

**TOWN OF PATTERSON  
ZONING BOARD OF APPEALS**

*January 21, 2015*

**AGENDA & MINUTES**

	Page	
1) <b>Peter Ruisi Case #09-14</b>	1 – 2	Public hearing remained opened; Applicant was not present – Application tabled pending owners of Thunder Ridge filing a Use Variance application.
2) <b>Scott &amp; Jean Heller Case #23-14</b>	2	Public hearing remained open; Application held over under February per applicant’s request.
3) <b>Stephen Tavano Case #19-14</b>	2 – 13	Public hearing remained open; Site walk date to be determined.
4) <b>Other Business</b>		
<b>A) Luis Roman Letter: Request to Rehear Case #16-14</b>	13 – 16	Board discussed letter submitted by the applicant; a motion was <b><u>not</u></b> made to re-hear the case and it remained closed.
<b>B) Town Planner Memo: Restaurants (Dated 12/1/14)</b>	16 – 22	Board discussed Town Planner’s 12/1/14 memo on restaurants; final recommendation made to Town Board to adopt changes to Town Code as stated in memo, in addition to addressing hours of operation in any changes made.
<b>C) Minutes</b>	22 – 24	Minutes from December 16, 2014 ZBA meeting approved with noted corrections made.
<b>D) Rescheduling Meeting Date</b>	24 – 26	April 2015 ZBA meeting rescheduled to Thursday, April 23.
<b>E) Site Walk</b>	26 – 29	Site Walk for Case #19-14 scheduled for Tuesday, February 3 <sup>rd</sup> with snow/rain date scheduled for Thursday, February 5 <sup>th</sup> .

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**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF APPEALS**

Lars Olenius, Chairman  
Mary Bodor, Vice Chairman  
Marianne Burdick  
Michael Carinha  
Stephanie Fox

**PLANNING BOARD**

Thomas E. McNulty, Chairman  
Ron Taylor, Vice Chairman  
Michael Montesano  
Edward J. Brady, Jr.  
Robert F. Ladau

**Zoning Board of Appeals  
January 21, 2015 Meeting Minutes**

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

Present were: Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Michael Carinha, Board Member Stephanie Fox, Nancy Tagliafierro – Attorney with Town Attorney’s Office, and Rich Williams – Town Planner.

Board Member Bodor called the meeting to order at 7:06 p.m.

There were approximately 8 members of the audience.

Mary Schartau was the secretary for this meeting and transcribed the following minutes.

Board Member Bodor led the salute to the flag.

Board Member Bodor stated can I have a roll call, please.

Roll Call:

Board Member Burdick	-	Here
Board Member Carinha	-	Here
Board Member Fox	-	Here
Board Member Bodor	-	Here

Board Member Bodor stated the first case on the agenda is...

**1) Peter Ruisi (Liberty Paintball) Case #09-14**

No one was present to represent the application.

The Secretary read the following legal notice:

**NOTICE IS HEREBY GIVEN BY THE TOWN OF PATTERSON BOARD OF APPEALS** of a public hearing to be held on Wednesday, January 21, 2015 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following applications:

**Peter Ruisi (Liberty Paintball Games) Case #09-14 – Area Variance: Held over from the April 16, 2014, May 21, 2014, June 18, 2014, July 16, 2014, August 20, 2014, September 17, 2014, October 15, 2014, November 18, 2014, and December 16, 2014 meetings**

Board Member Bodor stated it's my understanding that Mr. Ruisi has again requested that this matter be held over. Hopefully we can deal with it next month... and the next case.

**2) Scott & Jean Heller Case #23-14**

No one was present to represent the application.

The Secretary stated the following:

**Scott & Jean Heller Case #23-14 – Area Variance: Held over from the December 16, 2014 meeting**

Board Member Bodor stated again... it's my understanding that this case be held over for another month at Mr. Heller's request. Okay.

**3) Stephen Tavano Case #19-14**

Three people were present to represent the application.

The Secretary stated the following:

**Stephen Tavano Case #19-14 – Interpretation of Zoning Code: Held over from the December 16, 2014 meeting**

Board Member Bodor stated okay, Mr. Tavano... or representative.

Mr. Caruso stated good evening. I'm Michael Caruso of Bill Shilling's office. We represent Steve Tavano.

Board Member Bodor stated okay... and this is Mr. Tavano.

Mr. Caruso stated correct.

Mr. Tavano stated yes.

Board Member Bodor stated okay, and you – where do you reside, sir.

Mr. Tavano stated uh, 17 Wesley Road in Patterson.

Board Member Bodor stated in Patterson, okay... um, please, raise your right hand. The testimony you're going to give us is the truth... so help you God.

Mr. Tavano stated yes.

Board Member Bodor stated all those words.

[Laughter.]

Mr. Tavano stated okay.

Board Member Bodor stated okay, thank you... um, would you like to explain what's going on here.

Mr. Caruso stated yes, absolutely, uh... and I advise my client to interrupt me with any liberties, uh, any... any facts he's like to interject that I, uh... that I don't present artfully, uh... Members of the Zoning Board, this is a single-family residence. There's... there's two structures on the lot that, uh, Mr. Tavano purchased back in 1990, um... There's a three-bedroom dwelling, about 1,100 square feet, built in 1947, and on the property cards it's listed as a bungalow, uh... There's another building – one-bedroom, approximately 300 square feet – on the property as well, constructed in 1955, and the property card reflects, uh, it's a cottage. The interpretation we're looking for tonight from the Zoning Board is recognizing the one-bedroom, uh, additional structure on the site as legally existing, pre-... you know, a legal pre-existing, non-conforming building, um... and we'll go into a little bit of detail. The basis for our application is that at the time Mr. Tavano purchased the property in 1990, uh, there was always – and... and as far back as sixty or so years – there have always been renters, as far as we know, in the other building – the one-bedroom, uh... and we're here tonight for an interpretation that it still is a legal pre-existing, non-conforming, uh, structure, um... and we'll go into the basis that we... that we want to support that with in the prior Codes. Before I do that, um, there is some information that we hadn't previously furnished to the Zoning Board in the form of two affidavits from nearby property owners. I just wanted to submit these, um, if we could, attesting to, um, the tenancies that have been, what we believe, continuous back through almost to the forties, um... I'm sorry, to the fifties, I believe...

Mr. Tavano stated fifties.

Mr. Caruso stated uh, for the one-bedroom cottage, um... so, it's our position that, as of 1955 when the cottage was constructed, there was no prohibition or no definition of, uh, what we'll call a "boarding house" that later appeared in the 1960 Code – or a "rooming house". That definition provided that another building on a... on a lot, uh, that contains lodging, one or more rooms for one or more, uh – I'm sorry, uh... one or more units, uh – is the... is the definition that appeared, um... I would submit to the Zoning Board – and it's my client's position that – to the extent that there was no such definition at the time this cottage was constructed, uh, that it should fall under the definition that later occurred, uh, as a rooming house or a boarding house just based on, you know, the sufficient... we believe there is sufficient ambiguity in the Code that should, uh, benefit the property owner, as most cases recognize, um... and, also, I should point out that, um, the definition that later came into being for a rooming house in 1960 in the Code provided that it had to be somewhere between four and fifteen rooms used or rented or hired out for sleeping

purposes, uh... four to fifteen guests, uh, and it had to be for compensation. Now, as we stand here tonight we can't represent to the Board how many partitions or how many occupants were in the cottage back through the fifties with the affidavit – the two affidavits – you have in front of me, and my client's testimony, we can always establish that it has been consistently letted [sic] out, uh, for use as a rooming or boarding house for quite a number of years and pre-dating that definition. I would also say, uh, given, you know, maybe to contextualize this a little bit, uh – with the abundance of farms in the community, dairy farms and the like, uh, in looking to the definition of cottage, particularly in the property cards, um, if you... if you go by, you know, any dictionary – it's not set out in the Code – you'll find that a cottage is, uh, usually a small dwelling, a vacation house, or something incidental to a farm use. So, I would submit that it's conceivable that this small, one-bedroom home may have been temporary shelter for rent or hire at times when farms were more prevalent, and maybe that's what the genesis of this house was... this... this one-bedroom. So, um... again, Members of the Zoning Board, we're asking tonight that you deem this a pre-existing, legal, non-conforming structure on the property, um, given the nature of the uses, uh, and what I believe has been pretty consistent over the years.

Board Member Fox stated well, my primary question first, about your argument, is that, um, a rooming house or a boarding house, um... at least in my interpretation, would imply not an accessory structure, but a primary structure, especially when you're referring to four to fifteen rooms.

Mr. Caruso stated well, I... that's where there is a bit of a divergence, but I don't believe the prior Code specified that it has to be the principal structure that's the... the boarding house.

Board Member Fox stated I believe the prior code specified that a boarding house was an allowable use as a principle structure, not as an accessory structure.

Mr. Caruso stated right. But, the problem is that the prior codes – and I don't believe this Code – defined an accessory building sufficiently to support that interpretation. So, we'd ask that if there is some ambiguity between those two versions, or those multiple versions, they be construed in favor of the property owner.

Board Member Fox stated now... okay, so, that being said, how many rooms does the accessory structure currently have.

Mr. Tavano stated two.

Board Member Fox stated two. So, would that fit your definition of boarding house – four to fifteen rooms.

Mr. Caruso stated well, not in its current configuration, but...

Board Member Fox stated okay.

Mr. Caruso stated we can't... we can't be sure that the...

Board Member Fox stated and what are the dimensions of...

Mr. Tavano stated I'm sorry, it's three rooms back there, and the dimensions are roughly 12 [feet] x 20 [feet].

Board Member Fox stated 12 [feet] x 20 [feet].

Mr. Caruso stated [to Mr. Tavano] has the interior ever been reconfigured as... before you owned it, or... to your knowledge.

Mr. Tavano stated when I bought the house in 1990 it was just redone to have the electrical brought up to Code, and all of that was done back then.

Board Member Fox stated was that permitted.

Mr. Tavano stated uh... that I'm not sure, because it was prior to my purchase. I just know it was all recently done and something that was pointed out to me when I purchased it.

Board Member Fox stated okay. Have you done any improvements on the structure since you purchased it.

Mr. Tavano stated on the cottage structure, um... just normal upkeep improvements, that sort of thing. You know, new windows, uh, new floors... you know, things you would normally have on a house of its age.

Board Member Fox stated okay... and did you – do you need to pursue a building permit for that.

Mr. Tavano stated I didn't do anything... you know, like I said, it was just floors, uh, replacing broken windows, you know. Just, uh, small items...

Board Member Fox stated okay.

Mr. Tavano stated you know, its roof...

Board Member Fox stated so, getting back to 12 x 20...

Mr. Tavano stated yeah...

Board Member Fox stated that's... four rooms at 12 x 20. They would be about 5 feet each.

Mr. Caruso stated pretty tight, yeah. The problem is, as we stand here today, I can't verify affirmatively or negatively that there were or weren't four units back in the forties when it was – or in the fifties, when it was created...

Board Member Fox stated my argument is... is that...

Mr. Caruso stated but...

Board Member Fox stated it's not conceivable that it could be, because if you had four rooms at 5 feet each, standard Building Code requires any room to be a minimum of seven feet.

Mr. Caruso stated by today's standards...

Board Member Fox stated by today's standards.

Mr. Caruso stated but not in the fifties, necessarily. That's the problem.

Board Member Fox stated right.

Mr. Caruso stated but when it came in being, there wasn't a definition for a boarding house. It was only until 1960 that that came about, so... I agree. It's incredibly tight quarters under that... under that definition.

Board Member Fox stated right.

Mr. Caruso stated there's no way around that, but...

Board Member Fox stated yeah, I...

Mr. Caruso stated we can't establish that conclusively, though, unfortunately, as we stand here today.

Board Member Fox stated okay.

Board Member Bodor stated is that smaller structure working off the same septic system and well as your main structure.

Mr. Tavano stated same septic and well, uh... Correct.

Board Member Bodor stated and those, uh, utilities are approved for how many bedrooms... how many...

Mr. Tavano stated um... that I'm not sure. It's a 1,000 gallon septic system.

Board Member Bodor stated how many bedrooms in your house.

Mr. Tavano stated uh, two bedrooms now.

Board Member Bodor stated two bedrooms now.

Mr. Tavano stated it was three, um...

Mr. Caruso stated it was three.

Mr. Tavano stated we reconfigured the house and took down a wall...

Board Member Bodor stated so, you have two bedrooms...

Mr. Tavano so, we have two...

Board Member Bodor stated in the main structure.

Mr. Tavano stated two bedrooms in the main structure. One bedroom in the back structure.

Board Member Bodor stated so it is a total of three then.

Mr. Tavano stated correct.

Board Member Bodor stated isn't...

Board Member Fox stated and when did you take down that wall.

Mr. Tavano stated um... last summer. We actually had an appraiser – uh, not appraiser – the, um... uh, the person from the town come out and – yeah, I guess, reappraise it, and re-, um...

Board Member Fox stated like the assessor, assessor...

Mr. Tavano stated reassess us as a two-bedroom in the main house.

Board Member Fox stated okay.

Board Member Bodor stated looking at the structures on the card, um... and I know you weren't there at the time, but, to me, uh, it appears – and... and I think you would probably agree with me – that that smaller structure was, in fact, probably a garage, originally... and converted.

Mr. Tavano stated from where it stands it makes sense that it may have been, um...

Board Member Bodor stated yeah.

Mr. Tavano stated although no one that I've found that still lives around the neighborhood ever remembers it as a garage.

Board Member Bodor stated mm hmm.

Mr. Caruso stated [to Mr. Tavano] ever any paving or any excavation.

Mr. Tavano stated there was never anything of, um... you know, although the driveway is close to there, it doesn't – and never did – go up to the cottage since I've had it.

Mr. Caruso stated [to Mr. Tavano] right. There's no pavers or anything, are there.

Mr. Tavano stated no, there's nothing like that.

Mr. Caruso stated okay.

Board Member Bodor stated and if it had been converted, it should have had some type of approvals going with it, uh... Certificates of Occupancy, uh, the whole nine yards, um... do we know if those exist or not.

Mr. Caruso stated I don't – I don't believe we have any.

Board Member Bodor stated is there a C...

Mr. Tavano stated I don't know.

Board Member Bodor is there a C. of O. on your – on the main structure.

Mr. Tavano stated yes.

Board Member Bodor stated and is there one on the smaller one.

Mr. Tavano stated I was under the impression there was when I purchased the home.

Board Member Bodor stated have you seen it.

Mr. Tavano stated no. As a matter of fact, um, I haven't even seen my C. of O, uh, when I looked through the town papers. I tried to find it to see what was in there, and my folder was very thin. I actually had more papers than the town did.

Board Member Carinha stated do we have all of, like, the Health Department approvals for that as a rental.

Mr. Tavano stated um... as far as the septic is concerned it – it meets the requirements for the amount of... you know, because it is 1,000 gallons, which is, um...

Board Member Carinha stated okay.

Mr. Tavano stated the way I understand it, more than enough for the two bathrooms.

Board Member Carinha stated okay.

Mr. Caruso stated [to Mr. Tavano] there's two bathrooms across both buildings in total...

Mr. Tavano stated yeah...

Mr. Caruso stated okay.

Mr. Tavano stated one bathroom in each building.

Mr. Caruso stated alright.

Board Member Fox stated and there's a full kitchen in the accessory structure, or...

Mr. Tavano stated yes. There's a full kitchen in there. There's actually – truthfully, there's four rooms if you want to count the utility room, the bathroom, the kitchen, and then the bedroom, you know, uh, room...

Mr. Caruso stated [to Mr. Tavano] in the cottage...

Mr. Tavano stated in the cottage.

Mr. Caruso stated okay. Right. Let me see if I have the C.O. here...

Board Member Bodor stated is there anyone in the audience who would have some input as to this situation. Mr. Williams.

Rich Williams stated hi.

Mr. Caruso stated alright.

Rich Williams stated how are you, Mr. Tavano. Yeah, I've been asked to speak on this on behalf of, uh, the Planning and Building Department, um... as you're all aware, uh, what's driving this is the letter that was written by myself and the, uh, Building Department which outlines the history of the site, um... essentially, we all agree that the structures were built prior to 1960, um, and that the 1942 Code is the applicable code to be addressing this issue, um... but, after that, we kind of diverge on whether we believe this is really a legal pre-existing, um... I can't say with any certainty whether, you know, it was originally constructed as a cottage or it was constructed, um, as a garage, but there seems to be substantial evidence – um, including a letter from Mr. Shilling [William A. Shilling, Jr., Attorney] and a response from Mr. Calbo [John Calbo, former Building Inspector] both acknowledging that at one time it was a pre-existing, uh, garage that was converted, and we believe that to be the case, um... the memo itself speaks for itself on many of the issues, um, in question. It is a very small building. We don't believe it meets the requirements of a, uh... of a rooming house or a boarding house in any way, shape, or form. It may have been constructed as a – as a cottage. At one point, there was a time – in the 1942 Code, I believe – that allowed somebody to go in and build a smaller cottage in anticipation of building a single-family home with the understanding that that cottage was abandoned, uh, once that single-family home, uh, was constructed. So, you know, again, you do have my memo. Michael [Caruso] has my memo... and, uh, you know, our position is that it is not – it never was legally established as a legal cottage on the site.

[Inaudible chatter among members of the audience.]

Rich Williams stated he other thing I want to bring to your attention is that back then, um, it was allowed to have a garage that met a five foot setback requirement. All other principle structures needed to have a ten foot setback requirement. This structure is almost right on the property line. It's probable that they built it with the understanding that it had a five foot setback because back then the surveying was not as accurate as we can get today, but certainly there was no way they could believe that they had met the ten foot setback requirement. So, again, that little structure doesn't meet, um, the setback requirements back then in 1942, when it was – or, 1955 – when it was constructed, or under today's code. The last issue I do want to just reemphasize is that the property is in, or was in in 1942, the B-Zoning District, and the B-Zoning District, as Stephanie [Fox] pointed out, listed off a number of principal uses that were allowed within that zoning district, and single-family homes – under subsection A – and rooming houses – under subsection I – were both permitted principal uses. Subsection K then lists off all the accessory uses that you could have. So, clearly there was a – a difference, so...

Board Member Bodor stated thank you.

Rich Williams stated thank you.

Mr. Caruso stated members of the Board, I just wanted to point out that two – the two individuals sitting next to my client's, uh, spouse are here in support of the application. They submitted those affidavits, uh – the two affidavits we just, uh, handed to you... I would just reemphasize, uh, members of the Board, that we are here with an anachronism of sorts. It may encroach on the setbacks that were in place when subsequent codes were the current code at – I'm sorry, the Code of the time was in effect – however, the law as to pre-existing, non-conforming uses of structures sets forth that if we're not expanding it, materially-altering it, or it has no impact on the site – and it hasn't... it hasn't changed whatsoever structurally to the best of my client's knowledge and my knowledge in fifty or sixty years – we'd ask that it be permitted to continue, um... and, again, I would say that – not that we're attempting to seize on ambiguities – but, I think that there is enough ambiguity in the, uh... in the drafts of the codes over the years, um, that we're asking them to be construed in the property owner's favor, um... he's just simply seeking to use it as it was constructed, and as it's been with its predecessor-in-title and to now – present.

Board Member Bodor stated something you just said, though. I just caught it – you know, to use it as it was constructed. We're not sure that it was constructed as a livable structure. It looks like – well, from my understanding – that it was, in fact, probably a garage, and then it was converted. So, we're not talking about construction from the beginning to be habitable.

Mr. Caruso stated well, those affidavits would suggest otherwise, then, because the one, at least, attests that it's back into the fifties as a habitable structure, so... you know, I – unfortunately, we can't verify each iteration that the structure went through over the years. But, um... I would say that those bits of proof would stand on their own for that proposition.

Board Member Bodor stated okay. Anyone have any...

Board Member Fox stated I have one more...

Board Member Bodor stated further.

Board Member Fox stated question.

Board Member Bodor stated please.

Board Member Fox stated I'm not, obviously, 100% familiar with the 1955 Code, and I'm assuming that you guys probably went over it pretty thoroughly, um... my current Zoning Code requires a minimum livable square footage for a dwelling unit, whether it be accessory or whatever it is, um... is there any such requirement that you know of, um – or maybe Rich knows of, I don't know, um – dating back prior to what we have now. Let's put it that way.

Mr. Caruso stated oh, so that would be... that would be looking at the [19]60 Code. You know, off the top of my head I don't know. I'd have to look through it. I'm sorry.

Rich Williams stated yeah, Mike. Let me jump in, because I am pretty familiar with the 1942 Code. I don't believe there was any minimum square footage for a structure in that Code.

Board Member Carinha stated okay.

Mr. Caruso stated thank you, Rich.

Board Member Fox stated because now it's like something ridiculous, like 700 square feet or something.

[Laughter.]

Board Member Fox stated well, not ridiculous, but, I mean... quite ridiculous compared to what you have, you know.

Mr. Caruso stated yeah.

Board Member Bodor stated does the Board have any more thoughts. Some people just came in. Did you want to speak to this issue, anyone else in the audience.

Mr. Sullivan stated [from the audience] yeah, I guess I will.

Board Member Bodor stated you'll have to come up...

Mr. Sullivan stated [from the audience] sure.

Board Member Bodor stated and give your name, please... Your name and residence.

[Inaudible chattering among audience members.]

Mr. Sullivan stated my name is Daniel Sullivan. I live at 12 Wesley Road.

Board Member Bodor stated is that adjoining this property.

Mr. Sullivan stated it's across the street.

Board Member Bodor stated across the street.

Mr. Sullivan stated I also own the property adjacent to his on the south – whatever side it is going down the street. But, anyway, my parents bought my place in 1952, uh... the people that occupied this house – his main house – was named Trippy [sic]. Their grandparents, Fassullo [sic], lived in that house for the summer, and...

Board Member Bodor stated in the main – main structure.

Mr. Sullivan stated they... alright, the Trippys and the great-grandparents – I was between 5 and 10, at the time...

Board Member Bodor stated mm hmm.

Mr. Sullivan stated they lived in a – in the house that he lives in now.

Board Member Bodor stated okay.

Mr. Sullivan stated the grandparents lived in the little...

Board Member Bodor stated the smaller structure.

Mr. Sullivan stated garage, shed, whatever you want to call the thing. But, as far as I know, I've never seen garage doors on that – on that house, and... that's, I think, all I've got to say, so...

Board Member Bodor stated okay.

Mr. Sullivan stated alright.

Board Member Bodor stated thank you.

Board Member Carinha stated thank you.

Board Member Bodor stated thank you.

Board Member Fox stated thank you.

Board Member Bodor stated alright. We received a lot of information here tonight... I'm not familiar with this property. I don't know where it is, and... I don't know, does anyone feel that they – we need to go out there and walk it and see what we're dealing with.

Board Member Fox stated I'm your neighbor. I'm familiar with it from the back...

Mr. Tavano stated oh...

Board Member Fox stated but...

Mr. Tavano stated okay.

[Laughter.]

Board Member Fox stated but, you know... I'm on the other side of you, so... I mean, I don't think that that's necessarily a bad idea. I mean, especially since you don't, you know, know the property.

Board Member Burdick stated I'm not familiar with it either.

Board Member Carinha stated yeah, I'm not either.

Board Member Burdick stated no.

Board Member Fox stated and then, you know, I think it also...

Board Member Bodor stated and it would give our chairperson an opportunity...

Board Member Fox stated opportunity. Yeah.

Board Member Bodor stated to weigh-in, too. Alright, then, uh, the Board agrees and we'll hold this over. We're going to do a site visit. The secretary will be in contact with you, uh...

Mr. Tavano state okay.

Board Member Bodor stated regarding the – when we would like to come out there. Are you pretty much available.

Mr. Tavano stated um... I can make myself available at any time. If I'm not, my wife normally is.

Board Member Bodor stated someone there to be...

Mr. Tavano stated yeah, someone would normally...

Board Member Bodor stated right.

Mr. Tavano stated be available at pretty much any time.

Board Member Bodor stated okay. Okay, and then after – then later, we will decide when, possibly, we can come out, and concur with you if it's okay...

Mr. Tavano stated okay.

Board Member Bodor stated so, we'll hold it over until next month, okay.

Mr. Tavano stated alright.

Board Member Bodor stated the public hearing will remain open, too.

Mr. Tavano stated okay.

Board Member Bodor stated thank you.

Mr. Caruso stated I want to thank you for your time tonight.

Mr. Tavano stated thank you.

[Inaudible chatter among audience members.]

Board Member Bodor stated oh. Okay, where are we at.

[Continued inaudible chatter among audience members.]

Board Member Bodor stated okay, we're on to 'Other Business'.

[Continued inaudible chatter among audience members.]

Board Member Carinha stated it takes about 30 seconds to pull that stuff up.

Board Member Fox stated I didn't do it yet. It's on my short list. Anything good on here.

Board Member Carinha stated [inaudible – low volume].

**4) Other Business**

**A) Luis Roman Letter**

Board Member Bodor stated okay. First item under 'Other Business', um... we apparently have a letter here from Luis Roman... and I'm searching for it.

Rich Williams stated Mrs. Bodor...

Board Member Bodor stated alright, I'm not finding it, but I have it.

Rich Williams stated I – I hate to interrupt.

Board Member Carinha stated you need a copy of it.

Board Member Bodor stated thank you.

Rich Williams stated but, if I might ask the attorney a question on behalf of the Board.

Board Member Bodor stated sure.

Rich Williams stated um, something that just came to my attention. In order for the Board to rehear an application, it requires a unanimous vote of the Board. It...

Nancy Tagliafierro stated of all members present.

Rich Williams stated okay. Alright.

Nancy Tagliafierro stated I just looked at that myself...

Rich Williams stated okay.

Nancy Tagliafierro stated I wondered the same thing.

Rich Williams stated alright. That's – that's the only question I had. Thank you.

[Laughter.]

Board Member Bodor stated oh, alright. This is the letter, right. I know I saw it, but I can't locate it right now, um... this is the letter from Mr. Roman requesting that this Board reconsider an earlier decision.

Nancy Tagliafierro stated those are my notes.

Board Member Bodor stated excuse me.

Nancy Tagliafierro stated the second page is just my notes. You don't...

Board Member Bodor stated okay...

Nancy Tagliafierro stated it's not part of his request.

Board Member Bodor stated this is it. This then.

Nancy Tagliafierro stated just the first page is his letter.

Board Member Bodor stated would the Secretary like to read it, or shall I.

The Secretary stated I can read it.

Board Member Bodor stated okay. Thank you.

The Secretary stated sure [laughter], um... it's dated January 5<sup>th</sup>, 2015, and to the attention of Mr. Chairman and Members of the Zoning Board of Appeals.

The Secretary read the following letter into the record:

*Dear Mr. Olenius,*

*I am writing this letter to respectfully request that the Zoning Board of Appeals reconsider the re-opening of my Case #16-14 Tax Map 13.-1-41 to authorize an existing 16' x 20' accessory building for an area variance of only 9 inches, due to the fact that some variables might have been missed in the prior site walk through. Please, keep in mind that there are elevation issues on this property due to the grade of the land. It should be noted that whether the construction is 20'4" high or 19'7" high, the structure view from any direction will remain the same. There will be no change in design, window position, framing, or exterior. Members of the Zoning Board have been to the property and have seen the layout and topography which makes the properties on that particular stretch of Mooney Hill Road somewhat unique, creating issues we are addressing at this time, which were not created by myself or my neighbors.*

*Cordially,  
Lou Roman*

Board Member Bodor stated okay. [To the Attorney] There is no public hearing on this. It's just a discussion.

Nancy Tagliafierro stated no. For purposes of this, Town Law permits a rehearing on a matter like this on a motion of a board member, and all of [the] board members present have to vote unanimously in favor of it. If it were approved and you were agreed to go to a new hearing, um, then you'd have to start all over again with the same publication and a public hearing.

Board Member Bodor stated any thoughts from anyone.

Board Member Carinha stated I think Mr. Roman is trying to do what's best, you know, for his neighbor, as well as himself in regards to this, um... he's trying not to take the roof off to lower it 9", where then he would be legal and he wouldn't need the variance, um... I know we have another case on with his neighbor in regards to the fence, which Mr. Roman's not, uh, objecting to for more privacy for high neighbor, and I was just hoping that, you know.... What cost is it going to be to him now to lower it – the roof – 9"... and I understand, you know, he does the trade on the side, uh... it's not his full-time employment, so... this is a very difficult issue between – issue between two neighbors, and we're trying to resolve – I'd like to see this resolved so they can, uh...

Board Member Bodor stated I think, you know, we did a lot of studying and, um... put a lot of thought into the case initially. We did go out there, we did look over the property. I think we handled it properly, um... and, at this time, I'm not – I'm not willing to go back over it again, um... I think we've done what was appropriate. I understand that what may be driving a lot of this is there – there is a neighbor situation, and, uh, we don't like to see neighbors at each other negatively, but, um.... A wrong was done, and, um, we have the Code to uphold. That's our job, um... in the best interests of the town, so, um... I... I think we handled it right.

Board Member Fox stated I agree, and I have to wonder what re-opening it what – what new evidence, you know, would really be presented, um... especially if there's not going to be a change in design or window position or framing or exterior [sic] – or exterior, um... if there's not going to be any change and there's not any new evidence to present, then what is going to be gained by reopening it.

Board Member Bodor stated right. I agree with you 100%. Yeah.

Board Member Burdick stated and I agree with both of you. That was the point I was going to make – that I didn't see any new evidence that would be coming before us.

Board Member Bodor stated okay, um, are we ready to – for a motion to vote on this.

Board Member Fox stated sure.

Board Member Bodor stated I make a motion.

Nancy Tagliafierro stated I'm not sure that you even need to. I think that you just needed someone to make a motion to reopen the hearing, and... and I don't hear one, unless someone wants to...

Board Member Bodor stated okay.

Nancy Tagliafierro make a motion to reopen the hearing.

Board Member Bodor stated okay. So, we don't need a motion, unless we want to...

Nancy Tagliafierro stated the only motion would be someone would make a motion to reopen the hearing.

Board Member Bodor stated is someone – does someone wish to make a motion to reopen the hearing... reconsider the case... Having heard nothing, this is the end of the line for this, and there will not be any reconsideration on that application. Okay. Next we have... the Town Planner memo on restaurants.

**B) Town Planner Memo: Restaurants (December 1, 2014)**

Board Member Fox stated well, the minutes from last month's meeting were very useful in, sort of, going over everything with... with the memo, again, about the restaurants.

Board Member Bodor stated okay. The restaurant memo. Again, I don't know where my papers went... oh, it's that. Okay. I know which one it is. Discussion. Presentation.

[Laughter.]

Board Member Fox stated [to Rich Williams] want to present again.

Rich Williams stated yeah, uh...

Board Member Bodor stated here. I've got it.

Rich Williams stated basically this is, uh, precipitated by, uh, an instance that we have over in Putnam Lake where an Italian restaurant – take-out food, um – closed down and was reopened as a, uh, barbecue restaurant, um, with smokers smoking the meat, both inside and, initially, outside. We've asked them to remove the smokers from the outside, but, uh... at least one – and we've actually have 3 or 4 individuals, um, complain about the smoke and the odor, um... as a result, you know, the Town Board asked to consider a zoning change for restaurants to, um... not only just for restaurants, but for, uh, other uses, as well, uh... We're likely going to expand it to other uses, as well, to provide additional triggers for the Planning Board to, uh, review applications, or review changes to businesses that may potentially impact adjacent property owners. So, you have before you my memo, I believe...

Board Member Bodor stated yes.

Board Member Carinha stated yes.

Rich Williams which outlines some suggestions, and provides, uh... the definition of restaurants in other areas.

Board Member Fox stated I think we sort of touched upon it last month... it was sort of like how do you... I don't know if police is the right word, but... how do you monitor new businesses without being, I don't know, overly-restrictive or whatever, um... because you were saying how every – you don't necessarily want every business to have to go before the Planning Board if site plan approval is not required or whatever, um... and, really, two things kind of stuck out in my head in last month's discussion. One, of course, was hours of operation, and the two – second – was, for me, based on my profession, was seating, excuse me, and occupancy – I'm going to get some water... So, that being said, I was wondering if you [to Rich Williams] thought that there was a way to sort of incorporate into the Code or into the process – like I said, for me, seating arrangement. Oftentimes, even though the kitchen doesn't change and things like that, the seating

does change, because seating is... you know, unless it's booths, it's not really built-in. So, you could go from having a restaurant that conceivably could hold, I don't know, 15 people, to holding 30 people. Whether that makes a difference in terms of zoning, um, for parking and things like that, I don't really know off the top of my head, but... also, sort of, maybe... because you don't necessarily want to overly-require people to do things, but I'm pretty sure – [to Board Member Burdick] and you'd probably be able to know this, right – for a liquor license or something like that with the Health Department, they need to provide a seating plan [inaudible]...and so it – maybe requiring an applicant who is changing over business to, um, provide that – of something that they have to provide to another agency anyway, um – then that will sort of bring about some lightbulbs, maybe, to the Building Department, [to Rich Williams] because you said how they always think about the four walls inside and it doesn't necessarily go to the outside...

Rich Williams stated correct.

Board Member Burdick stated mm hmm.

Board Member Fox stated so if, you know, they see, “Oh, well, gee...” – it only works in the... in the one direction. If they're increasing... and they say, “Oh, well, then we have to go look at the site plan and see if they need site plan approval,” or X, Y, and Z, um... and then, again, in terms of hours of operation. I mean, I don't know how... I don't know how you enforce anything like that, but... like, if there's going to be a change or...

Rich Williams stated well, I think, you know, you write the verbiage into the Code that, if there is a change, then it needs to be reviewed by somebody. For me, the easiest, simplest way to run the process is you have an individual who is knowledgeable about the Code and design requirements, um, take an initial look. Typically, when somebody is changing a business, they're going to be coming in, they're going to be doing renovations. They're going to come in either to the Building Department or the Planning Department and say, “What are your requirements. This is what I'm proposing to do.” Um... I think if we tighten up our process internally, certainly we can address it. We can certainly codify it – put it in the Code, um – as to how that all happens and what the triggers are... and the way I crafted the Code right now, somebody who is changing a business, you know, they can come in and see me, I can review what they're proposing to do. I can give them a letter back saying...

Board Member Burdick stated yep.

Rich Williams that there are no additional requirements as far as the site plan goes...

Board Member Fox stated right.

Rich Williams stated but, you know, I'm kind if limited, um... and I shouldn't even say I'm limited, because I haven't really been limited in the past. How I've done it in the past is, you know, I ask the applicant to give me a detailed written narrative on what they're proposing to do, including hours of operation. I can tell you a similar situation occurred: Big W's – and I love Big W's, don't get me wrong...

Board Member Fox stated right.

Rich Williams stated Big W's wanted to open up in Patterson, and I took a look at it and I said, "Geez. I'm very concerned about the smoke. I'm very concerned about the odor. I don't think this is something that we're going to permit, and I would require you to go to the Planning Board and get site plan approval, upon which time we're going to an environmental review of the proposed actions." He moved to Pawling.

Board Member Fox stated right.

Rich Williams stated you know, the...

Board Member Fox stated [inaudible – too many speaking].

Rich Williams stated the problem is the Building Department didn't do that same job when this changed over... and I don't want to fault the Building Department, and the person who was doing it wasn't even here, because things – again, they look at things differently in that department...

Board Member Fox stated right.

Rich Williams stated if it doesn't come over to the Planning Department, it usually doesn't get that hard look on the outside of the building, but, um... you know, I crafted this to be as easy and simplified within the process that we currently have on reviewing these impacts, and, uh... you know, it seems to be well-received. Now, one of the, uh, neighbors over in that area, Dede Lifgren, has submitted a letter. She would like to see modifications to it.

Board Member Bodor stated mm hmm.

Rich Williams stated I really haven't had a time to digest her letter, and, uh... you know, factor them into what we've proposed at this point.

Board Member Fox stated is that the e-mail she sent. That one.

Rich Williams stated it was...

Board Member Bodor stated it's a different letter.

Rich Williams came in an e-mail, yeah/

Board Member Fox stated oh, that one. Oh, okay.

Board Member Carinha stated you know, I have a question, too. I know you touched on, like, if a business does some catering, if it's its primary business. How are we – like she said, in a sense – to keep a tab on that.

Rich Williams stated you know, it's going to be difficult...

Board Member Carinha stated yeah.

Rich Williams stated there's no getting around it. It's going to be difficult. When this first came up, you know, the question came up to me about, you know, "They're doing catering out of a restaurant. That's not something that's permitted." Well, for me, it is....

Board Member Carinha stated yeah.

Rich Williams stated I mean, it's part of any restaurant that you see in the area...

Board Member Carinha stated sure.

Rich Williams stated you know, I can walk into Abruzzi's and pick up a pizza and take it out.

Board Member Carinha stated yeah.

Rich Williams stated I can ask them to deliver me, you know, food to an event that I'm going to have, um... that's just normal operating procedures for a restaurant. It's standard.

Board Member Burdick stated only if they have a separate permit through the Health Department, though. There is an addendum – not every restaurant has a catering permit through the Health Department. I just want to make that clear.

Rich Williams stated okay, but... you know, whether it's Sauro's, whether it's Abruzzi's, you know... whether it was The Alpine – when they were open – people could always walk in and take food out. I don't know if they need a catering permit from the Health Department...

Board Member Burdick stated that's not the definition of catering for our – for the Health Department's purposes.

Rich Williams stated for the Health Department. So, you know, at what point does it become a catering operation and not a restaurant. It's kind of a judgment call, um... gain, same place – we now have a situation where we've just been made aware that the, uh, barbecue restaurant is now closed for the winter. They're still doing catering, but they're closed for the winter...

Board Member Carinha stated right.

Rich Williams stated so, I'm not sure how the Building Department is going to address that.

Board Member Fox stated well, he's not the only business in Put[nam] Lake that's closed for the winter. That's probably going to be his argument – you've got Uncle Louie G's, or ice cream or whatever the heck it is.

Rich Williams stated oh, they're not doing soup this year.

Board Member Fox stated no, I don't think so.

Rich Williams stated no.

Board Member Fox stated they said see you – see you in the spring. That's what the sign...

Board Member Carinha stated I didn't even know they did soup there.

Board Member Fox stated yeah, no. I didn't either.

Rich Williams stated when they first opened, they were doing soup, I believe.

Board Member Fox stated probably because the pizzeria started doing soup.

Rich Williams stated oh.

Board Member Fox stated so, I think they stopped...

Rich Williams stated yeah.

Board Member Bodor stated okay.

Rich Williams stated so, the Town Board is looking for any recommendations you have on it.

Board Member Bodor stated okay. Any recommendations other than what, you know, what's been presented here.

Board Member Fox stated no, I mean, I think the verbiage is good...

Board Member Carinha stated yeah.

Board Member Fox stated you know, um...

Board Member Bodor stated you did a good job, Rich.

Rich Williams stated thanks.

[Laughter.]

Board Member Fox stated the only thing... the only thing I question is, somebody's going to argue "substantial change". What's a substantial change, right. But, that's...no matter what...

Rich Williams stated sometimes you just have to build subjective – subjectivity – into a Code...

Board Member Fox stated right.

Rich Williams stated just to allow your code enforcement people to have the flexibility to make a call...

Board Member Fox stated it works – so it works on both sides...

Board Member Bodor stated right, yeah.

Rich Williams stated yeah.

Board Member Fox stated okay.

Rich Williams stated but, at the end of the day, if there's any question about whether we did the right thing or not, you know, who makes that call.

Board Member Fox stated right. So, you're going to be changing this Code and the definition, or...

Rich Williams stated yeah.

Board Member Fox stated and you wrote in here somewhere what your definition was... it's a combination of all of these, which I think is good.

Board Member Bodor stated okay, so we have a letter go to the Town Board stating that... we find the submission – we agree with it, and we go with the way Rich has written it up, or do we want something different in there.

Board Member Carinha stated no, I think it's fine.

Board Member Fox stated sure.

Board Member Bodor it's fine the way it is. [To the Secretary] Mary, can you do something with that.

The Secretary stated sure.

Board Member Bodor stated thank you. The minutes from December 16<sup>th</sup>, anyone.

Board Member Burdick we – can we get back to that, I... I would...

Board Member Bodor stated oh, I'm sorry.

Board Member Burdick stated no. I'm just reading what Dede [Lifgren] put in about the hours of operation. I think that – unless we specifically have it outlined in here and I missed it – that I think her point is well-taken. It should be looked at as to what that means in case, like this facility, it operates 24/7 when it's smoking...

Rich Williams stated I, I don't...

Board Member Burdick stated the restaurant's not open, but...

Rich Williams stated no, she makes a good point. She does.

Board Member Fox stated yeah, that's true.

Board Member Carinha stated yeah.

Board Member Burdick stated I would like to see the town consider addressing that.

Board Member Bodor stated [to the Secretary] okay, with that addition, Mary.

The Secretary stated sure.

Board Member Bodor stated okay, thank you.

The Secretary stated sure.

### **C) Minutes**

Board Member Bodor stated alright. The minutes now.

Board Member Fox stated yes.

Board Member Bodor stated there it is.

Board Member Fox stated I have a little something. I didn't say something. Somebody else did. But, it wasn't significant, it was about your gift – I think Mary [Bodor] said it.

[Laughter.]

Board Member Bodor stated something I said.

Board Member Fox stated oh. Yeah. On Page 44....

The Secretary stated mm hmm.

Board Member Fox stated the last page. It says, "Board Member Fox stated yes, do we have something." It was... Mary.

The Secretary stated Mary. Okay.

Board Member Fox stated and then, the second one, too – "Board Member Fox stated the red envelope." That was Mary, too.

The Secretary stated okay.

Board Member Bodor stated okay [laughter]. Okay, with that two – with those two additions... basically, everyone agree with everything.

Board Member Carinha stated yes.

Board Member Bodor stated motion to accept the minutes with the additions mentioned.

Board Member Burdick stated second.

Board Member Fox stated second.

Board Member Bodor stated all in favor.

*Motion passed by a vote of 4 – 0.*

Board Member Bodor stated okay.

Board Member Fox stated I have one question.

Board Member Bodor stated yes.

Board Member Fox stated and it's just something, obviously, because I'm kind of new. Is there any way we can require applicants to provide color photographs... because, like in the case of, uh, the shed a couple of months ago – I don't remember – and then even, you know, in this...

The Secretary stated the photographs for, um...

Board Member Fox stated you know, what's...

The Secretary stated that one case were really poor quality. I can request them from them, but, I can talk to Rich about... about possibly adding something to the application, um...

Board Member Fox stated yeah.

The Secretary stated saying that we need at least one copy of color photos, and then...

Board Member Fox stated so the group can all see it, yeah.

The Secretary stated right.

Board Member Fox stated it – even if it's just so that we can pass it around, and... I don't, you know, I don't mind sharing.

[Laughter.]

The Secretary stated yeah. No, I can... I'll definitely talk to him about that.

Board Member Fox stated I think it's like four cents difference.

Board Member Bodor stated okay.

The Secretary stated yeah.

**E) Rescheduling Meeting Date**

Board Member Bodor stated I'm looking at rescheduling the meeting date – April 15<sup>th</sup>.

Board Member Fox stated we're good.

Board Member Bodor stated that wasn't the one we spoke about.

The Secretary stated that was... yes.

Board Member Burdick stated yeah.

The Secretary stated that was the one that we figured out today.

Board Member Bodor stated just this week.

The Secretary stated just, yeah, just today. Yep. [Laughter.]

Board Member Bodor stated okay.

The Secretary stated it's going to be...

Board Member Bodor on the twenty-something...

The Secretary stated on the 23<sup>rd</sup>. Thursday, the 23<sup>rd</sup>.

Board Member Bodor stated 23<sup>rd</sup>.

The Secretary stated yes.

Board Member Carinha stated and everyone knows about the site walk is...

Board Member Bodor that...

Board Member Carinha next Thursday, I believe.

The Secretary stated yes.

Board Member Bodor stated that was the other thing, too.

Board Member Burdick states yes.

Board Member Bodor stated yes.

Board Member Carinha stated alright.

The Secretary stated yes.

Board Member Carinha stated okay.

Board Member Bodor stated site...

The Secretary stated the site walk's going to be the 29<sup>th</sup> now.

Board Member Burdick stated thank you.

The Secretary stated sure.

Board Member Bodor stated 29<sup>th</sup>.

The Secretary stated mm hmm.

The Member Bodor stated okay.

The Secretary stated and that's also a Thursday.

Board Member Bodor stated [to the Secretary] anything that's really time-sensitive, call my home number and leave a message, alright...

The Secretary stated because it's still...

Board Member Bodor stated because of the computer not working right.

The Secretary stated it's still acting up.

Board Member Bodor stated we're having difficulty.

The Secretary stated it's only...

Board Member Bodor stated anything coming from Mary [Schartau] – sometimes and get it on time, and other times I get it two days later.

The Secretary stated mm hmm.

Board Member Fox stated oh gosh.

Nancy Tagliafierro stated that's bizarre.

The Secretary stated oh, yeah [laughter].

Board Member Bodor state don't know why. It was okay at Christmas, you remember.

The Secretary stated yep, yes...

[Laughter.]

Board Member Bodor stated Merry Christmas.

[Laughter.]

**F) Site Walk**

Board Member Bodor stated okay, we have a site walk to, uh, set up.

Board Member Fox stated oh, right.

Board Member Bodor stated it's too bad they're opposite directions. We could do them both on the 29<sup>th</sup>.

The Secretary stated I know.

[Laughter.]

Board Member Bodor stated but we can't. Two different towns, almost.

Board Member Carinha stated it's what – 13 Wesley Road...

Board Member Burdick stated it's...

The Secretary stated 17.

Board Member Burdick stated 17.

Board Member Carinha stated 17.

The Secretary stated yep.

Board Member Fox stated 17.

Board Member Carinha stated [to Board Member Fox] you going to drive to it.

[Laughter.]

Board Member Fox stated yes, I am. Do you want to know why. My neighbor dislikes me and she might call the police on me if I hop her wall, so...

[Laughter.]

Board Member Bodor stated where is Wesley Road.

Board Member Fox stated um, if you go past Marty's Citgo Station in Putnam Lake towards Connecticut...

Board Member Bodor stated on Fair – it's down Fairfield...

Board Member Fox stated on Fairfield. You make a right onto Jasper...

Board Member Bodor stated oh, up in there somewhere.

Board Member Fox stated and then it's the...probably the second road on the left, and it will be, like, the third house on the right.

Board Member Bodor stated okay. Okay, what's everyone's pleasure.

Board Member Fox stated um...

Board Member Carinha stated the next meeting is...February 18<sup>th</sup>.

Board Member Fox stated so, what are we – we're going to go into February, correct.

Board Member Bodor we have to go into February. Yeah. We only have one week left here.

Board Member Fox stated and so the 18<sup>th</sup> is the meeting, yeah...

Board Member Carinha stated yeah.

Board Member Bodor stated we have Lincoln's Birthday and President's Day thrown in there... Valentine's Day...

Board Member Fox stated that's my daughter's birthday.

Board Member Bodor stated is it.

Board Member Fox stated mm hmm.

Board Member Burdick stated I might be going away that weekend, so the 14<sup>th</sup>, 15<sup>th</sup>, and 16<sup>th</sup> aren't good for me...

Board Member Bodor stated do we want to do it during the week. Like at 5:00 – is that still good...

Board Member Carinha stated yeah.

Board Member Bodor stated for people.

Board Member Carinha stated that's fine with me.

Board Member Burdick stated yeah.

Board Member Bodor stated that's good.

Board Member Fox stated that's fine with me, as well.

Board Member Bodor stated Monday the 2<sup>nd</sup>. Are Mondays good.

Board Member Fox stated no.

Board Member Bodor stated no...

Board Member Fox stated sorry.

Board Member Fox stated Mondays are not good, okay.

Board Member Fox stated Tuesday.

Board Member Bodor stated Tuesdays.

Board Member Fox stated Tuesday's good.

Board Member Burdick stated fine with me.

Board Member Bodor stated Tuesday the 3<sup>rd</sup>.

Board Member Carinha stated that's fine.

Board Member Bodor stated how's that look.

Board Member Fox stated that's fine.

Board Member Bodor stated 5:00... and a snow/rain date...

Board Member Fox stated I can do Wednesday or Thursday.

Board Member Bodor let's give a day to get un-iced, so we'll do – go with Thursday, the 5<sup>th</sup>.

Board Member Carinha stated okay.

Board Member Bodor stated okay.

Board Member Fox stated Tuesday the 3<sup>rd</sup>, 5:00 PM. Okay.

Board Member Bodor stated [to the Secretary] okay, Mary. Could you contact Mr. Tavano, please.

The Secretary stated sure.

Board Member Bodor stated thank you. Is there anything else. I make a motion to close the meeting, then.

Board Member Burdick stated second.

Board Member Bodor stated all in favor.

*Motion passed by a vote of 4 – 0.*