where are these guys from.

Rich Williams replied Westchester, Carmine Labriolla.

Cornwall Hill Reilly House

Rich Williams stated Cornwall Hill, Mr. Reilly's house that is under construction, I was asked if the house is in the right location. I did draw a line from a fixed point on the County Road and compared it to what is shown on the map and it is right on the money. He also had a surveyor knowing the sensitivity of the site go out and stake the four corners before they started construction.

Board Member Pierro stated wait until you see the pond that is in the backyard at the corner of the footings today. It is flooded.

Chairman Schech stated look at the rain we had what do you expect.

Board Member Pierro made a motion to adjourn the meeting. Board Member Montesano seconded the motion. All in favor and meeting adjourned at 9:10 p.m.