

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS
January 7, 2009**

AGENDA & MINUTES

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PLANNING DEPARTMENT

P.O. Box 470
1142 Route 311
Patterson, NY 12563

Michelle Russo
Sarah Wagar
Secretary

Richard Williams
Town Planner

Telephone (845) 878-6500
FAX (845) 878-2019



**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

**ZONING BOARD OF
APPEALS**

Howard Buzzutto, Chairman
Mary Bodor, Vice Chairwoman
Marianne Burdick
Lars Olenius
Gerald Herbst

PLANNING BOARD

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

**Zoning Board of Appeals
January 7, 2009 Meeting Minutes**

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

Present were: Chairman Howard Buzzutto, Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Herbst, Board Member Olenius, Tim Curtiss, Attorney with Town Attorney's Office Curtiss & Leibell and Rich Williams, Town Planner.

Chairman Buzzutto called the meeting to order at 7:05 p.m.

There were approximately 7 members of the audience.

Michelle Russo was the Secretary for this meeting.

Sarah Wagar transcribed the following minutes.

Chairman Buzzutto stated Michelle, will you read the...

The Secretary stated roll call.

Chairman Buzzutto stated roll call.

Roll Call:

Board Member Bodor	-	here
Board Member Burdick	-	here
Board Member Olenius	-	here
Board Member Herbst	-	here
Chairman Buzzutto	-	here

1) ALAN STEGER CASE # 16-08

Mr. Alan Steger was present.

Chairman Buzzutto stated okay.

The Secretary stated would you like me to read the public notice Chairman.

Chairman Buzzutto stated yeah, if you can.

The Secretary read the following legal notice:

NOTICE IS HEREBY GIVEN BY THE TOWN OF PATTERSON BOARD OF APPEALS of a public hearing to be held on Wednesday, January 7, 2009 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following application:

Alan Steger Case #16-08 – Use Variance, Held over from November 24, 2008 meeting

Applicant is requesting a use variance pursuant to §154-30 of the Patterson Town Code; Permitted principal uses, in order to allow a single family residential use of the site. The property is located within a General Business Zoning District, in which residential uses are not permitted by Code. The property is located at 5/19 Center Street/Front Street.

Chairman Buzzutto stated okay. Mr. Steger. Come up please. I believe at the last meeting we requested complete financial statements and so forth.

Mr. Alan Steger stated yes.

Chairman Buzzutto stated do you have...

Mr. Steger stated I submitted them to you. I gave them to the Planner, Rich Williams.

Chairman Buzzutto stated alright. Let me see.

Board Member Bodor stated we have them.

Chairman Buzzutto stated we have them, yeah.

Board Member Bodor stated we have what was submitted.

Chairman Buzzutto stated I have some questions on some of this stuff. Maybe I'll go down it and (inaudible – papers shuffling). I believe the attorneys have the copies of the...

Tim Curtiss stated yes we do.

Chairman Buzzutto stated yeah.

Tim Curtiss stated we do.

Chairman Buzzutto stated alright, I really don't know myself on what goes in these things and what comes out of them; what could be considered expense. What could be profit and loss on these things. But this is for the period of what year.

Mr. Steger stated that's for five years.

Chairman Buzzutto stated oh, for the five years.

Mr. Steger stated yes.

Chairman Buzzutto stated 2001 thru 2007.

Mr. Steger stated 2007, 6, 5, 4, and 3.

Board Member Bodor stated when did you purchase that property.

Mr. Steger stated 1988.

Board Member Bodor stated 1988.

Mr. Steger stated yup.

Board Member Bodor stated and you've given us financials from 2001 to 2007.

Mr. Steger stated yes.

Board Member Bodor stated what was your purchase price for that property.

Mr. Steger stated \$310,000.

Board Member Bodor stated \$310,000 for the entire parcel.

Mr. Steger stated yes.

Board Member Bodor stated and what was on that parcel at that time.

Mr. Steger stated um...

Board Member Bodor stated what structures.

Mr. Steger stated the same as what is there now.

Board Member Bodor stated okay. The post office structure was there.

Mr. Steger stated post office, yes.

Chairman Buzzutto stated and the little store, that was...

Mr. Steger stated yes.

Chairman Buzzutto stated something else was in there at that time. What was that there.

Mr. Steger stated there was a daycare center in there. They had the whole bottom floor.

Board Member Bodor stated and the back building, what was in there.

Mr. Steger stated the daycare center had the whole bottom floor; the store end bottom floor of the house.

Board Member Bodor stated and up above.

Mr. Steger stated for a year, Putnam County had an office.

Board Member Bodor stated when you purchased it, what was up there. Putnam County.

Mr. Steger stated Putnam County. The Alcohol and Drug Abuse...

Board Member Bodor stated what is the current assessment of that property.

Mr. Steger stated pardon.

Board Member Bodor stated the current assessment.

Mr. Steger stated for tax proposes.

Board Member Bodor stated the whole property.

Mr. Steger stated \$270,000 I believe. Something like that.

Board Member Bodor stated \$270,000 is...On the tax rolls, that's your assessment.

Mr. Steger stated yes.

Board Member Bodor stated and that's 100%, correct.

Mr. Steger stated yes.

Chairman Buzzutto stated you do have income coming from the Post Office.

Mr. Steger stated yes.

Chairman Buzzutto stated they pay you however; Yearly, monthly, or whatever it is.

Mr. Steger stated monthly, right.

Chairman Buzzutto stated that's a leased...

Mr. Steger stated it's a lease.

Chairman Buzzutto stated it's a leased piece of property.

Board Member Bodor stated how much is their monthly rent.

Mr. Steger stated for the Post Office.

Board Member Bodor stated yes.

Mr. Steger stated \$2,500.

Board Member Bodor stated \$2,500.

Chairman Buzzutto stated a month.

Mr. Steger stated yes.

Board Member Bodor stated that's per month. Is there a mortgage on that parcel.

Mr. Steger stated not anymore.

Board Member Bodor stated not anymore. It's paid off.

Mr. Steger stated it was (inaudible – too distant) percent when I bought it.

Board Member Bodor stated but currently, we're talking today...

Mr. Steger stated there is no more.

Board Member Bodor stated there is no mortgage. The property has been paid off.

Chairman Buzzutto stated so basically, it's not a losing proposition the way it is now; with taxes and income coming in from the Post Office. Income coming from the store.

Mr. Steger stated well, be careful what you call losing. No, it's not...Well, it is...Some years I lose...most years I lose, yes. I mean, if I count depreciation of course. But, you know, I'm not getting any return on the \$310,000 I got invested in that, that's for sure.

Chairman Buzzutto stated yeah.

Board Member Bodor stated what rent are you receiving per month from the variety store.

Mr. Steger stated \$1,200.

Board Member Bodor stated \$1,200.

Chairman Buzzutto stated so it does show to be profitable. Your taxes...Did you get the reading on the taxes on that. Did you ask.

Board Member Bodor stated no I didn't.

Chairman Buzzutto stated what is your taxes on that parcel.

Mr. Steger stated nine thousand something last year.

Chairman Buzzutto stated okay. Including school and so forth.

Mr. Steger stated yes.

Chairman Buzzutto stated \$9,000 on the whole corner there.

Mr. Steger stated yes. A little bit more than \$9,000.

Chairman Buzzutto stated yeah.

Mr. Steger stated I'll tell you...

Tim Curtiss stated I think he has it in his return \$9,526.

Mr. Steger stated \$9,528.

Tim Curtiss stated twenty-eight. I'm sorry, yes.

Chairman Buzzutto stated that was all taxes.

Mr. Steger stated that was Town...

Chairman Buzzutto stated Town, County...

Mr. Steger stated yes.

Tim Curtiss stated school.

Mr. Steger stated yes (inaudible – too many talking).

Chairman Buzzutto stated alright. (Inaudible – too distant).

Board Member Bodor stated we had a question, also, when we did our site walk regarding the shed that's on the property. What do we know about the history of that other than that the papers have been submitted and they're non conclusive, actually.

Mr. Steger stated yeah, well I asked the Post Master, and she said that was four post masters ago and she couldn't find any records of anything and it was actually put on there when I was in Florida, so I didn't even know it was on there. But...And she said she was going back to try and get ahold of the post master that was here at the time, and she hasn't been able to get in touch with him. So, that's the story.

Chairman Buzzutto stated alright, so do you know she had that...well, not her, but they had that building put on that property. Did you own it at the time.

Mr. Steger stated yes.

Chairman Buzzutto stated oh, so you were the owner of the property after...when they put it on there.

Mr. Steger stated yes. It was probably about 10 years ago.

Chairman Buzzutto stated yeah. But you were the owner. You do realize that permits and stuff were needed for the shed.

Mr. Steger stated pardon.

Chairman Buzzutto stated you didn't realize there were permits needed for the shed and so forth.

Mr. Steger stated no. Well, I didn't...They never asked me or told me. They just put it there. So I didn't know what kind of arrangements they had.

Chairman Buzzutto stated well, it is a violation on the property; the shed being there. It would have to be corrected. Dave, can you...

David Raines stated yeah, I can speak to this gentleman. David Raines, acting Code Enforcement Officer. Mr. Calbo...I spoke to Mr. Calbo after reading the notes back and forth, because there were no records of how the shed got there. Post master at the time, and I don't know who it was, and Mr. Calbo doesn't recall, came in here and spoke to the Town supervisor at the time. And John said that the Post Office needs a place to put a...I'm sorry, to locate a structure to put the bulk mailing and whatnot in. But non sequestered mail, the mail that's not secured. Things like bulk mailing and things like that. And he said sure, go ahead and put it up. That was how that happened, so there has never been a violation issued and it's just been pretty much overlooked from the standpoint of...

Chairman Buzzutto stated but there is a violation there now.

David Raines stated yeah.

Chairman Buzzutto stated now.

David Raines stated yeah.

Chairman Buzzutto stated yeah. I mean you can't say that it's preexisting.

David Raines stated well, it's 10 plus years old. I mean, we can go back to what the zoning was then. I mean, I can look at what the setbacks were from building to building. I mean, to me, that could be corrected in which we could have him remove the shed period.

Chairman Buzzutto stated yeah.

David Raines stated end of story. But, we couldn't come up with any conclusions other than that he spoke to Mr. Calbo, because he was the Code Enforcement Official at the time, and Post Master at the time came to the Town, and said can we do this, and (inaudible – background noise) said sure. That was the extent of that, so...Once we close on this on whatever level, we'll issue a violation and we'll address the shed.

Chairman Buzzutto stated well, we can't actually give any kind of approval on anything. Is that right...violations have to be corrected before new approvals are granted.

Tim Curtiss stated yeah. You can make it subject to his getting the shed issue resolved, because it is (inaudible) as portable and you can usually deal with that without having too much of a problem. I mean, if it was something that was structurally in the ground, then you'd really have to wait until he get that. But on something that's this type of an issue, you can grant it subject to him getting an appropriate approval for the portable shed...the shed.

Chairman Buzzutto stated I see, okay. Well, we can take a vote on it.

Tim Curtiss stated oh yes. Absolutely.

Chairman Buzzutto stated we'll put it that way.

Tim Curtiss stated you don't have to either. You can wait to get the shed cleaned up.

Chairman Buzzutto stated yeah.

Tim Curtiss stated and then give him an approval.

Chairman Buzzutto stated alright. Get somebody from the audience I think. Is there any input from the audience on this particular parcel of land, out there. Nobody. I don't know. Should we wait until we get the shed corrected.

Board Member Olenius stated are they still using the shed.

Mr. Steger stated pardon.

Board Member Olenius stated are they still using the shed, the Post Office.

Mr. Steger stated oh sure.

Board Member Olenius stated they are.

Board Member Bodor stated let me just ask again, I believe you answered this at the last meeting, but when you purchased that property, you knew what the zoning was and what the permitted uses were for every structure on that property. Is that correct.

Mr. Steger stated mmhmm.

Board Member Bodor stated thank you.

Chairman Buzzutto stated wasn't there...We did an approval or disapproval on apartment in that building sometime ago. There was a...

Board Member Bodor stated the Applicant did come before us, a number of years ago, and requested to make apartments in that structure that we are dealing with today. And we denied that application.

Chairman Buzzutto stated and now, basically, he's back for the same thing.

Board Member Bodor stated well, he's not back for the same thing. Now he wants to make a single-family residence in that structure. So it's a different application, although it is still residential request.

Chairman Buzzutto stated well, a single-family but it's got the store which is...Would that make that a mixed use.

Board Member Bodor stated that's supposedly separate and apart. It's been walled off.

Chairman Buzzutto stated yeah, but it's still attached.

Board Member Bodor stated yeah.

Chairman Buzzutto stated that's this part here.

Board Member Bodor stated yes.

Chairman Buzzutto stated the single-family apartment would consist of how many rooms. How many bedrooms, how many...

Mr. Steger stated three bedrooms, two baths.

Chairman Buzzutto stated three baths.

Mr. Steger stated two baths.

Board Member Bodor stated two baths.

Mr. Steger stated two baths, three bedrooms.

Board Member Bodor stated he submitted a plan for it.

Chairman Buzzutto stated yeah.

Mr. Steger stated a kitchen, living room, and a dining room.

David Raines stated did you guys already do a site walk.

Board Member Bodor stated yes we did. We were there. We climbed through the whole building. That's how we discovered the shed, Dave.

David Raines stated any thoughts or comments. Just to refer (inaudible – too distant) my whole kind of discussion, my point was not so much that I want this to be a single-family, but what do we do with it. You know, we made it...We made it into offices. It fit into GB, but it doesn't meet that code as far as building itself...structure. So that's what kind of brought us here, because I...To refresh your memory, I made this decision and to bring it back to the three bedroom, two bath that it was in 1940 whatever it was. And then counsel at the time said that I can't do that. They advised Mr. Steger and told him he'd have to come before you. And I know we've been battling this around for years, as far as what to do with this. And I'm not saying that it doesn't work financially as apartments...I'm sorry, as offices, but the problem is structurally, as you may have seen, it's not purely set up that way. And it would have to meet 2007 Code.

Board Member Bodor stated why couldn't it be set up as a suite of law offices with a reception area and each attorney with his own place. A physical therapy facility. Again, a main office and...

Dave Raines stated first of all, it's not going to be compliant...

Board Member Bodor stated different persons in different rooms.

David Raines stated and it would take over a million dollars to make it ADA compliant. That's the first thing. And the mixed use, you know...Like I said, we can go on and on. I don't want to get into a debate. I just...If we're not going to go this route, that's fine. We're still at a point where the Town's got to tell this particular home owner...property owner what he can do with this. Because a denial is absolutely great. We're still at the same crossroad.

Board Member Bodor stated yeah, but Dave, the Code says what can be done in that area. It's not our responsibility to say, okay, make it this because that fits in there. You read the Code.

David Raines stated I know the Code. Entire Front Street is mixed use, and the Code says it can't be. So, help me out. That's my challenge. The entire Front Street is mixed use right now, from end to end. Well, not end to end, but as Front Street as we know it. And to me, I look at this as part of Front Street. That's not what the Code says, but that's what exists there. It's all nonconforming as far as our Code is. And that's the challenge. That's the challenge that we're faced with. That's the challenge that the property owners are faced with. So, like I said, if we're not going to go this route, we have to look at...maybe you don't, but the Town has to look at what we can do with this structure.

Chairman Buzzutto stated does that Code still apply to Center Street. I mean, that building is basically on...It is Center Street there, isn't it. Where that little...

David Raines stated they have frontage on Front Street, but it's attached to a...It's an anomaly. It's 5 Center [Street]...

Chairman Buzzutto stated yeah.

David Raines stated and 19...I'm sorry. 5 Front [Street] and 19 Center [Street] or...whatever it is.

Mr. Steger stated 5 Center [Street] and 19 Front Street.

David Raines stated so it's a challenge.

Mr. Steger stated I've actually got two addresses.

Chairman Buzzutto stated yeah. That's what I mean. Center Street would not be a different code, would it. Or the Code just applies to that (inaudible – too many talking) parcel.

David Raines stated this particular parcel and we drew the lines, it's in the GB [Zoning District] and previously it was in the MS-1. Again, it's a challenge. You know, like I said, I can understand the argument of why we don't want it to be a single-family residential. And I only pointed Mr. Steger in that direction because that's what it is, that's what it was, that's what it should have stayed. It should have never...You know, you made the right decision years ago and not allowing it to be broken up into

apartments, but, like I said, the challenge is...A denial, we're back to square one and what do we do with it. And I think the answer is to resolve. I mean...You don't turn around and tell the homeowner to pour, you know, a million dollars into a building that's not going to happen to turn on investment for 100 years. I mean, it's so...Again, I just want to...That's how we ended up here. I made the error in giving him direction saying you can't have apartments. We got the folks out at one point. And it would be great to have one business in. To have a law office in there, or to have, you know, something that you can probably get a waiver for not having. Or you could have a dentist or a doctor, or not because you run into the ADA issue. You're not going to get a waiver from the State. You may only get one on a law office similar to Tim's office. I mean, it's similar, you know, structure worthy, (inaudible – too distant). But anyway, that's why we're here. I pretty much caused this from the standpoint that I violated Mr. Steger on the use multiple times, and I said, you know, we should return this back to what it was when it was built, because that's what it was built as structurally, and it doesn't meet our current Code. So if we don't find this favorably as a variance, then I can recommend him and his attorney to go back look for the Town to rezone that structure. So, this has been years of trying to figure out what to do with it. And I'm not looking for him to make money on this property, I just need to be able to give him a direction of what he can do instead of just telling him what he can't do.

Chairman Buzzutto stated well, first we have to see if it meets the criteria of special use permit.

Board Member Bodor stated it's not special use.

Chairman Buzzutto stated huh.

Board Member Bodor stated it's not special use.

Board Member Burdick stated use variance.

Tim Curtiss stated use variance.

Board Member Bodor stated use variance.

Chairman Buzzutto stated use variance.

Tim Curtiss stated the issue that you have that's a little difficult to get around on economic return is if you take the figures that were submitted at face value, and I'm taking in (inaudible) of all the other expenses, I'm just giving you, you've got about roughly a 7% return on investment in '05. You've got an 8% return on investment in '06. And then you're back down to about a 6% return on investment in '07. What's a reasonable return. You know, you're kind of in that ballpark because a reasonable return on investment is 6-8%. You know, that's practical. I mean, some of the structures (inaudible – too distant) that Dave pointed out. We have to give him some direction at that point. Now maybe a zone change, maybe a variance, but looking in what you have, you're kind of limited by your criteria as to what you can grant. (Inaudible – too distant) be it probably does need some type of a change to it (inaudible – papers shuffling). The only way you're really probably going to get it rented (inaudible – too distant). But, from your perspective, you have to be able to show...have to be able to demonstrate, that he can't get any reasonable return on the investment out there now. Unfortunately it is rented successfully in some part, and in another part it really isn't. It's kind of one of those real hybrid situations.

Chairman Buzzutto stated well, he still has to meet the five...

Time Curtiss stated correct. He does.

Board Member Bodor stated it's only one piece of it.

Tim Curtiss stated yeah.

Chairman Buzzutto stated yeah. Now, whether he can meet all five of those right now, I don't know. Well, when you bought that property, was that building rented to a smaller apartments, or was there... You probably already told us...business in there of any kind.

Mr. Steger stated the first floor of the 5 Center Street building was a childcare...

Board Member Bodor stated children's center.

Mr. Steger stated children, yeah. And the one office upstairs was rented for Putnam County...

Chairman Buzzutto stated just the two occupants.

Mr. Steger stated yes. And the rest was vacant.

Chairman Buzzutto stated alright. I think I would like to maybe table this and go over all the inputs and outputs on that. I don't think I want to rush into a decision tonight on this.

Board Member Bodor stated we want to close the public hearing at any point.

Chairman Buzzutto stated yeah. I'll close the public hearing and...Close the public hearing and...

Tim Curtiss stated hold over...

Chairman Buzzutto stated hold over, yes.

Tim Curtiss stated is a decision by the Board. You want to...

Chairman Buzzutto stated right. And so we can mull over all the (inaudible) before we make a decision.

Tim Curtiss stated (inaudible – too distant).

Chairman Buzzutto stated yeah.

Tim Curtiss stated ask for input from the Town on what would be a reasonable return on that.

Chairman Buzzutto stated yeah.

Tim Curtiss stated you know, \$10,000 (inaudible – too distant).

Chairman Buzzutto stated well, I suggest that. I don't know what the rest of the Board...

Mr. Steger stated consider that, if it wasn't for the (inaudible)...

Tim Curtiss stated oh yeah.

(Inaudible – too many talking).

Mr. Steger stated I'd be better off to tear it down.

Chairman Buzzutto stated oh. Well...

Mr. Steger stated really. If you look at it. I'd be better off to tear that building down.

Chairman Buzzutto stated what. The house or the post office.

Mr. Steger stated the house.

Tim Curtiss stated the house.

Mr. Steger stated both (inaudible).

Chairman Buzzutto stated the house is...

Mr. Steger stated the house is... That's a shear loser.

Board Member Bodor stated I'd like to make a motion to close the public hearing.

Chairman Buzzutto stated alright. Can I get a second on that.

Board Member Burdick stated second.

Board Member Herbst stated you got a second.

Board Member Bodor stated all in favor.

Chairman Buzzutto stated all in favor. Motion carried by a vote of 5 to 0.

Chairman Buzzutto stated alright. So we're closing the public hearing on it. And I'd like to table this until the next meeting, whenever. So in the interim, we can go over all the...

Time Curtiss stated if it were helpful to the Board if you'd like is to give you a short memo on what constitutes economic...

Chairman Buzzutto stated fine. Yeah.

Tim Curtiss stated at least now, you're decision now will be (inaudible – too distant).

Chairman Buzzutto stated yeah. I just don't want to make a hasty decision tonight.

Tim Curtiss stated I understand. I agree with you. I think it's one of those really unique situations, where you're kind of really in a catch 22. I mean...

Mr. Steger stated you're keeping me from going to Florida. You realize this.

Tim Curtiss stated you can go.

Mr. Steger stated do I have to come back for another meeting. Let's take care of this. It's been dragging on since April.

Board Member Bodor stated can we get in on the January 21st meeting, or is that...Or are we too late for that.

The Secretary stated I did send the notice into the paper.

Board Member Bodor stated okay. So it would have to be February 18th meeting then.

Chairman Buzzutto stated yeah.

The Secretary stated if you like, I can amend if I get it in by Friday, it can make it for Wednesday.

Rich Williams stated Michelle, send a separate notice.

The Secretary stated send a separate notice.

Chairman Buzzutto stated yeah.

Board Member Bodor stated and get it on the January meeting.

The Secretary stated yes.

Chairman Buzzutto stated yeah.

Board Member Bodor stated okay. So that would be January 21st.

Mr. Steger stated January 21st.

Board Member Bodor stated okay. Are you still going to be here, or are you going to be in Florida.

Mr. Steger stated no. I won't be here.

Board Member Bodor stated okay. Will you be back by February. Are you going for the whole winter.

Mr. Steger stated I go for the whole winter.

Board Member Bodor stated oh, okay. You don't necessarily have to be here.

Mr. Steger stated Right. Yeah.

Tim Curtiss stated would you rather have January 21st, or February 18th. We can put it on March when you come back up.

Mr. Steger stated uh.

Tim Curtiss stated whatever's good for you. If you want to be here. I mean, you don't have to be here because the public hearing's closed, and...

Chairman Buzzutto stated yeah.

Tim Curtiss stated you know, there's not a whole lot more information that the Board's going to ask of you.

Chairman Buzzutto stated yeah.

Tim Curtiss stated you've given us everything that you've possibly give us. That's really your call whether you want to be here or not. You can.

Chairman Buzzutto stated I just don't think a hasty decision tonight would be...

Tim Curtiss stated I understand.

Chairman Buzzutto stated beneficial.

Mr. Steger stated that means whatever I do that's another 5 months before I can do anything, right.

Board Member Olenius stated yeah.

Chairman Buzzutto stated well, I'd like to set this one for February the 18th if possible.

Mr. Steger stated that's my birthday.

Tim Curtiss stated well, there you go. That's prophetic.

The Secretary stated so you want to wait until February.

Mr. Steger stated ah, February...Okay. I'll be back.

Board Member Bodor stated alright.

Chairman Buzzutto stated or we can make it March if you want. I don't think that.

Mr. Steger stated don't make them do that. I'll be back.

Tim Curtiss stated February 18th.

Chairman Buzzutto stated February 18th. Is that okay.

Board Member Bodor stated for the February 18th meeting.

Chairman Buzzutto stated yeah. That will give us some extra time. Oh, that's right (inaudible). Alright, so it will be setup for February the 18th on the next meeting so we can mull over all the details on this.

Mr. Steger stated I've got...Because of the way it worked out, I had contractors in there and they're ready to get on my case because...

Chairman Buzzutto stated yeah.

Mr. Steger stated have work to do.

Tim Curtiss stated yeah, I know.

Mr. Steger stated and, I mean, you know, I've been pushing them off.

Chairman Buzzutto stated I appreciate your...

Mr. Steger stated and they want, you know, they want deposits and they want everything else to hold their jobs.

Chairman Buzzutto stated like I said, I appreciate your patience and going along with this. But like I say, a hasty decision might not be good.

Mr. Steger stated February 18th. Okay.

Chairman Buzzutto stated okay.

David Raines stated do you want me to issue that violation on the shed. Will that help you make a decision (inaudible – too distant). If not...

Chairman Buzzutto stated well, it would be beneficial if that were sort of cleared off the agenda...the docket.

David Raines stated well, he's just going to come in for a variance for it, so...

Chairman Buzzutto stated yeah. We can do it all at one time, can't we.

David Raines stated okay.

Chairman Buzzutto stated yeah. Well, we can do it all at one (inaudible).

David Raines stated that's fine.

Chairman Buzzutto stated okay. Thank you. Okay, Rich you had something...

2) PATTERSON CROSSING RETAIL CENTER CASE #17-08

Mr. Jeff Contelmo, Insite Engineering, Mr. Fred Koelsch, Camarda Real Estate Investment, and Mr. Chris Robbins, Tim Miller Associates, were present. Mr. Anthony Mangone was not present.

Rich Williams stated I do have something to say here.

Chairman Buzzutto stated okay.

Rich Williams stated I just heard from Mr. Mangone who has a family crisis and has been called away, and he's not going to be attending the meeting tonight. So, we are without an attorney for Patterson Crossing. I don't know that you actually need one, but he's not available. No, we can't look at him [referring to Tim Curtiss].

Tim Curtiss stated I know. (Inaudible – laughing). I'd love to help you, but I can't help you on this one.

Chairman Buzzutto stated oh, that's right. Because the Town Attorney...

Board Member Bodor stated thank you Rich.

Chairman Buzzutto stated so...

Tim Curtiss stated so what I would do is...Did you have him on for what, a public hearing or did you have him on for what.

Chairman Buzzutto stated well, public hearing...

Board Member Bodor stated continuation of the public hearing.

Chairman Buzzutto stated a continuation. The public hearing was not closed.

Tim Curtiss stated (inaudible – too many talking) the information and that if you feel that there's no more public input, you can close the public hearing as you did with this one...

Chairman Buzzutto stated right.

Tim Curtiss stated and then just defer the decision until you can actually (inaudible – too distant).

Chairman Buzzutto stated alright, we can hear it. Okay, do you want to come up.

The Secretary stated do you want me to read the notice.

Board Member Bodor stated please.

Chairman Buzzutto stated Tim, you're not leaving.

Tim Curtiss stated well, I can't...

Chairman Buzzutto stated I know.

Tim Curtiss stated at this point in time. But...

Chairman Buzzutto stated okay.

Tim Curtiss stated alright. Congratulations buddy.

Board Member Herbst stated thanks Tim.

Board Member Bodor stated thank you.

Board Member Burdick stated thank you Tim.

The Secretary read the following legal notice:

Patterson Crossing Retail Center Case #17-08; Held over from December 11, 2008 Meeting

Applicant is requesting a Special Use Permit for the revised 410,560 total square foot project. The property is located at NYS Route 311, Patterson and Kent, New York.

Mr. Jeff Contelmo stated good Evening Mr. Chairman and the Board.

Chairman Buzzutto stated good evening.

Mr. Contelmo stated Jeff Contelmo from Insite Engineering. I'm here with Fred Koelsch from Camarda Real Estate Investment and Chris Robbins from Tim Miller Associates. And we're here this evening as a follow up to the open public hearing, which we held several weeks ago...

Chairman Buzzutto stated right.

Mr. Contelmo stated and a site visit we had with the Board last Saturday. We're seeking...

Chairman Buzzutto state yeah, well we did do the site walk on that exit...

Mr. Contelmo stated yeah. The emergency driveway.

Chairman Buzzutto stated the emergency driveway.

Mr. Contelmo stated Mr. Chairman, I just wanted to point out also, because I think there was some confusion at the last meeting with the public, what we're here for this evening. We're here for a special use permit for...

Chairman Buzzutto stated right.

Mr. Contelmo stated the new regional shopping center. We're not here for variances. And I think there was some misunderstanding on that. And some of the discussion last time did revolve on the emergency driveway, which we did take a look at in the field.

Chairman Buzzutto stated right. So the emergency driveway, from one sheet...and you gave us a new one, I think...What was the difference in that. Just...

Mr. Contelmo stated we updated the site plans based on a number of comments from your Town Planner and consulting Town engineer. The plans were revised. We submitted those revised plans to the Planning

Board. We have a meeting tomorrow night with the Planning Board in continuance of a site plan review. But we thought it would be appropriate for the Board to have the most up to date plans. The most significant item on those plans had to do with the emergency driveway as we discussed at the last meeting. We're proposing to change it from a gravel surface to grass surface, where it would be a grass surface with plastic support rings in the subsurface so that that grass surface could be driven on by heavy vehicles, such as a fire truck. And that's been incorporated in the plans which were submitted to you.

Chairman Buzzutto stated well, this driveway, is it mandatory that you have to have it, or do we just classify it as good planning.

Mr. Contelmo stated we believe...It's not mandatory. We believe it is good planning. It was put in early on in the site plan review process, in spirit of good planning. It was discussed during the DEIS and the FEIS review process. Alternate locations were discussed within the FEIS and Findings Statement, the location you see now is the one that was determined to be most suitable.

Chairman Buzzutto stated right. And that driveway would only be used in emergencies.

Mr. Contelmo stated absolutely correct. It will be gated on both ends; both up on Concord Road and down below on the main loop road for the center. And under normal conditions, it will not be used at all. It would have to be something catastrophic that would have to happen on the main entry drive, shutting that off. And the idea would be then emergency vehicles could still get into the site.

Chairman Buzzutto stated okay. Alright. I'm going to take...Is there any input from the audience on this. Yes. You want to come up sir and give your name.

John Mulvihill stated my name is John Mulvihill.

Chairman Buzzutto stated Mulvihill.

John Mulvihill stated and I own the property on Concord Road.

Chairman Buzzutto stated do you want to raise your right hand sir.

John Mulvihill stated yes.

Chairman Buzzutto stated do you swear the testimony you provide will the truth and the whole truth.

John Mulvihill stated yes I do.

Chairman Buzzutto stated Mulvihill. That's...

John Mulvihill stated John Mulvihill.

Chairman Buzzutto stated that piece of property on...

John Mulvihill stated I own the property from Walden Road up beyond Woodstock Road.

Board Member Bodor stated could you point it out on that map there...the plan there.

John Mulvihill stated yes. This is Walden Road. This is my house.

Board Member Bodor stated okay.

John Mulvihill stated okay. This is my property.

Chairman Buzzutto stated what is that.

John Mulvihill stated and it goes up. Right up to the boundary here, about...

Chairman Buzzutto stated yeah.

John Mulvihill stated 40 feet beyond Woodstock Road.

Board Member Bodor stated okay, so your property adjoins that little green area that we're speaking of.

John Mulvihill stated adjoins this so called...

Chairman Buzzutto stated is that lot 17, 18, and 19.

John Mulvihill stated I have 15 lots.

Chairman Buzzutto stated oh, fifteen.

John Mulvihill stated I can't tell you what number they are right now. I didn't...

Chairman Buzzutto stated yeah. They don't...

John Mulvihill stated expect to speak yet because I thought there was more people going to be speaking. But I would like to get some input on it and put some input on it because my question was, I was told previously that they were putting the entrance...(inaudible) fence opposite Woodstock Road, to get in here. I had bought those lots a few years back.

Chairman Buzzutto stated yeah.

John Mulvihill stated okay. And that puts the property 40 feet beyond Woodstock Road. I can't see how an emergency vehicle is going to make a right turn onto Concord Road, and then an immediate left turn into this property. As far as an emergency road, I can't see how it can be used for an emergency. By the way, these lots that I bought, previously did have a house. And there's still a well on there. Now the old people that did own the house, they were too old to come there and live. So they had the house knocked down because it was been occupied by teenagers and drugs and so forth. And at the time, the town of Kent Police Department, who had the patrolling rights in that...Because we bought the property back in '66, and there was no [Interstate] 84, no [Interstate] 684. And, you know, very few people living there. And they suggested that the house be knocked down. So, the house was knocked down, but the well was still there. And my concern is a gate on each end doesn't really stop people from going back there. There's been several comments made about it. And actually, someone drew a diagram on the road saying that it was an entrance to PC, which was Patterson Crossing. And that was into my lots actually. So I had it surveyed and staked. I think you did a site walk...

Chairman Buzzutto stated yeah, we seen the new stakes there.

John Mulvihill stated yes. So, that's as far as I can go on that.

Chairman Buzzutto stated yeah.

John Mulvihill stated my daughter and her husband, when I bought the property, they were in the navy. They came back, they lived there. We tried to build a house on the upper part, but we were denied at that time because one of the neighbors objected because it would ruin the view of woods in the back. And the Town of Patterson agreed with them. So we never did pursue the matter. And that's about it. Okay.

Chairman Buzzutto stated fine.

Board Member Bodor stated thank you.

John Mulvihill stated thank you.

Chairman Buzzutto stated thank you, Mr. Mulvihill. Did you, at any time, have a fire truck go up there, or the equivalent to...

Mr. Contelmo stated I'm not aware, or recall, if the fire department specifically taken a look at that area. I just want to point out a couple of things to clarify a few statements Mr. Mulvihill made. There were some confusion when we first got there relative to the parcel, that we first were looking at Mr. Mulvihill's parcel, and that was my fault because it was freshly staked out, and we had just staked out our parcel as well. And I apologize for that. But he's absolutely correct, in that his 40 foot parcel is staked out. It is the one closer to Woodstock [Road], and ours is the one which is further south. But as we also discussed in the field, the route for vehicles...for emergency vehicles, to get to the top of that hill, happens to be Echo [Road], which is here [referring to the plans]. Echo Road. So they would have to take a circuitous route, and end up on Woodstock [Road] and then would have to make that double quick turn, which Mr. Mulvihill refers to. The way we drove up, and which is the direct way, is up Echo [Road] around the corner by the driveway to the cell tower, down Concord [Road] and then into that driveway, just as they would have to go into a residence driveway in Woodstock [Road]. So...

Chairman Buzzutto stated Echo [Road], does that go right into Terry Hill.

Mr. Contelmo stated that's correct.

Chairman Buzzutto stated so, a truck would go up Terry Hill, onto Echo [Road], down to Concord [Road], and right in there.

Mr. Contelmo stated correct. That would be the route that they would take.

Chairman Buzzutto stated that would be the route that they would take. Okay. I just wanted to...If you had any opportunity to have some kind of a truck, you know, just wing it...try it.

Mr. Contelmo stated no. But we did in fact get comments from the Patterson Fire Department, who would be the first responders here.

Chairman Buzzutto stated yeah.

Mr. Contelmo stated but that particular item, to my knowledge, was not specifically addressed by them in those comments. There was no comments on that from them.

Chairman Buzzutto stated well, in a case like that, I don't think they would send that cherry-picker truck up there. The great big one. I think it would be a smaller unit.

Mr. Contelmo stated one other thing to point out is that our buildings are going to be protected by automatic fire sprinklers, which although, it doesn't eliminate the need for firefighting...

Chairman Buzzutto stated yeah.

Mr. Contelmo stated it certainly adds a whole new dimension for protection with respect for fire. You know, ambulances, certainly, to be able to make this, I don't think is any question. Again, the neighborhood we're talking about, the fire trucks got to get up there to deal with the fires in that area. So, we're convinced that accommodations can be made. It's a 40-foot wide... We're not talking about a 10-foot wide swatch of land, we're talking about a 40-foot wide swatch of land with an appropriate radii to get on to just a 12-foot driveway, to get them into the center.

Chairman Buzzutto stated basically, nothing would be coming up through the shopping center, the other way, onto that.

Mr. Contelmo stated absolutely not.

Chairman Buzzutto stated it would not be...

Mr. Contelmo stated right.

Chairman Buzzutto stated useable. You're just coming in the other way, if needed.

Mr. Contelmo stated yeah, under those emergencies.

Chairman Buzzutto stated which to me, don't look like that would that would very likely happen anyways.

Mr. Contelmo stated right.

Chairman Buzzutto stated it could, but... So do we have any input from the audience on this particular case. Nobody. Do you want to come up and give your name sir.

Bill Brander stated good evening everybody. Happy new year. I'm Bill Brander. I live on Echo Road.

Chairman Buzzutto stated okay. Do you want to raise your right hand sir.

Bill Brander stated pardon me.

Chairman Buzzutto stated do you want to raise your...

Bill Brander stated sure.

Chairman Buzzutto stated do you swear the testimony you provide tonight will be the truth and the whole truth.

Bill Brander stated yes sir.

Chairman Buzzutto stated okay, thank you. Alright, you want to...

Bill Brander stated okay, when last we met, there were a couple of issues that came up, not the least that was this emergency access drive. Now that they have seemed to figure out where they're going to put it, did they come up with the proper amount of clearance on either side. There was something about they're suppose to have 40-foot on either side, or 32-feet on either side. I hear numbers getting tossed around, but I don't hear anything firm on the actual width of the driveway, and if that's also within the current perimeters. I know that they finally decided where to put it because the last time, there was some conjecture on that. Also, last time we spoke, we had a couple of issues. I don't know if they're pertinent tonight, but I'd like to bring them up again.

Chairman Buzzutto stated alright.

Bill Brander stated and that was the replenishment of the well tests. Apparently, they weren't done, as they said they were done. And the other issue was that, you know, it's...I don't know quite how to say it. It's just that the...If in fact this project does come to fruition, and they are still working on it and run out of money, we were talking about a fund to restore whatever has been damaged or what has been excavated. Nobody had a firm idea of what kind of funding we were talking about. And also, is that on a sliding scale. In other words, you don't say, well we just have \$500,000 and unfortunately we did \$2million worth of damage. But, uh, that was all that was in the fund.

Chairman Buzzutto stated well I think there is a bond on that, Rich.

Rich Williams stated there will be a bond posted.

Chairman Buzzutto stated there will be a bond posted for correction or corrective...

Bill Brander stated right.

Chairman Buzzutto started repairs.

Bill Brander stated but my point is, is like on a sliding scale, there's just...

Chairman Buzzutto stated I don't...Rich will...

Rich Williams stated the bonds are estimated based on engineering practices and formulas that estimate the amount it's going to cost to do certain improvements, whether it be removing, you know...bringing topsoil back in, or, you know, putting seed or mulch down, or putting erosion control protections up. There are unit costs that we use to calculate out the amount that it's going to take to restore the site.

Bill Brander stated well, the only thing is, you'll never get it back to what it originally was.

Rich Williams stated no. And we never will intend to.

Bill Brander stated right. But the gentleman who spoke before me brought up an interesting point. He wasn't allowed to put up a structure because his neighbors said it would block their views of the trees in the woods. Think about that one for a minute. Thank you.

Rich Williams stated I'm not familiar with that. I have to...

Chairman Buzzutto stated neither am I.

John Mulvihill stated I'm sorry, but I have all the papers issued for that. That was in nineteen seventy...

Chairman Buzzutto stated do you want to come up sir. You have to talk into the mic.

John Mulvihill stated okay.

Chairman Buzzutto stated because it goes into the tape.

John Mulvihill stated we applied for that house...because it was supposed to be like a two bedroom house, for my son, who was handicapped from an accident, who has since passed away anyway. And it was on that basis that we gave up our fight for the house. The house was...The application was made to the Town of Patterson. I forget what the supervisor's name was, but it was given to the...written up and given to the Board of Appeals.

Chairman Buzzutto stated right.

John Mulvihill stated Mr. Anthony Edwards was the chairman.

Chairman Buzzutto stated right.

John Mulvihill stated they did a site walk. It was still objected by one neighbor, and they based it one that. We were not aware that this one neighbor had objected, and in the meantime, I guess one or two members of the Board of Appeals a few years back had a change of heart, and they mailed us out all the papers and the letters they got, and we have them on file. I don't know why we keep them, but we still have them on file anyway. It has nothing to do with this construction, but I felt it was a low blow on their part.

Chairman Buzzutto stated the reason that was...That was denied, right.

John Mulvihill stated that was denied because...

Chairman Buzzutto stated right.

John Mulvihill stated they said it was residential at that time.

Chairman Buzzutto stated I think you had to subdivide the property and create a nonconforming lot at that time.

John Mulvihill stated again. I don't know anything...

Chairman Buzzutto stated well, maybe you should (inaudible – too many talking).

John Mulvihill stated and without looking at facts I don't...

Chairman Buzzutto stated were you on the Board at that time.

Board Member Bodor stated I think I was.

Chairman Buzzutto stated yeah. The property would have had to have been subdivided. And to subdivide it, would have created a nonconforming lot next to the house.

John Mulvihill stated right.

Chairman Buzzutto stated and that's one of the reasons it was denied.

John Mulvihill stated it was okay with Mr. Calbo and all the rest, but he didn't have any say on it at that time.

Chairman Buzzutto stated no.

John Mulvihill stated and...

Chairman Buzzutto stated but that's why it was denied.

John Mulvihill stated yeah.

Chairman Buzzutto stated I can remember that one. Tony Edwards was the chairman at the Board at the time.

John Mulvihill stated now shortly after that, without our knowledge, we didn't know it, but they had changed the zoning. They had made it from residential to something else. And that's where we are today.

Chairman Buzzutto stated that goes way back then.

John Mulvihill stated it goes back...We started on it...I bought the property in '66. I applied for the house in '78.

Chairman Buzzutto stated yeah.

John Mulvihill stated okay.

Chairman Buzzutto stated were you on the Board at the time. Yeah you were and myself.

Board Member Herbst stated I was on the Board, too, with Anthony at the time.

Chairman Buzzutto stated and Jerry.

Board Member Bodor stated you were too. Yeah.

Chairman Buzzutto stated Tony Edwards.

Board Member Herbst stated I don't remember this one though.

Chairman Buzzutto stated you don't remember that one.

Board Member Herbst stated no, I don't remember this (inaudible – too many talking).

John Mulvihill stated those papers are available to anybody who wants them.

Board Member Herbst stated I was on the Board.

Board Member Bodor stated it's familiar.

Board Member Herbst stated (inaudible) I was on so many of them.

Chairman Buzzutto stated I can remember very clear on why it was denied.

John Mulvihill stated I remember it very well. Okay. Thank you.

Chairman Buzzutto stated okay Mr. Mulvihill. Thank you.

Board Member Bodor stated thank you.

Chairman Buzzutto stated is there any more input from the audience on that. No more. Close the public hearing.

Board Member Bodor stated no. I would like to just discuss the 65-foot buffer zone, whatever you want to call it. It's one of the conditions of a special use permit. It was brought up at the last public hearing, and I just think it needs to be...

Chairman Buzzutto stated documented.

Board Member Bodor stated documented that, you know, this is or is not a piece of what we are talking about. It talks about...The big thing is the access drive. And we're talking about an emergency drive. You know, is that an access drive. And I think this needs to be...

Mr. Contelmo stated if you recall, I addressed that in my preamble the other day, excuse me, at the last meeting. If you read the entire section, it talks about access being from a County...State...

Board Member Bodor stated right.

Mr. Contelmo stated a state or county road.

Board Member Bodor stated yes.

Mr. Contelmo stated certainly, our access to the center is from a state road. And I believe, in reading between the lines, and reading what is stated here, I believe that's what's contemplated by access. Access has to be from a County or a State road. Our emergency driveway, although one in terms of Webster's

would say it's an access, I don't believe it's an access from the standpoint of what this portion of the Code is referring to. If you look at the two sections together, they would conflict with each other...

Board Member Bodor stated right.

Mr. Contelmo stated if you...

Board Member Bodor state right. Okay. Does anybody else have anything further to add to that.

Chairman Buzzutto stated no. Marie. No. Okay.

Board Member Bodor stated it was just that it was a big issue.

Mr. Contelmo stated yeah. And I agree, and that's why I tried to address it up front...

Board Member Bodor stated yeah.

Mr. Contelmo stated because we took it into consideration also.

Board Member Bodor stated right.

Chairman Buzzutto stated Mike, you have to come up. Unless you've got a remote mic.

Board Member Herbst stated we realize it's a big walk for you Mike, but...

Board Member Bodor stated alright.

Mike Montesano stated that's why you get the small chair.

Board Member Bodor stated belongs to you.

Mike Montesano stated Mike Montesano. I am a resident of the Town of Patterson. Since we're talking about State, County or Town roads, or access, I would suggest that maybe we can get a letter stating that they will not use that road for an access other than emergency, from the developer. Because it is not a State road. It is not a County road. But it is a Town road.

Rich Williams stated and if I might, what might be a better tactic if the Town is really concerned about doing that, is to make it a condition of the site plan and or the special use permit, because then it's enforceable by the Town.

Mike Montesano stated thank you.

Chairman Buzzutto stated can that be...

Mr. Contelmo stated yeah.

Chairman Buzzutto stated implemented.

Mr. Contelmo stated Mr. Chairman, just to clarify, and I might have misstated, but what the Code says is a State or County road...

Board Member Bodor stated yes.

Mr. Contelmo stated is what it talks about access.

Board Member Bodor stated right.

Mr. Contelmo stated certainly we're agreeable to...I mean, we have no intention of using it for anything other than an emergency access. So we don't mind if it's a condition the special use permit and a condition of site plan approval. It's in keeping with what we want to do as well.

Chairman Buzzutto stated well, would that meet the requirements of a Town road; the widths and so forth.

Rich Williams stated not even.

Board Member Bodor stated no.

Chairman Buzzutto stated not even close.

Rich Williams stated not even close.

Chairman Buzzutto stated yeah. So, what happens in a case like that. Does it have to meet...

Rich Williams stated no, no.

Board Member Bodor stated no because...

Rich Williams stated we're not (inaudible) a Town road.

Chairman Buzzutto stated okay.

Board Member Bodor stated but the Concord...that's Concord [Road].

Chairman Buzzutto stated Concord [Road], yeah.

Board Member Bodor stated that's your Town road.

Chairman Buzzutto stated oh, I see.

Board Member Bodor stated that's an approved Town road. We're not talking about the emergency drive.

Chairman Buzzutto stated okay. Fine. Okay. I got it.

Board Member Bodor stated alright.

Chairman Buzzutto stated is there anything else we have on this.

Board Member Bodor stated I have a letter from the Planning Board which I think we ought to put into the record.

Chairman Buzzutto stated yeah, okay. I...Go ahead. You can read that.

Board Member Bodor read the following letter:

December 10, 2008

To: Zoning Board of Appeals

From: Planning Board

Re: Patterson Crossing Retail Center
Tax Map No. 22.-3-1

At a meeting held on September 4, 2008, the Planning Board voted unanimously to recommend the Zoning Board of Appeals look favorably on the Special Use Permit for the Patterson Crossing Retail Center.

Chairman Buzzutto stated that was from the Planning Board. What was the date on that.

Board Member Bodor stated December 10th.

Chairman Buzzutto stated oh, okay. Alright. Can it go into the minutes.

Board Member Bodor stated it's there.

Chairman Buzzutto stated okay. Does anybody else have anything on this.

Board Member Bodor stated I'll make a motion to close the public hearing.

Chairman Buzzutto stated do I hear a second on that.

Board Member Burdick stated second.

Chairman Buzzutto stated all in favor. Motion carried by a vote of 5 to 0.

Chairman Buzzutto stated alright, the public hearing is now closed on Patterson Crossing at the ZBA. Now we'll have to mull this over.

Board Member Bodor stated are you ready for someone to present a resolution.

Board Member Burdick stated no.

Chairman Buzzutto stated well, I guess we can...

Rich Williams stated no you are not.

Board Member Burdick stated no, we...

Board Member Bodor stated we don't have the attorney.

Chairman Buzzutto stated oh, that's right.

Rich Williams stated the next step of the process is you either have to accept the Planning Board's Findings Statement, or you have to adopt your own Findings Statement.

Board Member Bodor stated okay.

Rich Williams stated I believe we've given you one.

Mr. Contelmo stated yeah, there was a draft Findings Statement prepared by Rich.

Rich Williams stated so, if you're comfortable with that Findings Statement, you can just motion to accept that Findings Statement as written.

Chairman Buzzutto stated yeah, but we don't have the resolution on that.

Rich Williams stated no. That's what I'm saying. You can do it by motion by simply accepting the Findings Statement as written.

Chairman Buzzutto stated do you want to do it that way, or you want to do a reso...

Board Member Burdick stated he's talking about two different things. He's talking about the Findings Statement, and not the resolution.

Rich Williams stated correct.

Board Member Burdick stated he's talking about just saying we...

Rich Williams stated it's taking a step in the SEQRA process.

Chairman Buzzutto stated anybody got a...

Board Member Bodor stated we have that, right.

Board Member Burdick stated we have it, yes.

Chairman Buzzutto stated who wants to do...

Board Member Bodor stated would we be comfortable accepting that tonight.

Chairman Buzzutto stated which one. The draft.

Board Member Olenius stated I flipped through it, and I am. Personally, I am. I read through it.

Board Member Bodor stated alright. Then I'll make the motion that...

Chairman Buzzutto stated alright.

Board Member Bodor stated we accept the Findings Statement as presented.

Board Member Olenius stated second.

Board Member Bodor stated Lars seconds it. All in favor. Motion carried by a vote of 5 to 0.

Board Member Bodor stated okay, but maybe we should hold off on a reso until we have an attorney present, or not.

Rich Williams stated that's up to you.

Board Member Bodor stated that's up to us.

Chairman Buzzutto stated I would like a...

Rich Williams stated I believe you have a standard Special Use Permit resolution in front of you without lead agents. Certainly you have to review that and amend it to some degree.

Board Member Bodor stated yeah.

Rich Williams stated I don't know that the attorney is going to offer you any additional input unless there (inaudible – papers shuffling).

Chairman Buzzutto stated yeah, but I think that the attorney write the reso as well.

Board Member Bodor stated we have the reso.

Board Member Burdick stated we have one.

Chairman Buzzutto stated we have one.

Board Member Herbst stated how are they going to keep cars from (inaudible) here and getting in there.

Chairman Buzzutto stated was it quite long, or was that...

Board Member Olenius stated any site walk dates (inaudible) date on this side and on this side. Two dates.

(Inaudible – papers shuffling).

Board Member Olenius stated the only one with keys. Similar to like the school systems and the lockboxes. Being installed right on there which only the fire chiefs have keys to. Something that (inaudible – papers shuffling)

Chairman Buzzutto stated oh, it's not that long. You've got this one.

Board Member Olenius stated yes sir.

Chairman Buzzutto stated oh, you got that one. So we agree on this reso here.

Board Member Bodor stated this has no conditions. Are there any conditions that we would want to add.

Board Member Olenius stated that the access drive for Concord Road...

Board Member Bodor stated yes.

Board Member Olenius stated be used for emergency access only...

Board Member Bodor right.

Board Member Olenius stated was the only one that I wrote in. I was taking notes.

Chairman Buzzutto stated you've got that written in there.

Board Member Bodor stated he's got it all written. Go ahead.

Chairman Buzzutto stated he's on the ball.

Board Member Olenius stated are we ready.

Chairman Buzzutto stated yeah. Go ahead.

Board Member Olenius stated okay.

Chairman Buzzutto stated Lars will read the reso on that.

Board Member Olenius read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Patterson Crossing Retail Center
FOR A SPECIAL USE PERMIT
To Operate a Regional Retail Center

WHEREAS, PATTERSON CROSSING REALTY CO., LLC has made application to the Patterson Zoning Board of Appeals for a Special Use Permit pursuant to §154-111 in order to operate a Regional Retail Center, and

WHEREAS, the Zoning Board of Appeals has met and filed all the requirements of 6 NYCRR Part 617, also know as the State Environmental Quality Review Act (SEQRA), and

WHEREAS, a public hearing was held at the Patterson Town Hall, 1142 Route 311, Patterson, New York on December 11, 2008 and continued on January 7, 2009 and a site inspection was done on January 3, 2009, to consider the application of **PATTERSON CROSSING REALTY CO., LLC.**, and

WHEREAS, The Patterson Zoning Board of Appeals has given careful consideration to the facts presented in the application and at the public hearing and at the site inspection and finds that the Applicant substantially complies with the requirements set forth in Chapter 154-111 of the Patterson Town Code for a Special Use Permit to construct a 410,560 square foot retail center including management and meeting space, a substation for the Sheriff's Department, and a 28,000 foot garden center, and

WHEREAS, the Zoning Board of Appeals has considered the five conditions enumerated under §154-111 and finds that the application meets those conditions as follows:

1. Subsection "A" requires that access shall be only from a state or county road. Principal access to the site is from NYS Route 311, a State-owned, and maintained road.
2. Subsection "B" requires that the minimum setback of all buildings, structures, parking areas and access drives shall be 65 feet. Sixty-five feet from any rear or side property line shall be maintained as a vegetated buffer, and shall not contain any surface improvements, including waste disposal systems or utility lines. With the instant application all buildings, structures, parking areas are greater than 65 feet from any side or rear property line. In addition, the Applicant is proposing to install two to three rows of mixed evergreens to enhance the 65 foot vegetated buffer required along the western side property line.
3. Subsection "C" requires that all other dimensional requirements of the particular district are conformed to, except that total area of all impervious surfaces shall not exceed 50% of the total lot area. The drawings accompanying the special use permit application show that all dimensional requirements of the Patterson Zoning Code have been met. Approximately 30.2 acres of the 74.1 acres, or 40.8%, in Patterson will be changed to impervious surface.
4. Subsection "D" requires that The individual uses permitted on the site shall include all those uses permitted in General Business (GB) Districts, including indoor theaters and fast-food

establishments, which may be permitted. All uses proposed for the site are uses that are currently permitted within the General Business (GB) Zoning District of the Town of Patterson.

5. Subsection "E" requires that any entrance to a regional retail center shall be located within 2,000 feet of Interstate 84. The proposed entrance to the Patterson Crossing Retail Center is located approximately 420' from Interstate 84.

WHEREAS, the Patterson Zoning Board of Appeals finds that the Application meets the requirements of Section 154-111 and wishes to grant the special use permit requested by the Applicant;

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby grants **PATTERSON CROSSING REALTY** ...

The Secretary stated hang on one minute.

TAPE ENDED

Board Member Olenius continued to read the following resolution:

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby grants **PATTERSON CROSSING REALTY CO., LLC** a Special Use Permit in accordance with Chapter 154 of the Patterson Town Code to operate a Regional Retail Center.

BE IT FURTHER RESOLVED, that the variance granted herein is subject to the following special conditions:

1. The access drive to Concord Road is to be used for emergency access **ONLY**.

Rich Williams stated if I could request one change. I believe in that last paragraph you referenced variance. It should be Special Use Permit.

Board Member Olenius stated oh. I'm sorry. **BE IT FURTHER RESOLVED**, that the special use permit granted herein is subject to the following special conditions:

1. The access drive to Concord Road is to be used for emergency access ONLY.

Board Member Bodor stated oh, hold on. Can we have a second for discussion.

Board Member Burdick stated I just have a question for subsection B where it goes into requires the 65-foot setback, and then it says "With the instant application all buildings, structures, parking areas and are greater than 65 feet from any side or rear property line." Should that access drive be added in there as well. It's referenced in the statement above. It's part of the requirement.

Board Member Bodor stated yes because...You're right. It's referenced and it's just repeating that. It's stating...

Board Member Burdick stated it's repeating that it's...

Board Member Bodor stated yes.

Board Member Burdick stated all of those conditions are met, so I think that access drive should be added into that statement.

Board Member Bodor stated in the same location as in the first sentence.

Board Member Burdick stated yes.

Board Member Bodor stated parking areas and access drives. You see that Michelle.

The Secretary stated I do. Yes.

Board Member Bodor stated okay.

Board Member Burdick stated Lars, do you agree.

Board Member Bodor stated it's a...

Board Member Olenius stated oh, okay. I'm sorry.

Board Member Burdick stated it's a repetition.

Board Member Olenius stated I see what you're saying now.

Board Member Burdick stated it's saying these are the conditions that must met, and the next statement is saying these conditions are met. And I just think all of the...Do you agree.

Board Member Olenius stated I agree.

Board Member Burdick stated okay.

Board Member Bodor stated it was seconded right. Yeah.

Board Member Burdick stated was there a second.

Board Member Bodor stated I thought so. No. Yes.

Board Member Burdick stated I didn't hear one.

Board Member Bodor stated alright. I'll second it.

Chairman Buzzutto stated all in favor.

Board Member Herbst stated but you did.

Board Member Bodor stated all in favor.

Board Member Burdick	-	aye
Board Member Bodor	-	aye
Board Member Olenius	-	aye
Board Member Herbst	-	aye
Chairman Buzzutto	-	aye

Board Member Bodor stated opposed.

VOTE: Resolution carried by a vote of 5 to 0.

Board Member Olenius stated you didn't do a roll call.

Mr. Contelmo stated thank you very much.

Board Member Bodor stated do you want a roll call.

Board Member Olenius stated I don't know.

Rich Williams stated it's not required.

Board Member Olenius stated it's not required. Fine.

Mr. Contelmo stated thank you.

Board Member Olenius stated good luck.

Mr. Contelmo stated thank you very much.

Board Member Bodor stated it's not required but (inaudible – papers shuffling).

The Secretary stated sorry.

Board Member Olenius stated I think it was in the mailbox today, that's where I just got it from.

(Inaudible – papers shuffling).

Board Member Olenius stated I'm sure that I got this out of the mailbox today. It might still be in there in your box inside.

Board Member Herbst stated alright. I'll check it.

Board Member Olenius stated it wasn't part of the packet.

Board Member Herbst stated I was in there this afternoon.

Board Member Olenius stated sometimes they don't finish it until later in the day.

(Inaudible – papers shuffling).

Board Member Bodor stated is that the one.

Board Member Burdick stated yes.

(Inaudible – papers shuffling).

3) OTHER BUSINESS

a) Appointing Vice Chair

Chairman Buzzutto stated we have to approve the...

The Secretary stated you have to appoint Vice Chair.

Chairman Buzzutto stated sorry.

The Secretary stated you have to appoint a Vice Chairperson for the new year.

Chairman Buzzutto stated I appoint Mary as Vice Chairperson.

Board Member Bodor stated for 2009. How's that.

Chairman Buzzutto stated that's great.

Board Member Bodor stated okay.

Chairman Buzzutto stated Vice Chair...

Board Member Bodor stated just Vice Chair.

Board Member Herbst stated Michelle.

Chairman Buzzutto stated Vice Chair.

Board Member Herbst stated can I have one of those resolutions.

(Inaudible – papers shuffling).

Board Member Herbst stated for tomorrow.

b) 2009 Meeting Schedule

Chairman Buzzutto stated okay. We have to approve the...

Board Member Bodor stated the amended meeting...corrected meeting schedule.

Chairman Buzzutto stated yeah.

Board Member Bodor stated 2009. I make a motion to approve it.

Chairman Buzzutto stated second. Anybody second.

Board Member Herbst stated second.

Board Member Bodor stated all in favor. Motion carried by a vote of 5 to 0.

Board Member Bodor stated that's done.

c) Minutes

Board Member Bodor stated now we have the minutes from November 24th to approve. I make a motion to approve them...

Board Member Olenius stated I'll second.

Board Member Bodor stated as presented. All in favor. Motion carried by a vote of 5 to 0.

Chairman Buzzutto stated okay, what else here. I want to welcome Jerry to the Board.

Board Member Herbst stated thank you.

Board Member Olenius stated back.

Chairman Buzzutto stated you have to get in touch with Marty to get your books back.

Rich Williams stated (inaudible – too distant).

Chairman Buzzutto stated Antoinette...

Board Member Herbst stated no, Richie told me Antoinette will do it, so...

Chairman Buzzutto stated okay.

Board Member Bodor stated anything else.

Chairman Buzzutto stated I don't have anything else.

Board Member Burdick stated bye Mike.

Board Member Bodor stated I make a motion to adjourn.

Board Member Herbst stated I'll second that.

Meeting adjourned at 8:25 p.m.