

APPROVED

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS
January 20, 2010**

AGENDA & MINUTES

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b. Minutes	24 – 25	Approved December 15 th and December 16, 2010 minutes
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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

**ZONING BOARD OF
APPEALS**

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

PLANNING BOARD

Shawn Rogan, Chairman
Charles Cook, Vice Chairman
Michael Montesano
Maria DiSalvo
Thomas E. McNulty

**Zoning Board of Appeals
January 20, 2010 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 Gerald Herbst, Board Member Lars Olenius, Carl Lodes, Attorney with Town Attorney's Office Curtiss & Leibell and Rich Williams, Town Planner.

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

There were approximately 75 members of the audience.

Sarah Wagar was the secretary for this meeting and transcribed the following minutes.

Chairman Buzzutto stated Sarah, will you read the roll call.

Roll Call:

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

1) APPOINTING THE VICE CHAIR

Chairman Buzzutto stated read the...

The Secretary stated do the Vice Chair.

Chairman Buzzutto stated what.

The Secretary stated do the Vice Chair.

Chairman Buzzutto stated the chair...oh. I'll do it now. I'd like to appoint my Vice Chairman for the coming year. Mary Bodor. She accepts.

Board Member Bodor stated I accept.

Chairman Buzzutto stated okay. Consider it done. All in favor.

Board Member Bodor stated okay.

Chairman Buzzutto stated so be it.

2) WINDING GLADES LLC, CASE #01-10

Mr. Michael Zarin, Zarin & Steinmetz, was present.

The Secretary read the following legal notice:

Winding Glades, LLC Case #01-10 – Interpretation

Applicant is requesting an interpretation of §154-95 of the Patterson Town Code; Clubs. The Applicant is looking for an interpretation that their proposal qualifies as a club. The Applicant is proposing to develop a non-profit club, which would operate a rally car research and development facility. The Racing Club would consist of three structures: a 2,500 square foot garage, a 6.42 acre parking lot and vehicle testing skidpad, and an approximately one-mile long dirt track. This property is located along Route 22 (C-1 Zoning District).

Chairman Buzzutto stated okay. Is Wireless...Winding Glades attorneys here or whoever.

Mr. Michael Zarin stated yes, I am.

Chairman Buzzutto stated come up, Sir.

Mr. Zarin stated good evening.

Chairman Buzzutto stated good evening, Sir.

Mr. Zarin stated my name is Michael Zarin. I'm with the law firm...

Audience member stated speak up.

Mr. Zarin stated okay.

Chairman Buzzutto stated you can't hear.

Audience member stated no.

Audience member stated no.

Chairman Buzzutto stated can we turn that up so...

Mr. Zarin stated do you want me to sort of...

Chairman Buzzutto stated well...

Mr. Zarin stated stand this way so that...

Chairman Buzzutto stated well are you going to put anything on the board.

Board Member Herbst stated you have the microphone. You should...

Mr. Zarin stated no, I'm going to speak.

Chairman Buzzutto stated okay. You can take the microphone right out of there if you wish.

Mr. Zarin stated okay. Good.

Chairman Buzzutto stated but you may have to talk a little louder into...

Mr. Zarin stated okay. I'm fine. My name is Michael Zarin. I'm with the law firm Zarin & Steinmetz. I represent Winding Glades LLC; the owner of the property formerly known as the Patterson Corporate Park. And as you know, we're here tonight for a zoning interpretation from the ZBA. Before I begin, I know there has been significant discussion in the community concerning our application as evidence tonight and at some of the other meetings I've been. I've been here now twice before the Town Board, and a couple of times before the Planning Board. So, I've had an opportunity to hear many of the concerns of the community, legitimate concerns, as well as had an opportunity to go before the Planning Board and the Town Board, and I think dispel some of the misconceptions about the application. Typically this is the reaction. When I start talking, I'm used to it [referring to a crying child in the audience].

[Laughter].

Mr. Zarin stated I did want to begin, and I guess dispel the primary misconception about the application, that this is not a "race track", quote-on-quote, being proposed. Or be it NASCAR or an equivalent there of. This is probably, as I think one of the Town Board Member's said, a result of bad public relations on our part and, again, I don't want to rely on public relations, I want to rely on the facts, and that's one of the reasons we voluntarily went before the Town Board and made a presentation to them on our application, even though it was only within the jurisdiction of the Planning Board and then ultimately your Board, as part of a special permit. And now we're here before you for a zoning interpretation prior to that. I mean, this is truly a private research and development facility that works on rally cars. And while, as I will get into later, the impacts and the merits of our application are not before you tonight, I would be remiss if I didn't explain the details of the proposal. Again, we're here for a zoning interpretation, not necessarily a special permit, as we hope to be able to come back to you sometime in the future. This is a 175 acre site that is owned by an old time, New England, philanthropic family that purchased this site a couple of years ago. Twenty-three acres of the 175 acre site is going to be impacted. This is already, and some of you may know or may not know, the site of an approved 6 lot corporate park, with tens of thousands of feet of

proposed corporate space. Hundreds of parking spaces. Lights, internal roads and alike, and I guess, you know, it's my feeling and I think it will ultimately be brought out by the record when we do come before you on the merits of our application that this application for this research and development racing car facility is going to be far less, under any standard, than an...this approved corporate park that will utilize almost the entire site, and have significantly more traffic, more lights, more noise, and alike. This...I think there was a typo in the notice, but the application consists of 25,000 [square foot] not a 2,500 garage clubhouse. A 6.42 acre skidpad, and it's not a mile-long track. It's a mile in diameter completely around the entire circumference. Much of those are internal. They're all going to be packed dirt. There'll be far less impervious surface on this site than comes near in the corporate park and alike. This is a private club. This is four young men, one member from this family who owns the property. Very serious young men. Very into high tech. Very into green. Very into working with rally cars and trying to perfect technology to deal with aerodynamics, to deal with gas consumption, to deal with green technology and alike. There's going to be no racing on the site. If any of you know rally cars, and I'll be honest with you, I didn't know much about them until I got into this, rally cars are street legal cars. So a rally car...a, quote-on-quote, rally car, can be driven on any of these roads. They're regular, pretty much Mazda's, whatever, and the main ingredient that differentiates them from a normal car is there's a lot of fortification in them. Because where they race, is they race upstate primarily, on town roads. And they race, quote-on-quote, on dirt roads, and the racing is a misnomer. What they are is they involve hundreds of miles and they may be a day or two of travel and they're timed. And they have to stay within the normal speed limits on these dirt roads, and they contact the local municipalities and they contact the local police and the neighbors and alike, and the whole idea of this is to create a car that can have stamina, that turns most efficiently, that has low gas consumption, that has a certain aerodynamics, and you quote-on-quote, win these races. They're marathons. You win these races because you come in half an hour better than your opponent who's also been racing for hundreds of miles. That's what a, quote-on-quote, rally car is, and I didn't know that. There will be absolutely no racing on this site. There will be no spectators on this site. What these individuals will be doing is working on these cars internally with high tech...working on green technology. That's what they're about; working on low gas consumption. Trying to shave seconds off the way the turn. They're using on the skidpad is going to be all robotics. And working with robotics so that they can make...and they could work on the car and how it turns. Everything that they're going to do it's going to be LEED certifiable buildings. They're going to be using the most advanced stormwater, rain gardens and alike, for better or for worse, and maybe it's been held against these people and some, but this is a family that does have some resources, and we've been instructed to inform this Board, as we've been informed, that they're not going to spare the resources making this a state-of-the-art high technology research and development for these cars. The cars they're going to be dealing with are their cars. They're not going to be taking cars from the outside and commercial. They're not going to be racing or having spectators on this site. It's truly a private club. And we were before the Town Board a couple of days ago with respect to the zoning amendments, and somebody asked one of the...asked the Town Board with respect to the zoning amendments, wait, let me understand this. I have a Camaro that I'm working on to soup up, and I want to work and make it a really high tech, and really work on it, are you telling me under the new zoning I'm not allowed to then take it on my property and test it and see if it's working in the way I want it to work. And the Board looked, and they looked at each other, and they looked at the Town Attorney, and they said no. That wasn't the intent of the zoning amendment. Well, with all due respect, that's what's going to be happening here. And we're very aware that we're going to have to meet all the noise standards and primarily, I mean...We came before the Zoning...We came before Town Board to give them a presentation and it, unfortunately, turned into a public hearing. And a lot of people, and I'm sure many of the people who are here tonight express legitimate concerns. They said am I going to hear screeching turning. Am I going to hear these cars 8,000 rpm's raring up. You know, I hear sound from miles away, so you can't tell me that I'm not going to hear your sound and noise from sixteen...1,500 feet from your skidpad. And we said look, those are all absolutely legitimate concerns. We've done some preliminary

analysis. We've already demonstrated in our analysis, and the most conservative analysis, that we're not going to exceed more than 60 dBAs at the property line, let alone from the skidpads. We looked at police studies where they...police do their cars and demonstrate their cars on skidpads and work on sharp turning and alike. And we looked at other studies, and we're confident, based on our preliminary studies that we're probably at most going to be 30 dBAs, intermittently, to the nearest house. Now 30 dBAs as...and I don't want you, you know, I don't want to be misleading, you may hear sometimes 30 dBAs. But I live, for example, two or three miles from [Interstate] 684. And at night, depending on wind conditions or something, I hear cars on 684 or I hear Metro-North. But I hear them, and at my old age I'm getting pretty sensitive to sound. I have no kids in the house and I become awfully cranky when it comes to that. But you hear it at such a low dBA, or I hear it at such a low dBA, that it's not annoying, that it's not disruptive. It's not like the lawn blower, or the leaf blower or the mower or a car driving in the neighborhood past your house or anything like that. Those are 45, 50 dBAs. This is going to be more in the vicinity of 30 dBA. But, again, we're going to have to demonstrate that. We're using 23 acres within the site. We're going to have at least 100 plus feet of buffer, heavily wooded buffer, at the nearest property line. The way the topo works is it's some very steep topo that's also going to act as a buffer. When we did our preliminary studies, we didn't even count that; the tree buffers, the topography buffers and alike. So, again, these are all preliminary. And with all due respect, that's not the application before you tonight, but I would be remised not to at least explain what the proposal is and to recognize that, you know, the concerns you're going to hear tonight, and I'm sure you're going to hear a lot, are not unreasonable concerns and we're going to have to demonstrate and prove it. But we went to the Town Board the other day on the zoning amendment, and we made the same presentation, and it was the majority of the Board that said look, let's not change the zoning after the fact here. Let them go through the normal process. You have a very able Planning Board, that's already told us the types of studies we're going to have to do, and we're prepared to do. Your Board is going to get in also a bite at the apple under the special permit, so I assure you if we're not able to demonstrate that we can address many of the concerns you hear tonight, that you have all the authority to deny us. I should mention also that the taxes on this property will go from \$30,000 to approximately \$150,000 and \$200,000. So, I'd just like to get into what is now, I think, the issue before you. And I don't think, I know is the issue before you, the zoning interpretation. And I...This is my first time before you, but I know, and obviously I do my due diligence, I know you're an experienced Board, I know you're a professional ZBA, and I probably...and I know that you probably understand that in a zoning interpretation, as opposed to a special permit application or something of that nature, you sit in a very specific quasi-judicial role. And as a second explicitly said, you're narrow issue in a zoning interpretation is the...whether the code, the zoning code, permits this use. And again, it's...And I don't want to be trivializing in any way, and I don't want to be disrespectful to anybody audience, because the issues they're going to raise, I'll say it repeatedly, repeatedly, are legitimate issues that need to be taken into consideration at the proper forum. But on a zoning interpretation, the impacts and the merits of the application are not before you. It's...and nor is, and there's been cases where this has specifically come up, and I can understand when I sit down and you hear 20 or 30 people talking about the merits of this, it's going to be, Oh my God, how can we ever approve this. And there's been case...many cases, a whole legion of cases, that talks about that community opposition to an application is not a relevant factor with respect to a zoning interpretation. That a zoning interpretation is based upon the clear language of the code, the rules of statutory construction and if, and only if ambiguous, the legislative purpose. And there's a reason and guess, and I apologize if I'm being presumptuous and you've heard this speech before and you're aware of these standards, but there's a reason that this is a Type II under SEQRA. I mean, it's not like you're taking any governmental action. There's no impacts and it's a ministerial decision. And quite frankly, I represent many municipalities as special counsel, land use counsel. It's probably 50% of our practice is representing municipalities and 50% is on private applications. And in many instances, many of the zoning board of appeals that I work with don't hold public hearing on zoning interpretations because they're legal. And unless, you know, someone gets up and gives you a legal rationale on how they interpret

the code and talk about statutory construction and talk about precedent and those, the impacts are really not relevant to this particular inquiry. Now, Rich Williams' memo, and it was a fine memo and obviously I told Rich I thought it was well done, and it provided a blue print for at least what his interpretation and the issues that he saw and why he said that he didn't think the project qualified as a club under §154-95. And obviously here we're seeking an interpretation of the term club pursuant to that regulation. And the essence of Rich's argument you've, I'm sure, seen in the memo, is that first of all, what we are proposing does not qualify as a bona fide nonprofit club. And second, that it is his understanding, and I put emphasis on that term, that the club only permits a clubhouse and only passive accessory uses such as hiking and other uses not involving disturbance of the property. And then his...I think he went on, and obviously paraphrasing it, that a skidpad and the track and the garage are active accessory uses, and not explicitly allowed under §154-95. And because they're not explicitly allowed they are, as such, prohibited. And again, I'm paraphrasing and I'm just providing a synopsis. Now we've submitted a very detailed response...legal response to Rich's memo. And again, I'll summarize what I think are the applicable standards here and try to distinguish many of Rich's conclusions. But first of all, there's a...Again, apologize if much of these statements you're already aware of. But there's a...Or I'm becoming to legalese. But this really is a legal argument, and I would just ask you to bear with me and pepper me with whatever questions or comments that you feel are appropriate. But there's a well established principal under zoning law, that if a statute is unambiguous on its face, then the ZBA need look no further. And there's another very fundamental axiom in zoning law interpretations; any ambiguity in the zoning ordinance must be resolved in favor of the property owner. And again, those are two fundamental precepts of zoning law that are applicable here and certainly are legion throughout...or uniform throughout many of the zoning interpretation cases. In fact, the term club in particular, there's a certain amount of law that you're not the first one to be faced with this issue, is broadly defined and is without ambiguity, that the only qualification to use to the term club occurs when the ordinance contains specific language limiting the types of associations allowed to operate as a club. So, for example, Rathkopf's on The Law of Zoning and Planning, it's one of the treaties that Carl's aware of and we deal with all the time, and many of you have maybe had an opportunity or have necessary...Under the section zoning for private clubs and service organizations, it specifically provides quote "Courts generally have construed the term club and clubhouse and zoning ordinances in a very broad fashion allowing all matter of uses and activities to fall within this scope. And the only omitting language or the only exception language in the code is written is that the use must be a not-for-profit corporation under the laws of the State of New York, and to be defined as such. And clearly the four individuals here are forming a non-for-profit. They don't intend to operate this in any way for commercial use, and that's going to be the membership. In fact, a Type A nonprofit use under New York law, includes athletic, non-pecuniary associations. And the McKinney's forms, where for clubs, they have athletic clubs, gliding...glider clubs, inline skating clubs, gun clubs and alike. I mean, those are the actually forms that are in McKinney's under the term clubs. So, you know, for simplicity sake, so long as VZ Racing, and that will be the nonprofit entity, incorporates in accordance with these laws, it's a permitted use as a bona fide nonprofit club, with all the conditions that you'll ultimately put on it, it's used to make sure it conforms with yours and the Planning Board's regulations. Now, one of...As I mentioned before, one of Richard's central points, one he's made to me and he's included in his letter is, look, there's no...There is ambiguity here, and the ambiguity is because I was, Richard was, the author of much of this legislation, and I understand club to allow clubhouse and passive uses only, and only those active uses that are expressly listed in the ordinance are permitted accessory uses. And as the author of this, I think I should know what was intended. And intuitively, I mean, there's some appeal to that. But there's a whole case authority on that principal, that as a matter of law, quote-on-quote, the understanding of a drafter is not sufficient basis for statutory interpretation. And the drafter and the quote...There's a couple of quotes from cases: "Regardless of the contents of any memorandum written by a drafter to legislation, the legislation stands for what its words manifest and not the inner thoughts of a draftsman". And then the other case: "The post enactment statements of a member of the legislature, even one who sponsored the law in

question, are irrelevant as the law is meaning of intent.” And then another case Court of Appeals: “Holding that a memorandum submitted to a governor after a bill’s passage cannot serve as a reliable index to the intention of legislature...legislatures who pass the bill” And I think once you get past the intuitiveness of this, I think it makes a lot of sense. The reason’s clear is, again, articulated in a Court of Appeals case. Quote: “There is no necessary correlation between what the draftsman of the text of the bill understands it to mean and what members of the enacting legislature understood.” Now we did a FOIL request to the Town to see whether there was any contemporaneous memorandums, any minutes, or anything else that were written or expressed at the time the zoning was enacted. And we were told that there was none and as such, you know, the bill must be...zoning must be interpreted as written on its clear face, and again, unambiguously, that the only limitation to a club is that it must be a nonprofit, and again, any special permit to obtain the club is then to open to your discretion...your analysis. But that’s a separate issue. And I’ll get to that. And I guess if you start trying to interpret laws sort of post hawk, I think you find yourself a little bit in the situation that occurred the other night, with all due respect, before the Town Board. For example, under the interpretation of club, you wouldn’t be able to allow any athletic clubs, because there are tracks, there’s fields, there’s soccer fields. There’s, you know, you may meet inside in the structure, but it wouldn’t qualify as a club if you build a ball field or you build a baseball field, or you build something else, a track, that would disturb as much property as we’re disturbing. You couldn’t have horseback...

Chairman Buzzutto stated hold on [referring to a beeping noise, thinking it was the tape ending].

Board Member Bodor stated it’s someone’s phone.

Chairman Buzzutto stated oh. I thought that...

Mr. Zarin stated I have a way of outlasting tapes and I apologize.

[Laughter]

Mr. Zarin stated it’s a bad habit of mine. You couldn’t have horseback riding trails. Again, you’d have to go out, and I’ve done some horseback riding, and you have to go cut down trees and make trails and groom those trails. Same thing with cross-country skiing, or alike. You certainly couldn’t have pools. You couldn’t have parking. You couldn’t have golf ranges. Under Rich’s interpretation as written, the only thing that you could do is you can meet inside and walk around the property. And that, with all due respect, I don’t think was the intent of the club. In fact, when you go and you look at the plain language of the Code as written, the ordinance explicitly contemplates quote: “Build under club, buildings, structures or enclosures used for recreation to be constructed and used as part of the club”. So I think, again, at least the way it’s written, and I think intuitively it makes sense, that you have an area or a place to meet, but then you’re going to have accessory uses outdoors that may include or may involve disturbance and other structures to the land and other structures on the land. And again, there’s a case that I’ve cited that your attorney will I’m sure share with you and discuss, called Willow Wood Riffle and Pistol Club v. The Town of Carmel ZBA 2nd Department, 1985, that pretty much backs up exactly the precepts and many of the principles that I’m articulating. And quite frankly, I think there’s many...You can go around and look at a lot of other municipalities of clubs; Carmel, Kent, Ithica. And you’ll see most of those definitions include golf, tennis, swim clubs, and other outdoor recreational uses, many of them so long as they’re not conducted for gain...for pecuniary purposes. So, what was written and what’s included in the definitions under your Code are not out of the ordinary with many of the municipalities and many of the codes that allow uses for club, both throughout the area and throughout the state of New York. Again, Rich makes the...I think the good point, and he said look, are you saying then if you provide...if you do any nonprofit use, in other words, you know, we were being facetious. But, you know, if you were to...and Rich said

this, if you were to do a nonprofit nuclear club, you know, you're going to trade nuclear waste, and you called it nonprofit because your client loves to trade nuclear waste, somehow there's that, you know, do we have to approve or do we have to consider this. And I guess... You have a very broad, and I don't need to tell you, you have a very broad criteria and catchall phrase that any club must be in harmony with and conform to the appropriate and orderly, general development of the Town. And those are the standards we have to meet. And we're going to be before you. And we're, again, we have to and we are prepared to demonstrate that we can meet those standards; that this use in the end will have far less impacts than many other uses that many people are fine with and exist within...or outside of the house. Let me also... So that's sort of the line, and I think the Code is pretty unambiguous in this instance and it's clear that the applicable would allow the type of use we're talking about. But let's say that you do find, somehow, that this is ambiguous, and you need to look to the intent or the purpose in the Code as it reads. Currently, under a C-1 Zone today, we are permitted quote: "any active indoor and outdoor for profit recreational sports facilities". So in other words, we couldn't do, if you accept the zoning interpretation that's before you, is we're not permitted to do a four person limited, private club. No spectators, no racing, no commercial purposes. Very limited at scope and alike, but we could build a track. We could hold races. We could charge for those races. We could... In fact we have to charge for the races to come under the zone. And why is this permitted. Because under the comprehensive plan of 2000, one of the uses that in fact the ZBA in 2000 articulated for our property... Not our property; C-1 or Commercial-Recreational as well as this use under C-1, is the objective of quote: "increasing the variety of Commercial-Recreational uses in development of new opportunities for recreational activities while at the same time increasing the Town's tax base, and also for the purpose of commercial recreation, encouraging golf courses, ball fields and alike. Now, under the comprehensive plan, it also calls for increased active recreation uses and the Town and in our area, quote: "privately owned operations providing recreational opportunities while at the same time increasing the tax base and creating alternative sources of revenue". And as I mentioned before, so we could do a track, we could do a go-kart, we could do any number of uses that would have far more impacts than what we're proposing, and that in fact is encouraged by the comprehensive plan. We could also be eligible under a research and development facility on this site. Again, that's all we're doing. And I personally take blame that the term racing got into the title of this because it's obviously become the, I think, inaccurate calling card; i.e. the brochure that was passed around early today or the day before, race track. And I feel bad that by probably using it, that this is going to be a rally car R&D racing facility, mislead and presented, I think, stereotypes that are just not accurate. And I apologize for that and obviously, you know, I feel it is self-created on my part. But, we could do a research and development that's permitted under this site and fits squarely behind what we're talking about. In fact, that came up again the other day before the Town Board when they wanted... It's no, you know... Remember, the amendment that went to the Town Board was to, quote-on-quote, clarify the zoning, as well as not only the club, but it was meant to change the research and development to only allow research and development indoors. Obviously I think an acknowledgment that it was permitted under the zoning to be outdoors today. And someone came in and asked the question and said wait, let me understand. If I have an alternative energy company and I build my solar and I build my other equipment indoors. Can I go outside and test it. Can I have testing facilities outdoors. And, again, the Board looked at the Town Attorney. The Town Attorney looked at the Board, and the looked at each other and they... it sort of was... I think it was more of an appealing use, quote-on-quote, and the Board said, and it's on the record, said we think you can do that. We don't think that zoning would prevent that. And quite frankly, it then became very apparent that the zoning was targeted at us and we said, look. We understand that we have to go through the approval process. We understand, as I've said again and again and again, we're going to have to go through a very scrutinizing... We're going to have many public hearings. People are going to get up and talk about noise. People are going to offer all types of evidence that we're going to have to refute and rebut. And if we're not able to, we're not going to get our site plan permit approved by the Planning Board, and we're not going to get our ZBA special permit. And if we can't do that, then, you know, let the chips where they fly. But what you're trying to do today, this was

before the Town Board, after the fact try to change the zoning, and that's not the reputation of this town that I understand it. It's transparency, it's fair dealing, it's business friendly in the sense it's giving everyone the due...Let us go through our application. Let the chips fall the way they might and that's what occurred. And that's where...at least that's where, on the record, four of the five [Town] Board Members came out, at least on the record and I don't know if any of them have changed their minds since. But that's what we're prepared to do. And again, I think we've made a compelling case that the broad interpretation of the club under the zone under the legal principles would permit our use. And we're prepared to move forward with the Planning Board and yourselves. We look to come back to the Board in that regard, and we truly believe that in the end this use is really going to be a sort of cache for this Town. If we're going to prove that it's not going to cause the noise impacts that people are concerned about and afraid, and if it doesn't, the Town's going to have a very progressive family, a very progressive use. Something that I think they're going to be proud of that's going to contribute to the economy of the Town. And I think in the end, I think we're going to be able to demonstrate to you, to the Planning Board and to the people in the audience, that this is going to have a positive impact. And again, we think at least as far as the zoning interpretation, we think we've made our case. So, I really appreciate your patience and letting me go on. That was a long presentation, and most of it's contained in the submission that we made...the letter that we made. I was hesitant to get into a real back and forth and all the technical and impacts issue, because frankly it's...that's not the relevant issue before this Board at this juncture. It will be and we look forward to working with you. So at this...I'm available for any questions now or afterwards.

Chairman Buzzutto stated well, this is strictly for interpretation tonight of the...So there'll be no active public input tonight on your presentation tonight. So I guess the Board will like to give some questions on this. The only question I wonder...You say it's not a racing thing there. It's got an oval track there. You got...What is that. A mile and quarter...a mile and an eighth.

Mr. Zarin stated it's a mile radius around the whole thing.

Chairman Buzzutto stated and you say it's not racing.

Mr. Zarin stated right.

Chairman Buzzutto stated maybe it's not racing for a car against car. It's a race against time clock. You're still racing to beat that time clock, so I consider it racing.

Mr. Zarin stated okay, that...well. I mean obviously we could debate the term racing but what...I guess the point what I want to make, what I was trying to make, is these are not going to be high speeds. These cars will not go over 40 miles per hour. They're going to be working on their...Yes. Someone might sit there with a stopwatch and see how did you do on that. How did it perform on that turn. How did your gas mileage...how did that work. But the point I was trying to make, and I apologize if, you know, take issue obviously with my choice of words, it's not going to be two or three cars running at high speeds, racing against each other. It's not going to be competitions. It's not going to be spectators. It's really going to be as you might have outside of the...One of the Board Members, Town Board Members, said the other night, it's on the record, we should be so lucky to get a general electric plan here that's working on electric and alternative energy cars where they can come and test them and so forth. He was commenting on the concept of being able to test outdoors. That's what it is. This, quote-on-quote, track is where they're going to test the types of fine-tuning that they're doing. It's not... As all I'm trying to do is distinguish what it from what I think people's connotations are to what a race is; high speeds, competition, people cheering, people, you know...That type of thing. So I apologize if you take issue with my choice of words. But I don't think it goes to the legal, frankly, the legal distinction of what's a club and what's not a club. There's

no prohibition in the code now, even if someone did find there was a race to racing. People, I think, on their properties all the time sit there in their... Well, I know people on our property, they're racing their ATVs everyday. I mean, there's probably more ATVs driving around our property on a daily basis, you know, quote-on-quote, racing and hunting, and doing everything else then we're probably going to. So, I mean, we're going to control the property. It's going to be all state-of-the-art. We're going to maintain a lot of the woods and a lot of the landscaping inside the track. I mean, this is an environmentally friendly proposal that we're going to get a chance... we would like to get a chance to come before you and show. And if you don't think it is, and you think, as you said Mr. Chairman, that this really is a race and these racing are really going to cause the type of noise concerns that people have and the traffic or the spectators or the light or the visual, then, you know, like I said, let the chips fall where they might. But under the zoning, I think we have the right to come before you for this application.

Chairman Buzzutto stated I picked up in there, too, you said that this for like a family of four... Well, you did say...

Mr. Zarin stated no, no. This is a one... One member of the family... yes. Then he has three, quote-on-quote, partners that they form this club that they've been sort of perfecting these rally cars that will be joining him. So it will be a private club of approximately four members.

Chairman Buzzutto stated yes. Plus their friends.

Mr. Zarin stated no.

Chairman Buzzutto stated I thought I read that in here.

Mr. Zarin stated no, no. It was him and his friends. So it was the one plus the three. Not four members of the family. Again, I apologize if...

Board Member Bodor stated no matter what definition of club we decide to use here tonight, there is no club in existence as we're speaking, is there.

Mr. Zarin stated they are in the process of forming a nonprofit. So it's...

Board Member Bodor stated a not-for-profit...

Mr. Zarin stated club.

Board Member Bodor stated club.

Mr. Zarin stated correct.

Board Member Bodor stated they're in the process. The paperwork has been filed.

Mr. Zarin stated I...

Board Member Bodor stated they're after a 501(3)(c).

Mr. Zarin stated I have to check, but that's what... that's who will be operating...

Board Member Bodor stated but there is no club.

Mr. Zarin stated this use on the site.

Board Member Bodor stated there's no club.

Mr. Zarin stated I can't speak to that now. It's going to be VC Racing, is going to be the incorporated club. And again, it's...If you tell me that it has to be...Not if you tell me. It will be a nonprofit that operates and uses and alike. And I'm telling you, I don't think there's any requirement to form, quote-on-quote, the nonprofit before. To set...To be...To qualify under the zoning.

Board Member Bodor stated I...

Mr. Zarin stated but it will be a nonprofit, I assure you.

Board Member Bodor stated what I'm asking...

Mr. Zarin stated and it will be bona fide.

Board Member Bodor stated is currently, the way I understand it, we've got a group of men out here, probably men...a group of individuals who are interested in creating a club...Club, whatever that is.

Mr. Zarin stated yes.

Board Member Bodor stated providing they can get permission from the Town to occupy this parcel and use it for their club activities.

Mr. Zarin stated the club...The definition of club is incorporated under the New York Nonprofit. If you tell me that, look, we find...we have determined that this type of nonprofit's out of the club, you know, they'll form, they'll file, if they haven't already...and again, I'm not positive.

Board Member Bodor stated yes.

Mr. Zarin stated they'll file the 501(c)(3) tomorrow and be...qualify it as completely as a bona fide, legal, nonprofit club. And again, go back to why you have this provision. The provision is, is the Town did not want commercial operations, at least under the club definition. And they didn't want large, high traffic, high spectator, and those types of things. And that's what we'll be. We're going to be a private club. A private nonprofit club. We will be...We will have a charter. We will only operate within that charter. We will do the activities that are permitted by that charter. And if we don't qualify, then it's not...then we're not...then you're not going to be able to issue us a special permit. It doesn't go to the issue of whether your zoning interpretation. Your zoning interpretation is you have to be...we find that there is qualifying language that a nonprofit must be...that a C-1 use must be a nonprofit club. And if you are a nonprofit club, you can use this site accordingly. And we will be if we're not already. And I, again, sorry I don't know the exact answer to that.

Board Member Bodor stated are these persons acting somewhere...doing their hobby somewhere else currently.

Mr. Zarin stated yes. Yes, they...

Board Member Bodor stated so they've already got an organization of some sort.

Mr. Zarin stated I...They may or may not. I mean, I'm not sure whether they are incorporated and doing this or, as you say, they're doing it as a hobby. And they're doing it as an organized group of four young men. But they haven't...You know, a lot of us do this. I mean, I have a basketball team, I have a bridge club, I have a lot of things that I'm not, quote-on-quote, incorporated. But, yes. They do, and they have a good track record. And I think obviously when we come before you for a special permit, one of your reasonable inquiries is who are these people and what's their track record. And that's...We're going to be prepared to answer those questions. I think you'll be very impressed. These are the good people. These are not your fly by night people.

Chairman Buzzutto stated are you affiliated with another club someplace else. Like...You mentioned Bayside. Where is that. Are you affiliated with anything in Bayside.

Mr. Zarin stated Bayside.

Chairman Buzzutto stated yes. It was on...

Mr. Zarin stated I was born in Bayside.

Chairman Buzzutto stated pardon me.

Mr. Zarin stated Bayside, Queens. 1952. I was in a club, the Queens Midtown Little League.

Chairman Buzzutto stated oh, okay.

Mr. Zarin stated it was a good club. Parades...

Chairman Buzzutto stated one of the reasons...

Mr. Zarin stated I'm not sure what...I'm sorry. I didn't...

Chairman Buzzutto stated the four that you have, other than the (inaudible) what is they're...What do they do for the club, supposedly.

Mr. Zarin stated I mean, this is...

Chairman Buzzutto stated what is their...

Mr. Zarin stated this is, well...This individual, and again, he comes from a family of means, this is what he does. He works on cars...on his car. He tries to perfect these with his friends. They race. I said...

Chairman Buzzutto stated they race. These four race and other...Upstate or...

Mr. Zarin stated in primarily up...Most of them go upstate. Most of these races are in upstate New York on areas where there are a lot of dirt roads and they cover hundreds of miles. They're around, I think, the Finger Lakes area, a lot of them.

Chairman Buzzutto stated well, what are their rewards for doing this. Do they just...

Mr. Zarin stated the...

Chairman Buzzutto stated they do it for nothing.

Mr. Zarin stated yes, yes. The satisfaction of creating these high tech cars; to perfect these things. To go out and the satisfaction of being good at something. These... You know, for better or for worse, this individual who's sponsoring this is...

Chairman Buzzutto stated no monetary...

Mr. Zarin stated right. Is independent...

Chairman Buzzutto stated that's what you told me...

Mr. Zarin stated has independent resources.

Chairman Buzzutto stated now these cars are all state inspected.

Mr. Zarin stated these are all legal road cars, state inspected.

Chairman Buzzutto stated alright, when they're...

Mr. Zarin stated they go on the road.

Chairman Buzzutto stated inspected, you bring them down here, you work on them. Will they pass inspection after you get done working on them. Change and modifying the...

Mr. Zarin stated I mean, they'll...

Chairman Buzzutto stated fuel system and...

Mr. Zarin stated they'll be so in exceedance of probably most of the cars that are on the road. I mean, this is a...I can't emphasize it enough. First of all, these are legal cars, legal street cars.

Chairman Buzzutto stated right.

Mr. Zarin stated high tech cars. I mean, they...these cars are perfected to low gas consumption. They try to minimize the noise; that's one of the areas they continue to work on because they do rally car in town...on municipal roads as I said. They...Their aerodynamics they work on. I mean, these are...We had one or two of them out here before the Town Board and the Planning Board, and...

Chairman Buzzutto stated well, they're older cars. They're not...

Mr. Zarin stated some of them are newer. Some of them are retrofit. But these are not bumper cars. I mean, there are...

Chairman Buzzutto stated well, I mean, you bring them back here to modify them and some situations where you might have to change the fuel flow, you might have to change stuff like that.

Mr. Zarin stated oh, yes.

Chairman Buzzutto stated will they pass inspections after you do that.

Mr. Zarin stated absolutely. Otherwise they couldn't take them on the road. And believe me, they're not going to risk...

Chairman Buzzutto stated they couldn't take them on the road, but...

Mr. Zarin stated I assure you that they, these cars, are probably in exceedance of most cars that are on the road and meeting standards. I mean, these are...This is...They have the equipment in these places to bring these far in excess of code. I mean, these are, like I said before, these are very high tech operations. And they take them...If they go upstate, they contact municipal officials. They work with them, they give them their routes. They get these routes approved. They look at their cars. They, you know, they're...I guess, they're very...It's a very, quote-on-quote, regulated industry where they race.

Chairman Buzzutto stated yes, but I mean when they're inspected on an inspection station, the results of the inspection goes into a computer where it either passes or fails the inspection. Now you're not equipped to do that.

Mr. Zarin stated they're going to have computers that make your local auto service shop, you know...I can't stress enough. This is high...this is robotics. This is high tech computers. They're...The technology that they're going to have in this garage is going to exceed any of the local automotive shops. I mean, it's not even, and I don't mean to be disrespectful, it's not even close. So, look, you know, ultimately I'm sure, you know, you're going to want to see records as part of our application. You're going to want to see the cars. You're going to want to see history of...

Chairman Buzzutto stated it says in here all..

Mr. Zarin stated of up...

Chairman Buzzutto stated all paraphernalia has to be available to town officials.

Mr. Zarin stated sure. I mean...

Chairman Buzzutto stated it says it in your...

Mr. Zarin stated yes. And you're going to want to see this in advanced of...I'm going to...we're going to come back to you for a special permit application, and you're going to ask me the questions but it's going to be different. You're going to say to me, we want to see all of the records of your cars...For the past history of these cars to understand the questions that you're raising. You're going to want to say to me, we want to talk to some of the officials...elected officials of some of these race...You're going to say to me...You know, you're going to ask me all this information upfront before...as part of your review of my application and then you're going to impose, I hope we get to this point, that you approve it with conditions...with reasonable conditions; We have the right to come onto your property random, perhaps, and make sure these cars are in compliance if they're leaving the property. We have the right to inspect

your premises. We have the right to, I mean, you know, like, I'm sure you do with many...or you should do or you may do with many special permit applications.

Chairman Buzzutto stated what's the general purpose of the track. What, it's going to have...Every turn it's at, every (inaudible) facility, like that. Skid, stuff like that, that you run curves that you would meet when you're in an actual rally race. If you can't race on this track that you've installed over here.

Mr. Zarin stated I mean, if you've ever seen...

Chairman Buzzutto stated you can't use it under the same conditions.

Mr. Zarin stated if you've ever seen a, for example, a test pad. You have these test pads. They're not a regular racing track. They're not...They try to simulate to some extent...

Chairman Buzzutto stated well, that's what I mean.

Mr. Zarin stated yes. They simulate, to some extent, some of the elements, and they take it at a different speed. They take it at a, you know, a different level because they're trying to perfect. They're literally hooking electrical equipment up to the car...

Audience member stated excuse me.

Mr. Zarin stated they're putting it on the type of computers you're talking about. They're doing robotic types of analysis. They want to look...Can you shave a .10 seconds off a turn of this type. Is there something we can do to the car, aerodynamically, gas consumption, is there something we can do to make the car perform better. That's what these are used for. So, they're not meant to, as we were talking about, they're meant to race the car. They're not meant to...They're meant to perfect the fine tuning of the car so when it does get out and race, they've worked on these aspects and elements of the car. Most of these cars, the major physical elements of these cars are, as I said before, they're enhanced, the body of them...

Chairman Buzzutto stated okay.

Mr. Zarin stated because they take a pounding. Because when you're on a dirt road for a day or two days, they take a certain amount of pounding. So that's, a lot of it, is how do you use lighter metals. How do you minimize the metals but still keep the integrity of the car and keep the weight down. How do you preserve the gas is a big issue. They're starting to look at solar. How can do they do solar cars to get rid of that whole gas. Get rid of the weight of gas. Get rid of a lot of those issues. So this is...That's the nature. And again, it's good for me to stand here and just yak away, but we're going to...but when we come before you with our application, we're going to be prepared to demonstrate this tangibly. I'm not...me talking, but real technical, engineering, show you the equipment, show you the record, show you the data, and that's...

Chairman Buzzutto stated okay.

Mr. Zarin stated we're prepared to do that.

Chairman Buzzutto stated at this particular time, I'd like to call on Rich. If you'd have a few words.

Rich Williams stated would you like me to...

Chairman Buzzutto stated yes.

Rich Williams stated address the Board.

Chairman Buzzutto stated yes.

Rich Williams stated sure.

Mr. Zarin stated thank you very much. Appreciate it.

Chairman Buzzutto stated thank you for your input.

Board Member Olenius stated thank you.

Rich Williams stated thank you Mr. Chairman. My name is Rich Williams. I'm a planner. We are basically here tonight because of a memo that I wrote classifying the use of this for the Planning Board under our current zoning code. Mr. Zarin certainly is one of the more well-known and respected land use attorneys within the area, and we appreciate all the help that he's giving...been giving the Town in bringing forth issues that we were not aware of on how our Code is looked at. Mr. Zarin was right when he advised the Board early on that when you're looking at an interpretation, you need to very narrowly focus on the issue at hand. And the issue at hand is what is the proposed use going to be. Does it meet the definition of a club. And it is a little bit difficult because our Code really doesn't layout a definition of a club. I do want to clarify something in that...

The Secretary stated hold on [referring to the tape ending].

TAPE ENDED

Rich Williams stated that I have been working with the Town for quite some time now and working with the Town Attorney's office. We have made many, many revisions to the Town Code as a whole and the Zoning Code. Certainly, we have completely revised the requirements for a special use permit and I will gladly take credit for authorship for that. This particular section was drafted by the Town in 1977, some thirty odd years ago, and while I would love to claim ownership, I haven't been here for 30 years, though sometimes it feels that long. You know, having said that, I did go back and I did try to ascertain the legislative intent and, you know, of course 30 years ago the records were not so good. So, we really don't know what they were thinking when they were trying to define a club. And that, in part, has led us to where we are today as to trying to understand what was meant back then and how this should be classified. I do want to address a couple of other issues that were raised that, again, totally not germane to this proceeding but just to clarify because Mr. Zarin did bring them up. Based on what mister...the information that Mr. Zarin provided the Town, we did feel that there was some deficiencies in the way our Code addresses clubs, and I was directed to prepare a zoning amendment to do that. I did. It was reviewed by the Town Attorney's office. I think we did a fairly good job on that. Mr. Zarin is right, there are certain things that are specifically included within that zoning amendment. Under that zoning amendment for clubs, you could not have an equestrian club, principally because equestrian clubs are addressed elsewhere within the Code. Similarly, you could not have an athletic club because that's addressed elsewhere in the Code. Or a golf club, because that's addressed elsewhere in our Town Code, and that's why they were

specifically excluded. It wasn't that we were trying to stop this type of activity within the Town, but they're addressed elsewhere within the Code, as are a number of other issues. One of the things that Mr. Zarin has said on a couple of different occasions that, you know, being as it may, that under our Code he could, you know, go have a race track out on the site. Our current Code does not permit a race track or racing activities on a site. Specifically does not have it listed as a permitted use, and so he could not do that. It does allow active commercial-recreational opportunities. We have an opinion from our attorney from some time ago which says that that means it needs to be...it can't be a nonparticipatory sport. So, we could do a little league but we couldn't do a race track. Or we couldn't do a football stadium. At some point the Town Board may want to address that, but right now in today's Code, that's the way it is. Something else that Mr. Zarin has been doing, and that's claiming that this is a research and development facility. Well, our Town Code currently permits research and development facilities as of right. So I'm wondering why we would need a club at all if it already meets the definition of a research and facility corporation. Mr. Zarin had used the analogy of a property owner that wants to change a carburetor out on his car and then go test it out in his driveway and would we allow that under our current Code, which we would. But I don't see how changing a carburetor, and that's basically what we're talking about here, is changing car parts to enhance the performance of a car, how that qualifies as research and development. And I think, you know, that's one of the fundamental things that the applicant looked at early on, which is why they came in as a club and not a research and development facility. We try to classify the use of a property early on in the process, so as not to unduly delay an applicant. Clearly Mr. Zarin has pointed out some deficiencies because we did classify it based on the information that was provided to us. However, within the context of my memo, I do believe that I was on solid ground in where I was going with this and that why do you want to classify it as club because it gives you broad ability to do a lot of things on the site. When you boil this all down, this really is nothing but a private garage that is going to be operated by four individuals to setup cars and enhance their performance for rally car racing. You know, having said that, again, you need to narrowly look at what the central issue is. And I believe that's what the central issue is. The fact that the Applicant is VZ Racing has no bearing on that. And the fact that the application is for a racing club really has no bearing on that. The real application here, the real request for an interpretation is, you know, how does this Town define a club based on the plain language within our Code, which is really what you have to take a hard look at, and whether the proposed use is actually a club or, as I put in my memo, a private garage. Thank you.

Chairman Buzzutto stated thank you, Mr. Williams. This...

Mr. Zarin stated if I could please. I just wanted to address, just very briefly...

Chairman Buzzutto stated okay.

Mr. Zarin stated a couple of minor points that Rich made. And kudos back to him. I..Rich has been, you know, a very professional in dealing with him and respect many of the opinions and respect the work he's done. Obviously, we differ. First of all, one of the reasons that we didn't bring it, quote-on-quote, under the auspicious of research and development, although we certainly did make it very clear that we are a research and development, that would be a permitted use, and I'm not sure one needs to specify all the time is which of the particular uses we're coming under. But if we need to amend our application to say we believe we come both as a club and as a research and development, so be it. But one of the reasons we didn't come in under research and development is there's no definition, whatsoever, of research and development in your Code. So we thought, you know, there was much more clarity both in the law and in the Code in defining what a club was. And we thought clearly we would qualify as for that. Second, Rich makes the point, he said: no, the contemplated use here, if there was any intent was to permit, sort of perhaps, recreational and those types of uses and, you know, if anything, I believe he said, you know, you

could have a little league but not a stadium. But that's not clear because the permitted use as of right under C-1, as zoned, is quote "active indoor and outdoor for profit recreational sports facility including archery ranges, swimming pools, ice skating, bowling, golf ranges, except amusement arcades". The only exception was amusement arcades. The whole intent was quite the opposite, I think, of what Rich is saying, was create these...Sorry [referring to bumping into something]. Was create these income generating, large, quote-on-quote, intrusive, more intrusive than us, commercial recreational that would increase tax rateables to the Town. And that's, theoretically, I mean that is not theoretically, that is what's contemplated. That's in the Code as a permitted use under C-1. Again, you know, if we're a private garage or a rally car, you know, there's private garages everywhere in this Town. I don't know why you would come out and select ours as not...it's not now being a permitted use. So, again, you know, we take issue with obviously some of Rich...I think the point is that perhaps in the future, things may want...you may want to take another look at the zoning. You may want to take another look at some of the intent and some of those issues. The point we were making the other night was we don't think it's fair to do it on the eve of an application. By the time you go through SEQRA and an environmental review, and all those other issues, we're going to be, you know, we should be through the approval process and it's just not fair changing the zoning after the fact of, quote-on-quote, clarify, when, you know, our client bought 175 acres in reliance on the zoning as written. And again, you know, if we have the impacts that people are concerned about, you have all the authority to deny or pose conditions on us.

Chairman Buzzutto stated well, our position now is just for the interpretation of club.

Mr. Zarin stated under Code...

Chairman Buzzutto stated I think we ought to do a little more research on something like that. We get more research on what the Town Planner has given us tonight. So with that, I think we'll...Does the Board have any more input on that. So how do these cars get from one destination to the other. Are they trucked or are they driven on the road.

Mr. Zarin stated I believe that most of them are driven. Again, they're legal car...I mean, we drove...I apologize we didn't get one here today, but we had a...we drove a car when the Planning Board walked the site, and we'll do, obviously, the same thing for you. It's parked right there. We fully pressed down, you know, on the throttle. Rared it up to it's max. And I can tell you that the Planning Board was very surprised at how low the noise was from that. We brought another one to the Town Board meeting the other night when we came voluntarily. These are all road legal cars, so the Applicant, the individual, drives his car around as his...

Chairman Buzzutto stated are these...

Mr. Zarin stated you know, his regular car.

Chairman Buzzutto stated are these cars registered to [Winding] Glade or the individual driver.

Mr. Zarin stated I don't know. I don't know.

Chairman Buzzutto stated because if they're not...if they're...

Mr. Zarin stated I assume they'll be registered to the nonprofit...

Chairman Buzzutto stated well, that's what I'm trying to find out, yes.

Mr. Zarin stated when...At this moment I don't know who they're registered to, but that's a good point.

Chairman Buzzutto stated okay, you have to find that out. Okay. Alright...

Board Member Olenius stated Mr. Zarin, when did your client purchase the property. I'm sorry, I might have missed that.

Mr. Zarin stated I believe, I don't have the exact date. I believe it was a couple of years ago.

Chairman Buzzutto stated I don't have one.

Board Member Olenius stated yes, it wasn't...It's usually in this pack, but it's not.

Carl Lodes stated (inaudible – too distant). Mr. Chairman, I told you, I told Mr. Zarin...

Chairman Buzzutto stated oh, on the 25,000 [square feet].

Carl Lodes stated I talked to him. We noticed the hearing in terms of that.

Chairman Buzzutto stated alright. That will be changed...

Carl Lodes stated at the next hearing.

Chairman Buzzutto stated at the next hearing, yes.

Carl Lodes stated (inaudible).

Chairman Buzzutto stated we're referring to the twenty-five...

Carl Lodes stated thousand.

Chairman Buzzutto stated twenty-five or twenty-six hundred square feet...26,000 [square feet].

Carl Lodes stated yes. It goes from 2,500 to 25,000 [square feet].

Chairman Buzzutto stated 25,000 square feet. Yes. That was the...

Carl Lodes stated correct. That has to be renoticed for the next meeting.

Chairman Buzzutto stated because that was a typo, I guess. Jerry, have any questions you want to ask.

Board Member Herbst stated no. I don't think so.

Chairman Buzzutto stated alright.

Carl Lodes stated (inaudible – too many talking).

Chairman Buzzutto stated I apologize to the...Rich, did you...

Rich Williams stated yes. I'd like to just address one more issue. Based on the number of people I see here tonight, it seems to be a little bit of concern within the neighborhood.

Chairman Buzzutto stated right.

Rich Williams stated I would recommend to the Board that you consider the next time that this comes before the Board, you set it as a special meeting for just this application.

Chairman Buzzutto stated fine. Well taken.

Board Member Bodor stated and are we maxing out on the numbers of persons...

Dave Raines stated you're right at it.

Board Member Bodor stated we're right at it.

Dave Raines stated four people. We're four people shy tonight.

Board Member Bodor stated four people shy of the max. We should probably then schedule it...

Board Member Herbst stated we'll have to go to the Rec Center.

Board Member Bodor stated for a larger facility.

Board Member Herbst stated yes.

Board Member Bodor stated because I'd hate to...

Chairman Buzzutto stated well...

Board Member Bodor stated see everyone come here and have to be moved because we have too many people.

Chairman Buzzutto stated well, at the next meeting, will there be input from the audience on that.

Board Member Bodor stated no. It's a...

Board Member Burdick stated no.

Board Member Bodor stated no. It's a...

Chairman Buzzutto stated no. It's still...

Board Member Bodor stated an interpretation.

Chairman Buzzutto stated it's just still out...

Carl Lodes stated anybody could be here, but it's not a public...

Chairman Buzzutto stated okay.

Board Member Burdick stated we have to accommodate them if they want to be here.

Chairman Buzzutto stated yes. Alright, so how will they know. We'll have to send out a memo on that or put it in the paper or...

Carl Lodes stated yes. Sarah would notice it. Yes.

Chairman Buzzutto stated notice...

Board Member Bodor stated will notice it because of the verbiage in there also.

Carl Lodes stated right.

Chairman Buzzutto stated the capacity here tonight has kind of overshoot it's limits I think.

Audience member stated Sir, could you speak a little louder. It's kind of hard to hear.

Chairman Buzzutto stated oh, okay. I just want to apologize tonight that there would be no input from you [referring to the audience]. But on a special interpretation there is no input from the audience on that. But when the use permit...

Carl Lodes stated special...

Chairman Buzzutto stated special use permit comes up, there will be.

Carl Lodes stated correct.

Chairman Buzzutto stated whatever you want to bring up. So we're going to just table this for tonight. Have the meeting setup for the Rec Center.

Board Member Bodor stated we'll attempt to get the Rec Center. Yes.

Chairman Buzzutto stated and then...

Board Member Bodor stated the way you'll find out where it is and when it is will be the newspaper.

Chairman Buzzutto stated right.

Board Member Bodor stated be...or call the office, because it will be renoticed in the papers.

Chairman Buzzutto stated yes.

Board Member Bodor stated the Putnam...on the website. The website. Open up your computers.

[Laughter]

Audience member stated adjoining landowners will get a memo though.

Board Member Bodor stated no. You will not get a specific letter. No.

Audience member stated but we did this time. I don't understand.

Board Member Bodor stated well, this is... Yes.

Chairman Buzzutto stated this is the first hearing.

Board Member Bodor stated this is the first one.

Rich Williams stated they'll be renoticed.

Board Member Bodor stated oh, it renoticed and then...

Rich Williams stated because of the deficiency in the notice.

Board Member Bodor stated okay. I stand corrected. Because it is being renoticed you will get a letter. Okay.

Chairman Buzzutto stated okay, they will correct that...not the...the square footage in the next...

Carl Lodes stated in the next notice.

Chairman Buzzutto stated next notice.

Carl Lodes stated yes.

Chairman Buzzutto stated okay, I want to thank you very much for coming here tonight. You're a very orderly crowd which we all appreciate. Thank you very much. Thank you for your well...

[Inaudible – Members of the audience get up to leave. A lot of talking amongst themselves].

Board Member Olenius stated what I think what he was trying to say is they're trying to mimic...with the track, they're going to try and mimic existing conditions when they do race to see if they can improve their time.

[Inaudible – A lot of people in audience talking].

Board Member Olenius stated we haven't gotten that far yet. We haven't gotten an interpretation from our attorneys yet. He hasn't read that (inaudible – too many talking).

[Inaudible – A lot of people in audience talking].

Board Member Bodor stated Wireless, they withdrew for tonight. They're on the next meeting. Yes. They were not ready...

Chairman Buzzutto stated Sarah.

[Inaudible – A lot of people in audience talking].

Board Member Bodor stated oh, they're some place now. That's what I (inaudible – too many people talking).

[Inaudible – A lot of people in audience talking].

Board Member Herbst stated that was Kevin. I wanted to talk to him. I've got a minute till (inaudible – too many talking).

Board Member Olenius stated we're not adjourned yet. Jerry, we're not adjourned yet. We still have more business to do.

Board Member Herbst stated I'll be right back.

[Inaudible – A lot of people in audience talking].

Board Member Bodor stated did you adjourn the meeting.

Chairman Buzzutto stated I (inaudible – too many talking).

Board Member Bodor stated you did adjourn the meeting. I didn't hear that. No. Nobody did that. (Inaudible – too many talking) You can't pack up and go home.

Chairman Buzzutto stated (inaudible). Alright. Let's (inaudible – too many talking).

Board Member Bodor stated you can't just leave.

Chairman Buzzutto stated (inaudible – too many talking). I'll be right back.

Board Member Bodor stated you know, we got to turn the mic (inaudible – too many talking) in order to get everybody out of here [referring to the people in the audience that are still in the room talking].

[Inaudible – A lot of people in audience talking].

Board Member Bodor stated he's going to the men's room [referring to Chairman Buzzutto].

[Inaudible – A lot of people in audience talking].

Board Member Bodor stated come on Buzzy.

[Inaudible – A lot of people in audience talking].

Board Member Bodor stated don't go anywhere. We're not finished. Jerry, we're not finished.

Board Member Herbst stated I know.

Board Member Bodor stated oh.

Board Member Herbst stated no, I wasn't going.

Board Member Bodor stated don't disappear.

Board Member Herbst stated I had to...I wanted to see Kevin for a minute.

[A lot of people talking].

Board Member Bodor stated you need to call the meeting back to order.

Chairman Buzzutto stated I'd like to call the meeting back to order to take care of some unfinished business.

[A lot of people talking].

Chairman Buzzutto stated hello. Hello. I forgot, I (inaudible – too many talking).

[Laughter].

Board Member Bodor stated he's going home.

3) OTHER BUSINESS

a. SEQRA for Wireless EDGE

Board Member Bodor stated the next item on the agenda is other business. What other business do we have, anything.

The Secretary stated I have the consent form for you to sign for SEQRA for Planning Board to do for Wireless EDGE. The consent form. So, I just need you to...

Chairman Buzzutto stated okay.

The Secretary stated you know, for the record.

Chairman Buzzutto stated oh, this is...Yes. Definitely.

b. Minutes

Board Member Bodor stated and then we have to minutes from December 15th and December 16th to approve.

Board Member Herbst stated we also have the...

Board Member Bodor stated we'll add that.

Board Member Bodor stated I make a motion to approve the minutes.

Board Member Herbst stated second.

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

c. Schedule Special Meeting

Board Member Bodor stated okay. Now we have to determine when we're going to look at our special meeting for...

Board Member Olenius stated (inaudible – too many people talking) right.

Chairman Buzzutto stated oh, yes.

The Secretary stated I did call the Rec Center and they said Mondays work best for them. So if you could look at Monday nights.

Board Member Bodor stated Monday night. Our next regular meeting is February 16th, is that...

Board Member Burdick stated the 17th.

Board Member Bodor stated the 17th. Yes you're right. Ash Wednesday's a...

Board Member Burdick stated and then the Monday before that, though, is a holiday.

Board Member Bodor stated right.

Carl Lodes stated yes. If you don't mind if (inaudible – too many talking) because the memo's pretty extensive.

Board Member Bodor stated alright.

Carl Lodes stated beyond the 17th.

Board Member Burdick stated so, like, the next Monday would be the 22nd.

Carl Lodes stated yes.

Board Member Bodor stated how about the 22nd of February, which is Washington's Birthday, it's a Monday.

Chairman Buzzutto stated that's special, right.

Board Member Bodor stated special meeting. Lars doesn't like that. No. Okay.

Board Member Herbst stated Washington's Birthday.

Board Member Bodor stated well, then we can go into March. I'm not available the 1st. The 8th, though, would work.

Board Member Herbst stated is this for the special meeting.

Board Member Bodor stated special meeting.

Chairman Buzzutto stated nothing in the...

Board Member Herbst stated you don't want to go before the...

Board Member Bodor stated there's too much to digest.

Chairman Buzzutto stated well, when's the regular meeting then.

Board Member Bodor stated the 17th.

Carl Lodes stated I asked, Chairman, if we could put it beyond the 17th only because the memo's pretty extensive that I got from Mr. Zarin. And I just want to take a look at that and the Code and be able to give you an opinion before (inaudible – too many talking). So, I don't want to schedule another meeting and ask you...

Chairman Buzzutto stated yes.

Carl Lodes stated to adjourn it. So if you could just...

Chairman Buzzutto stated for the Glade...The memo...

Board Member Bodor stated the Glades, yes.

Chairman Buzzutto stated for Glades.

Carl Lodes stated yes.

Board Member Bodor stated yes.

Board Member Olenius stated were Mondays the only days the Rec Center had available.

The Secretary stated she said that that was the day, I mean...

Chairman Buzzutto stated is there any information we have to get changed what was discussed tonight.

Carl Lodes stated I don't...I've only got...

Chairman Buzzutto stated oh, you've gotten notes on it.

Carl Lodes stated yes.

Chairman Buzzutto stated okay, fine.

[Train goes by]

Chairman Buzzutto stated who's cell phone was that.

Board Member Bodor stated that's another, aside from that, I think from now on at the beginning the meeting, we need to announce to please turn the cell phones off.

Chairman Buzzutto stated yes.

Board Member Bodor stated it's on the door, but, we're still dealing with it.

Chairman Buzzutto stated yes. Especially when you got to stop like this here.

Board Member Herbst stated I think they ought to go out [referring to members of the public in the meeting room still talking].

Board Member Bodor stated so the 8th of...

Board Member Herbst stated before we go any further, let me go tell them to get out.

Board Member Burdick stated no, let's just...

Board Member Bodor stated it's alright. The 8th of March. How does that sound for a special meeting. Monday the 8th. Okay.

Carl Lodes stated thank you.

Board Member Bodor stated we'll try for that, Sarah.

The Secretary stated okay. I mean, if you had another day in mind that's not a Monday, I can always check with them if there is another day that...

Board Member Bodor stated you said Mondays were best for them.

The Secretary stated right.

Board Member Burdick stated are Mondays in general a problem for you, or was it just that Monday.

Board Member Olenius stated just those...Just that Monday.

Board Member Burdick stated okay.

Board Member Bodor stated okay, so we'll shoot for the 8th and if that doesn't work, we'll move it the 15th then, the following Monday. Does that work. No.

Board Member Herbst stated right now, I'm fine.

Board Member Bodor stated alright.

Board Member Herbst stated what will happen in a couple of weeks, I don't know. But right now...

Board Member Bodor stated excuse me.

Board Member Herbst stated I'm fine.

Board Member Bodor stated if this is put in writing, a couple weeks you change those couple weeks plans. Not this.

Board Member Herbst stated no, no, no. I...

Chairman Buzzutto stated yes, you tell him Mary.

Board Member Herbst stated no, no. What happens is...

Chairman Buzzutto stated you tell him Vice.

[Laughter].

Board Member Herbst stated no, as I say right now, my board is clear. But that changes very fast, so...

Board Member Bodor stated well, no, this is on your board.

Board Member Herbst stated it will go on my board, too. What is it going to be now.

Board Member Bodor stated the 8th.

Board Member Burdick stated put down the 8th and the 15th...

Board Member Bodor stated the 8th.

Board Member Herbst stated yes, sure. If I write it down...

Board Member Burdick stated as an alternate.

Board Member Bodor stated the 15th is an alternate in case the Rec can't accommodate us on the 8th.

Board Member Herbst stated okay, and that's a Monday.

Board Member Bodor stated both Mondays. Okay.

Chairman Buzzutto stated the 15th is also a Monday, right.

Board Member Bodor stated yes. Go home and write it on your board in ink. Anything else folks.

Chairman Buzzutto stated don't they have a whip in the House of Representatives. (Inaudible – too many talking).

[Laughter]

Board Member Bodor stated be careful.

Chairman Buzzutto stated anything else we have. Did we...We approved the minutes, right.

Board Member Bodor stated yes.

Board Member Burdick stated yes.

Board Member Bodor stated I make a motion to adjourn.

Board Member Burdick stated second.

Chairman Buzzutto stated all in favor.

Board Member Herbst stated well, wait a minute. Wait a minute, wait a minute now. I just got cornered out there by the [Town] Board, they want to know what we're going to do about asking for special counsel. They want a...They want a resolution on this now. So...

Board Member Bodor stated they want us to ask for special counsel...

Board Member Herbst stated yes.

Board Member Bodor stated on this case. For what reason.

Board Member Herbst stated ask them.

Board Member Bodor stated well...

Chairman Buzzutto stated well, they should have said something to us.

Board Member Olenius stated our counsel hasn't had an opportunity to review it yet, so...That was my response when I was asked.

Chairman Buzzutto stated who approached you.

Board Member Olenius stated Ed.

Board Member Herbst stated Ed and Mike.

Board Member Bodor stated Mr. O'Connor.

Audience member stated Mr. O'Connor. Ed.

Board Member Bodor stated Edward. Could we have your attention please, Sir. We're about to adjourn and we're learning that the Board...some members of the Town Board would like us to request special counsel for this case and we're in a quandary as to why this is felt necessary.

Councilman O'Connor stated well, that's...

Carl Lodes stated if you want me to leave, I'll be glad to leave.

Councilman O'Connor stated no, no, no.

Carl Lodes stated I don't take insults easily.

Councilman O'Connor stated that's all...I was approached by the...our thought that it might be appropriate to have a...Maybe not...I don't know if he meant for this part of it. This is an interpretation. But...

Chairman Buzzutto stated well, he should let us know.

Councilman O'Connor stated all I know is what he told me and I told Jerry. Did you ever see that movie with Paul Newman.

Chairman Buzzutto stated I'm sorry.

Councilman O'Connor stated he (inaudible – too distant) he kept on saying (inaudible – too distant).

Carl Lodes stated adjourn. Can you adjourn the meeting.

Chairman Buzzutto stated yes. We adjourned, didn't we.

Board Member Bodor stated no we didn't. We didn't get a vote.

Chairman Buzzutto stated oh, we didn't get a...

Board Member Bodor stated I make a motion to adjourn.

Board Member Burdick stated second.

Chairman Buzzutto stated all in favor.

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

Meeting was adjourned at 8:27 p.m.