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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

ZONING BOARD OF APPEALS
Lars Olenius, Chairman
Howard Buzzutto, Vice Chairman
Mary Bodor
Marianne Burdick
Gerald Herbst

PLANNING BOARD
Shawn Rogan, Chairman
Thomas E. McNulty, Vice Chairman
Michael Montesano
Ron Taylor

**Zoning Board of Appeals
January 18, 2012 Meeting Minutes**
Held at the Patterson Town Hall
1142 Route 311
Patterson, NY 12563

APPROVED
2/15/12 SM

Present were: Chairman Lars Olenius, Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Howard Buzzutto, Board Member Gerald Herbst, and Joe Charbonneau, Attorney with Town Attorney's Office.

Chairman Olenius called the meeting to order at 7:03 p.m.

There were approximately 8 members of the audience.

Sarah Mayes was the secretary for this meeting.

Chairman Olenius led the salute to the flag.

Roll Call:

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

The following minutes are a summary of the meeting due to a technical error.

1) PATRICIA TANZI CASE #03-11

Ms. Patricia Tanzi was not present.

Ms. Patricia Tanzi submitted a letter, via fax, requesting that her case be held over another month.

2) EILEEN BURDICK CASE #21-11

Mrs. Eileen Burdick was not present.

The Board requested that she be contacted to be made aware of the next meeting.

3) JOHN RENTOULIS CASE #01-12

Mr. Constantine Dimopoulos and Ms. Nicole Dinos, attorneys with Maniatis & Dimopoulos P.C., were present and representing Mr. Rentoulis.

John Rentoulis Case #01-12 – Interpretation

Applicant is requesting an interpretation of §154-55 of the Patterson Town Code, Discontinuance of use, that his pre-existing, nonconforming use was not discontinued for a period of one year. This property is located at 2970 Route 22 (C-1 Zoning District).

Chairman Olenius felt that the case should not be opened to a public hearing due to the timing of the filing of the application. He had spoken to Town Counsel, Mr. Joe Charbonneau, who expressed that an application for Mr. Rentoulis should have been filed within 60 days of receipt of a letter issued from Mr. Nick Lamberti, Director of Codes Enforcement, which was issued on May 5, 2011. Instead of originally applying for the interpretation, Mr. Rentoulis decided to seek a use variance which was denied. Since the filing for an interpretation has exceeded the 60 days permitted, the application is time-barred.

Mr. Rentoulis' lawyers, Mr. Constantine Dimopoulos and Ms. Nicole Dinos, disagreed and stated that since they are applying for an interpretation of §154-55 of the Patterson Town Code, and not an appeal of Mr. Nick Lamberti's letter, timing is not an issue. What they understood through written correspondence from the Town Planner, Mr. Richard Williams, dated November 7, 2011, was that they were able to apply for an interpretation, and not an appeal, with timing not being an issue. Mr. Dimopoulos wanted the Board to hear some of the facts regarding the case they wanted to present.

Town Counsel stated that at the heart of the issue is the letter from the Director of Codes Enforcement, Nick Lamberti, dated May 5, 2011 stating that Mr. Rentoulis had lost his pre-existing, nonconforming status. Regardless if you call it an appeal or interpretation, timing is an issue, and this case would be time-barred.

Chairman Olenius did not open the public hearing as per the recommendation of the Town Counsel.

Mr. Rentoulis' lawyer wanted to state for the record that he was unhappy with the process and wished that they were informed that they were not going to be heard.

4) RUTH GUFFEE CASE # 02-12

Ms. Ruth Guffee and Mr. Jason Aletto, electrician with Aletto Electric, LLC, were both present.

Ruth Guffee Case #02-12 – Area Variance

Applicant is requesting an area variance pursuant to §154-27A (12)(a) of the Patterson Town Code, Permitted accessory uses. Applicant wishes to install a generator to service the dwelling and detached garage forward of the dwelling, in the front yard. This property is located at 272 Bullet Hole Road (R-4 Zoning District).

Ms. Guffee explained that the generator, which would be powered by propane, would be servicing the single-family dwelling and detached garage. The generator would be about 70 feet from the front yard property line, almost the same distance as the detached garage. The Zoning Board had done a site walk on this property a few weeks prior.

Audience member Reza Zeynali expressed concern about the noise and size the generator. Mr. Jason Aletto, the electrician, was able to demonstrate through documentation and pictures that were submitted previously, that the noise the generator would be creating and heard from 180 feet away, which is closer than any neighbor, would be no louder than a whisper to a normal conversation, and the look of the generator would not be an eyesore.

Board Member Buzzutto made a motion to close the public hearing. Chairman Olenius seconded that motion. Motion was carried by a vote of 5 to 0.

Chairman Olenius read the resolution in favor of granting the area variance allowing an accessory structure in the front yard.

IN THE MATTER OF THE APPLICATION OF *Ruth Guffee, Case #02-12* *For an Area Variance for the Installation of a Generator*

WHEREAS, *Ruth Guffee* is the owner of real property located at 272 Bullet Hole Road (R-4 Zoning District), also identified as **Tax Map Parcel # 34.-4-34, and**

WHEREAS, *Ruth Guffee* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-27 A(12)(a) of the Patterson Town Code; Permitted accessory uses, in order to install a generator to service her dwelling and detached garage in the front yard, and

WHEREAS, §154-27 A(12)(a) of the Patterson Town Code states that an accessory structure shall not be located in the front yard, and

WHEREAS, the proposed action constitutes a Type II action under 6 NYCRR Part 617, and therefore requires no further review under the State Environmental Quality Review Act (SEQRA), and

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall,

1142 Route 311, Patterson, New York on *January 18, 2012*, and a site walk was conducted on *January 7, 2012*, to consider the application; and

WHEREAS, The Patterson Zoning Board of Appeals has given careful consideration to the facts presented in the application and at the public hearings and finds that:

1. the proposed application *will not* produce an undesirable change in the character of the neighborhood *because the generator is approximately 75' from the property line.*
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because the property is surround by road on three sides.*
3. the variance requested *is not* substantial *because as previously stated, it is a substantial distance from the road.*
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because the generator is a very small structure.*
5. the alleged difficulty necessitating the variance *was self-created, however, is not sufficient* so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *grants* the application of *Ruth Guffee* for an *area variance pursuant to* §154-27 A(12) (a) of the Patterson Town Code; Permitted Accessory uses, in order to allow for the installation of a generator in the front yard.

Board Member Burdick seconded the resolution.

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| Board Member Bodor | - | yes |
| Board Member Burdick | - | yes |
| Board Member Buzzutto | - | yes |
| Board Member Herbst | - | yes |
| Chairman Olenius | - | yes |

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

5) MICHAEL GARRETT CASE #03-12

Mr. Michael Garrett was present.

Michael Garrett Case #03-12 – Area Variance

Applicant is requesting an area variance pursuant to §154-59 of the Patterson Town Code, Major damage to nonconforming structure. Applicant wishes to rebuild the structure that was destroyed by fire on June 9, 2011. This property is located 1112 Route 311 (GB Zoning District).

Mr. Garrett has plans to rebuild roughly around the same size building, 6,600 square feet, with the first floor being about 6,000 square feet for a business/retail and the second floor about 600 square feet and continue to be residential use, like it was before the fire occurred. Mr. Garrett stated that he intends to build something that is less nonconforming than what was originally there, and will most likely be coming back to the Board to receive other appropriate approvals to do so, if needed. Mr. Garrett expressed how the Town has been working with him at trying to get a business back up and running.

The Zoning Board is pretty familiar with the property because they were recently right next door doing a site walk for Eileen Burdick, Case #21-11.

Audience member and direct neighbor to the property (1104 Route 311), Reza Zeynali, expressed concern about a furniture store going back in if Mr. Garrett were allowed to rebuild the structure. Reza Zeynali stated that when the furniture store was being operated, the smell of paint would linger into his house throughout the day and remain there at night. Mr. Zeynali is concerned that either the same business or another similar type of business will go in and continue to create issues with smells coming into his home.

Chairman Olenius read the resolution in favor of granting the area variance for rebuilding a nonconforming structure on Mr. Garrett's property.

IN THE MATTER OF THE APPLICATION OF
Michael Garrett, Case #03-12
For an Area Variance for Rebuilding a Nonconforming Structure

WHEREAS, *Michael Garrett* is the owner of real property located at 1112 Route 311 (GB Zoning District), also identified as **Tax Map Parcel #3.20-1-15, and**

WHEREAS, *Michael Garrett* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-59 of the Patterson Town Code, Major damage to a nonconforming structure, in order to obtain approval to rebuild the structure that was destroyed by a fire on June 9, 2011, and

WHEREAS, §154-59 of the Patterson Town Code states that any nonconforming building or structure which has had over 50% of the volume of its structure above the foundation destroyed or damaged from any cause, as determined by the Code Enforcement Officer, shall not be restored in nonconforming form or location on the lot, however that such buildings or structures may be restored to the extent and in such manner as may be permitted by the Board of Appeals.

WHEREAS, the proposed action constitutes a Type II action under 6 NYCRR Part 617, and therefore requires no further review under the State Environmental Quality Review Act (SEQRA), and

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on ***January 18, 2012*** to consider the application; and

WHEREAS, The Patterson Zoning Board of Appeals has given careful consideration to the facts presented in the application and at the public hearings and finds that:

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***because the Applicant is putting back what was originally there for years.***

2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because due to the fire, the Applicant has to rebuild on the site.*
3. the variance requested *is not* substantial *because it was previously that use for many years.*
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because impervious coverage will not change.*
5. the alleged difficulty necessitating the variance *was not self-created and is not sufficient* so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *grants* the application of *Michael Garrett* for *an area variance* pursuant to §154-59 of the Patterson Town Code; Major damage to a nonconforming structure, allowing the Applicant to rebuild the nonconforming structure which was destroyed by a fire on June 9, 2011.

Board Member Bodor seconded the resolution.

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| Board Member Bodor | - | yes |
| Board Member Burdick | - | yes |
| Board Member Buzzutto | - | yes |
| Board Member Herbst | - | yes |
| Chairman Olenius | - | yes |

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

6) MINUTES

Chairman Olenius made a motion to accept the November 21, 2011 minutes. Board Member Bodor seconded that motion. Motion was carried by a vote of 5 to 0.

Board Member Bodor made a motion to accept the December 21, 2011 minutes. Board Member Burdick seconded that motion. Motion was carried by a vote of 5 to 0.

Chairman Olenius made a motion to close the public hearing. Board Member Buzzutto seconded that motion. Motion was carried by a vote of 5 to 0.

Meeting was adjourned at 8:03 p.m.