

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS
February 15, 2012**

APPROVED

4/17/12 gm

AGENDA & MINUTES

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

Michelle Lailer
Sarah Mayes
Secretary

Richard Williams
Town Planner

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



**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

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

PLANNING BOARD
Shawn Rogan, Chairman
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**Zoning Board of Appeals
February 15, 2012 Meeting Minutes**
Held at the Patterson Town Hall
1142 Route 311
Patterson, NY 12563

APPROVED
4/17/12 gm

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

Chairman Olenius called the meeting to order at 7:07 p.m.

There were approximately 25 members of the audience.

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

Chairman Olenius led the salute to the flag.

Roll Call:

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

1) PATRICIA TANZI CASE #03-11

Ms. Patricia Tanzi was not present.

The Secretary read the following notice:

NOTICE IS HEREBY GIVEN BY THE TOWN OF PATTERSON BOARD OF APPEALS of a public hearing to be held on Wednesday, February 15, 2012 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following application:

Patricia Tanzi Case #03-11 – Special Use Permit

Chairman Olenius stated Mrs. Tanzi has submitted another note requesting a hold over. Her approvals are still be held up by DEP, so we don't have anything to work off of yet. So, we're going to give her another month, as long as she keeps updating us.

2) EILEEN BURDICK CASE #21-11

Mr. Stephen Abels, attorney for Mrs. Burdick, was present.

The Secretary read the following legal notice:

Eileen Burdick Case #21-11 – Area Variance; Held over from the December 21, 2011 and January 18, 2012 meetings

Mr. Stephen Abels stated hello, Mr. Olenius. I haven't seen you in a long time. Stephen Abels is my name. I'm here for Mrs. Burdick. And I will give you a business card so you'll have one.

The Secretary stated thank you.

Mr. Stephen Abels stated has there been a hearing on this yet. Is everybody familiar with what happened.

Chairman Olenius stated yes.

Mr. Stephen Abels stated well, the biggest thing is she's trying to...I'll try to be quick because I see you have a lot of other people. She had the old firehouse which I guess was built in 1929. And she bought it from the Town I believe in 1989 or from the fire department. She said the Town, but I'm not sure which one it was. And they used that building basically for storage when her husband, Ralph, who some of you may know when he was alive, and then it got struck by lightning and burned down. Now, she wants to use the existing footprint, which violates the sideline, some of the side regulations. And one of the main reasons she wants to use it is she has a well and septic system on a very small piece of property. She has to try to move this, she may have to tear up her whole septic system. And to reconstruct it by present standards could be very difficult. She doesn't know where it is. Most people don't know, unless they build them, where their septic system is. But she knows that it functioned when it was a fire department and probably a lot of people in there using the facilities. So, that's basically her plea. She's asking you to allow her to avoid what could be a massive expense. She can't specify how much it is at this point because she doesn't know where it is, basically. Only knows that it works. And the

building right next to her is similarly that also got burned down, I understand, is in the same condition; very close to the property line. These are small lots by today's standards, I'm sure.

Chairman Olenius stated did she do any investigation, like if there was paperwork on file with the Health Department or anything.

Mr. Stephen Abels stated it was built...

Chairman Olenius stated I understand it was old, but...

Mr. Stephen Abels stated the building...I don't think they started approving septic systems in Putnam County up until like 1975. So 1929, you got a permit from...Probably there was no permits required to put this building up in 1929. Most...Southeast, which I'm more familiar with, started issuing building permits in 1955. I think Patterson was after that. So there were no permits, there's no records anywhere for this building.

Chairman Olenius stated because I know this survey doesn't even show a wellhead or anything. She did mention that it had a well and septic, I think, at the last meeting.

Board Member Bodor stated yes, she did.

Mr. Stephen Abels stated well...

Board Member Bodor stated I would be curious to know how recently that septic system was activated. How it would...You know, it was used with the fire department, but that's going way, way back. Has it been sitting stagnate all these years. And how do we know it's still operational.

Mr. Stephen Abels stated well, I guess that's when we...It's always worked. That's the only reason why we know it's operational. So...

Board Member Bodor stated when is always though.

Mr. Stephen Abels stated I mean it's very possible...It's very possible in that period of time that it was like a cesspool. That's what I would gather. Construction taken place at that time. They never reconstructed the septic system. They took the one that they had; and their usage was much less than the fire department would have been.

Board Member Bodor stated it's our understanding that her husband's company, her company, was using it for storage only. I didn't understand that they were using the facilities.

Mr. Stephen Abels stated well, I mean, when you store stuff, what...I don't think they used it as heavily as the fire department would have use it because you wouldn't have a bunch of people in there using the bathroom, but I'm sure there was a bathroom and they used that when they had to. But, the usage was much higher before, and they didn't change the septic system.

Chairman Olenius stated I'm just stuck on something that she submitted at the last meeting. I thought she said the water wasn't even turned on the entire time that she owned this property here.

Mr. Stephen Abels stated well, she's going to need a building permit to build something and she's also going to need site plan approval to bring in a new use because none of the uses are...when she was using it, is not something she can do anymore. So she has to go to the Building Department and satisfy them.

Board Member Bodor stated you know, you just mentioned something that...

Mr. Stephen Abels stated her husband's dead, so her husband can't tell...

Board Member Bodor stated right.

Mr. Stephen Abels stated how often he used the bathroom.

Board Member Bodor stated no. You mentioned probably, and you're probably right, that it is not a real, by today's standards, septic system there but more likely a cesspool which is...

Mr. Stephen Abels stated right.

Board Member Bodor stated a whole different construction. And I'm wondering if by today's standards, when it's been perhaps inactive, can it be, you know, health wise, is it...would it be allowed to be reactivated.

Mr. Stephen Abels stated that's up to the Building Department of course. But we would assume it would be.

Board Member Bodor stated I don't know the answer.

Mr. Stephen Abels stated well, I don't know the Building Inspector up here, so I would assume you could still use it. I know a lot of old septic and cesspools once they were there and servicing a building, that you could continue to use those. Because you could possibly construct them to today's standards. I mean, you just...

Board Member Bodor stated right. There we go, you know, back to, though...How recently do we know that is was utilized.

Mr. Stephen Abels stated well, I know that they...From 1929 to 1989, it was used by the fire department. I assume they used it plenty.

Board Member Bodor stated no. I don't think those dates are correct, though.

Mr. Stephen Abels stated well, I think there's a copy of the deed in the...

Board Member Bodor stated I don't think it was used by the fire department. They may have owned it at that time, that late, but I don't believe it was utilized by them.

Mr. Stephen Abels stated okay. Is there somebody...There was somebody here from the fire department, right. Does anybody know...

Audience member stated Putnam Lake Fire Department.

Mr. Stephen Abels stated pardon me.

Audience member stated from the Putnam Lake Fire Department.

Mr. Stephen Abels stated okay. I don't know the last time that it was used.

Board Member Bodor stated yeah. I don't think, you know, I don't know. I know the fire department was out of there well before 1989 because they built their firehouse over here in nineteen maybe seventy. '68, '69, '70.

Mr. Stephen Abels stated okay. Well, I don't know what they used it for then, to be honest with you. I know that they, the Burdick's, bought it I'm told 1989. I believe there's a copy of the deed in the file.

Board Member Bodor stated I think it was just used for dead storage. That would be my guess.

Mr. Stephen Abels stated well, they don't know what they're going to use it for when they...When she finds a buyer, frankly, then they can make an application to the Planning Board to see how it can be done. But right now, she just wants to know if she can use that footprint.

Board Member Buzzutto stated the well, could that have been...Back then, they had something called point wells where it was just a hole where like a spring. That type of a well.

Mr. Stephen Abels stated I think she mentioned something that somewhere near the foundation there's something that looks...

Board Member Buzzutto stated yes.

Mr. Stephen Abels stated like a point. She used that term.

Board Member Buzzutto stated yeah. It wasn't a drilled well. It could have been...

Mr. Stephen Abels stated I'm not so sure exactly what that is, but she mentioned...she used that same term. So to be honest with you...

Board Member Buzzutto stated yeah.

Mr. Stephen Abels stated it may have been that.

Board Member Buzzutto stated so it would not have been enough to...

Mr. Stephen Abels stated normally, I ran into this with a pre-existing thing right next to my house. And if you...And, you know, we have that rule where if you're on the same level as the septic system or the septic system's lower, you have to do it 100' away. And if the septic is up, you have to do it 200'. And I asked the well driller, Beal's, who I'm very familiar with, I said what happens if you just can't meet that requirement.

Board Member Buzzutto stated yes.

Mr. Stephen Abels stated they said they may...It's not like they tell you, you can't drill a well. What they do is they say you have to double case it or triple case it, or take other precautions to protect the water supply. So I don't think drilling another well would be a problem. The septic is what...

Board Member Buzzutto stated well, I mean, if you're looking for a drilled well, maybe you won't find any. But just a point well that's been filled over by now. Because she did mention that water wasn't used there.

Chairman Olenius stated I thought she did, but...

Board Member Buzzutto stated yeah.

Mr. Stephen Abels stated again, the well isn't nearly as much of a problem...

Board Member Buzzutto stated no, I know.

Mr. Stephen Abels stated as the septic system is.

Board Member Buzzutto stated no, I know.

Mr. Stephen Abels stated so, I mean...

Board Member Buzzutto stated yeah, okay.

Mr. Stephen Abels stated if we need a well, we obviously...Certainly the Building Inspector's going to want to know there's water.

Board Member Buzzutto stated if that comes, what is she going to use it for after...if she...

Mr. Stephen Abels stated well, the problem is, is that she's widowed now. And she is not capable of running a business. She's slightly elderly and not in the best of health. So, she's going to look...That's why I was only contacted yesterday, and I said, well, what you'd have to do is put this on the market, show somebody what the uses are that are permitted under the Town of Patterson zone, and then when they decide if they want to build...Like, I thought it would be great for a law office or a dental office or law office because you don't require that much parking and then that person would then apply to the Planning Board. The sale would be conditional upon her getting the proper approval from the Planning Board.

Board Member Herbst stated they have a for sale sign on it now, don't they.

Mr. Stephen Abels stated I don't know about that.

Board Member Herbst stated I thought I saw one yesterday when I went by.

Mr. Stephen Abels stated oh, okay. But what I'm going to recommend to her is she get a realtor and put the realtor on there to sell it because somebody driving by and seeing a for sale sign and not knowing the size of the property or what you can do with it is not a very effective way to market it.

Board Member Herbst stated I agree, but that's...

Mr. Stephen Abels stated well, I just...I've been on this since yesterday afternoon, so...I'm not normally this ill prepared. At least I'd like you to believe that.

Chairman Olenius stated no, I problem am. Counsel. This resolution is transferable to a new owner. That's just the one thing that is occurring to me.

Joe Charbonneau stated yes. If you...It would run with the property.

Chairman Olenius stated it would. Okay. Alright. I'll make a motion to close the public hearing then. All in favor.

Board Member Buzzutto stated I'll second it.

Chairman Olenius stated all in favor. Motion carried by a vote of 4 to 0.

Chairman Olenius stated okay.

Chairman Olenius read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Eileen Burdick, Case #21-11
For an Area Variance for Rebuilding a Nonconforming Structure

WHEREAS, *Eileen Burdick* is the owner of real property located at 1110 Route 311 (GB Zoning District), also identified as **Tax Map Parcel #3.20-1-14, and**

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

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

structures may be restored to the extent and in such manner as may be permitted by the Board of Appeals.

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

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on *December 21, 2011, January 18, 2012 and February 15, 2012, and a site walk was conducted on January 7, 2012*, to consider the application; and

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

1. the proposed application *will not* produce an undesirable change in the character of the neighborhood *because the previous building had been in existence in excess of 80 years.*
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because due to size constraints of said property.*
3. the variance requested *is not* substantial *due to the fact of its previous longevity.*
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because as previously stated, it will be put back as it has been for the last almost millennium.*
5. the alleged difficulty necessitating the variance *was not self-created and is not sufficient* so as to cause a denial of the requested variance.

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

Board Member Herbst stated second.

Board Member Bodor stated second.

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

Resolution carried by a vote of 4 to 0.

Mr. Stephen Abels stated thank you all very much for your consideration.

Chairman Olenius stated tell her we wish her good luck.

Mr. Stephen Abels stated okay. Thanks a lot. Have a good evening. Thank you.

Board Member Herbst stated thank you.

Chairman Olenius stated see you, Steve.

3) KIM & THOMAS HERMAN CASE #04-12

Mrs. Kim Herman and Mr. Thomas Herman were both present, along with their architect, Mr. Eduardo Faxas.

Chairman Olenius stated you can read the legal, Sarah.

The Secretary read the following legal notice:

Kim & Thomas Herman Case #04-12 – Area Variances

Applicant is requesting area variances pursuant to §154-4 of the Patterson Town Code, Definitions – Private garage. Applicant wishes to construct a detached garage in order to house antique vehicles. The Code requires that a private garage does not exceed 50% of the bulk area ratio of the principal dwelling and does not exceed the height of the principal structure. Applicant's proposed garage is 19% larger and 4' higher than the principal dwelling. Applicant is requesting a variance of 69% in bulk area and a variance of 4' in height. This property is located at 511 Mooney Hill Road (R-4 Zoning District).

Chairman Olenius stated good evening.

Mr. Eduardo Faxas stated good evening.

Mr. Thomas Herman stated good evening.

Chairman Olenius stated just state your name for the record, please.

Mr. Faxas stated my name is Eduardo Faxas and I am an architect. And I came...

Chairman Olenius stated are you allowing him to speak on your behalf.

Mrs. Kim Herman stated yes.

Mr. Herman stated yes.

Chairman Olenius stated okay. Can you raise your right hand. Do you swear the testimony you provide tonight will be the truth and the whole truth.

Mr. Faxas stated I do.

Chairman Olenius stated thank you very much.

Board Member Bodor stated and this is Mr. and Mrs. Herman.

Mrs. Herman stated yes.

Chairman Olenius stated okay.

Mr. Faxas stated Nick Lamberti, the Building Inspector, suggested that I come because you might have some questions.

Board Member Buzzutto stated you want to talk into the mic, Sir.

Chairman Olenius stated just so we get it on the record.

Mr. Faxas stated oh, yes.

Board Member Buzzutto stated thank you.

Mr. Faxas stated and I may be able to answer them.

Board Member Buzzutto stated okay.

Mr. Faxas stated there were a couple of little things that were changed on the original.

Board Member Bodor stated could you explain to us exactly in your words what the Herman's would like to do.

Mr. Faxas stated yes. They are...He is very talented. He should be an architect.

[Laughter].

Mr. Faxas stated they want to build a beautiful garage; four-car garage. They have several vintage cars they'd like to work on and restore. And I think that's the main purpose.

Mrs. Herman stated right. Most of the...

Board Member Bodor stated you have to speak into the mic so it goes on record.

Mrs. Herman stated okay. Our antique cars are drivable now. It's just a matter of maintaining them and keeping them covered safely so that they can keep going. We inherited them from Tom's father when he passed away.

Board Member Buzzutto stated and your name is.

Mrs. Herman stated Kim Herman.

Board Member Buzzutto stated Kim Herman. Okay.

Mrs. Herman stated yes.

Board Member Buzzutto stated just for the record.

Mrs. Herman stated I'm sorry. Yes. So it's just a matter of maintaining and keeping what we already have. We tried with, I don't know, what do you call that thing.

Mr. Herman stated Quonset hut.

Mrs. Herman stated it's like a Quonset hut. Those plastic... We bought a six thousand...

Board Member Bodor stated frames and...

Mrs. Herman stated frame thing, and had them in there. And the last snowstorm we had collapsed it and it was... We almost lost everything. So, we figured we would try this route.

Board Member Bodor stated looks to me like you have a sizeable piece of property here.

Mrs. Herman stated yes, we...

Board Member Bodor stated two lots that were merged that I see.

Mrs. Herman stated yes.

Board Member Bodor stated and what is the total acreage.

Mrs. Herman stated I believe we're just under five acres.

Board Member Bodor stated just under five [acres].

Mrs. Herman stated yes.

Board Member Buzzutto stated you said you had a Quonset hut.

Mrs. Herman stated yes. We had purchased one of those.

Board Member Buzzutto stated yes. Would that be considered as a building; a Quonset hut.

Chairman Olenius stated a structure.

Board Member Buzzutto stated a structure.

Chairman Olenius stated I don't know if it's considered...

Board Member Buzzutto stated still a...

Chairman Olenius stated a permanent structure.

Joe Charbonneau stated it's definitely a structure.

Chairman Olenius stated yes.

Joe Charbonneau stated whether or not it's permanent or not.

Mrs. Herman stated it's not.

Joe Charbonneau stated they may require a permit.

Board Member Buzzutto stated yes.

Mr. Herman stated it's more a temporary than permanent at this point. It's...

Mrs. Herman stated falling down.

Mr. Herman stated the reason why we're getting it.

Mrs. Herman stated I actually have a picture of it, I think.

Mr. Herman stated yes.

Mrs. Herman stated I have a picture of it if you want to see what it looks like.

Mr. Herman stated (inaudible).

Mrs. Herman stated yes, I do.

Mr. Herman stated what I'd like to do is eliminate the garage that I have; the Quonset hut and what not, and build a barn that's more pleasing to the eye. You know, I feel that it would bring up the property value for myself as well everybody else in the surrounding area. And I'd like to build it where the blown down trees that were blown down over the summer. I don't want to cut any more than what's already down. So...

Chairman Olenius stated is this the Quonset hut that you're speaking of. It's marked plastic tarping...

Mrs. Herman stated yes.

Mr. Herman stated yes.

Chairman Olenius stated that's on your survey.

Mrs. Herman stated yes.

Chairman Olenius stated okay.

Mr. Herman stated yes.

Board Member Bodor stated you don't have any side yard or rear yard issues here. You're well within...

Mr. Faxas stated no.

Mrs. Herman stated yes.

Board Member Bodor stated all those limits.

Mrs. Herman stated yes.

Board Member Buzzutto stated I thought it was like a galvanized...

Mr. Herman stated no.

Board Member Buzzutto stated steel...

Mrs. Herman stated no.

Mr. Herman stated no. It's a plastic tarp over it, basically.

Mr. Faxas stated you want to remove it.

Mr. Herman stated I want to...

Mrs. Herman stated yes.

Mr. Herman stated I just want to...

Mrs. Herman stated yes. That will all come down if we...

Board Member Buzzutto stated yes.

Mrs. Herman stated build this. That will all come down, all that mess.

Chairman Olenius stated this is a framed shed next to...

Board Member Bodor stated alright. Yes.

Chairman Olenius stated so...

Board Member Bodor stated okay. That was very temporary.

Mrs. Herman stated yes. Well, it's funny. When they sold it to us they said, oh, it will last everything. It didn't last.

[Laughter].

Chairman Olenius stated it's because you didn't take the extended warranty put on it.

[Laughter].

Mrs. Herman stated right.

[Laughter].

Board Member Bodor stated and this proposed barn...garage...

Mrs. Herman stated yes.

Board Member Bodor stated is essentially a story and a half or...

Mr. Herman stated no. It's one floor...

Board Member Bodor stated one floor...

Mr. Herman stated basically. And then just the roof on top of it.

Board Member Bodor stated storage area upstairs.

Mr. Herman stated well, there would be storage upstairs, yes.

Mr. Faxas stated storage/attic.

Board Member Bodor stated I'm sorry.

Mr. Faxas stated storage/attic.

Board Member Bodor stated just dead storage.

Mrs. Herman stated yes.

Mr. Faxas stated yes.

Mr. Herman stated I'd like to keep it vintage, you know, so it's more of a Victorian style. I don't know if you're familiar with Route 311 and Cushman Road where they have the pretty...What is that. George Apap bought the house and he painted it.

Board Member Bodor stated yes.

Mr. Herman stated and prior to that, they had a barn there; a carriage house. I kind of wanted that theme, if you will.

Mr. Faxas stated you know, I have some drawings in progress that show better what the garage is. And Nick suggested that I will bring in case you wanted to see them.

Mrs. Herman stated what plans.

Board Member Bodor stated these plans that you are holding.

Mr. Faxas stated the architectural plans. Yes. They're about...

Chairman Olenius stated has he seen them yet.

Board Member Bodor stated has Nick...

Mr. Faxas stated no.

Board Member Bodor stated seen them.

Mr. Faxas stated he has not seen them.

Mrs. Herman stated he saw a rough draft that my husband had drawn, which you probably have in front of you.

Mr. Faxas stated that's what you have.

Chairman Olenius stated okay.

Mrs. Herman stated yes. That's the rough one. And then...

Mr. Faxas stated that's what you have.

Mrs. Herman stated changes have been made to that...

Mr. Faxas stated these are about 80% complete [referring to the plans he is holding].

Mrs. Herman stated to conform better.

Board Member Bodor stated the changes, they do change the sizing that you had...

Mrs. Herman stated I don't believe so. Right.

Mr. Herman stated no.

Board Member Bodor stated in your original request.

Mrs. Herman stated no. It's not true. Okay.

Mr. Faxas stated no, there's a change. Not a large one, but the building was 24' deep and it's now 26'.

Mrs. Herman stated no, that was changed on there. We did...Nick did change that.

Mr. Faxas stated oh, you did.

Mr. Herman stated yes.

Mrs. Herman stated yes.

Mr. Faxas stated okay.

Mrs. Herman stated he did change that on there.

Mr. Faxas stated alright. So then...

Rich Williams stated if I could jump in here...

Mrs. Herman stated sorry.

Rich Williams stated real quick. I'm the Planner for the Town of Patterson. My office was notified this afternoon, late, by Mr. Lamberti that there were discrepancies in the numbers. He was not sure what the changes were going to be. He needs to see the new plans again.

Mr. Faxas stated yes.

Rich Williams stated we may need to renounce this. And what we're going to ask you to do, after tonight, is as soon as you possibly can, get three sets of plans into Sarah, alright. And then we'll take a look and make sure the numbers are right. But as it stands right now, we're not sure that the numbers are correct.

Chairman Olenius stated on the...

Rich Williams stated in his application.

Chairman Olenius stated what was noticed.

Rich Williams stated correct. From what was originally provided to the Building Department. So we need to take a second look at that and make sure the numbers are right so that when you go to build, you know, you don't get stopped again in the middle of building.

Mr. Faxas stated now these drawings are for your department or for Nick's department.

Rich Williams stated they're going to be shared between Nick and my department.

Mr. Faxas stated okay. But I bring them to him or I bring them to you.

Rich Williams stated yes. I would like you to bring them to Sarah if you could.

Mr. Faxas stated okay.

Mrs. Herman stated bring them to Sarah.

Mr. Faxas stated thank you.

Rich Williams stated yes. Thank you.

Mr. Faxas stated would you like to look at it.

Chairman Olenius stated well, I'll be honest with you. I would...In light of the fact that we need to have the accurate measurements done and everything...

Mr. Faxas stated right.

Chairman Olenius stated I'm inclined to hold it over anyway because I did want to take a ride out to the property and see what the lay of the land is; what it looks like.

Mrs. Herman stated okay.

Chairman Olenius stated so I can get an idea of what it is. And that will give the time to get...

Mr. Faxas stated yes.

Chairman Olenius stated the right calculations in so it can be renoticed.

Mr. Faxas stated because that's what we're doing right now. They haven't even seen these yet...

[Laughter]

Mr. Faxas stated because they were away.

Chairman Olenius stated yeah. Now part of the problem is that this was renoticed on the calculations that you initially submitted, which were incorrect apparently, from what I'm hearing. Which means if it has to be renoticed...

Mrs. Herman stated no they weren't...

Chairman Olenius stated they'd be responsible for...

Mrs. Herman stated no, we had told...

Chairman Olenius stated postage.

Mrs. Herman stated we had told him that it was... We gave him the proper sizes, so I don't know what... I don't know what they're talking about size because we gave him the proper size. The sizing has not changed.

Chairman Olenius stated okay.

Mrs. Herman stated what... One thing that he was concerned about was there was a wall or something that he said had to... He didn't like where we were putting it because it was against the berm.

Mr. Herman stated yes, but that's all a wash because...

Mrs. Herman stated but that... I understand that. But that was on the original and he said... We told him we weren't going to do that anymore and that's when we moved it, if you will, over a little so that that wall was not a concern any longer. That was Nick's major concern when he spoke to me.

Chairman Olenius stated okay. Well, we'll let him...

Mrs. Herman stated and that...

Chairman Olenius stated verify that...

Mrs. Herman stated and that part of it was moved.

Chairman Olenius stated we'll let him verify that portion...

Mrs. Herman stated right.

Chairman Olenius stated of it.

Mrs. Herman stated but the height and the...

Chairman Olenius stated in the meantime...

Mrs. Herman stated length and width were the same.

Mr. Faxas stated when I spoke to... with Nick earlier today, and the changes that were made... He was concerned about was the height of the existing building...

Chairman Olenius stated yes.

Mr. Faxas stated that he wanted to recheck. He's not sure that it was 21'. He might (inaudible). And he wants to go there and check it. In fact, I said I'll go with him.

Chairman Olenius stated oh, the existing home.

Mr. Faxas stated the existing home because the garage is...That's one of the...

Chairman Olenius stated yes.

Mr. Faxas stated variances.

Chairman Olenius stated yes. It can't be more than...

Mr. Faxas stated is the height.

Chairman Olenius stated of the bulk area.

Board Member Bodor stated yes.

Mr. Faxas stated that's right.

Chairman Olenius stated right.

Mr. Faxas stated and the other one was the size of the garage. It's larger than the Code permits.

Chairman Olenius stated right.

Mr. Faxas stated it's residential. Those are the only two. But the thing in contention was the height of the existing house.

Chairman Olenius stated okay.

Mr. Faxas stated and I spoke with Nick and we pretty much clarified the height of the new building, but we don't know. We have to verify, or he has to verify...

Chairman Olenius stated what the ratio is to the existing...

Board Member Bodor stated right.

Chairman Olenius stated principal dwelling.

Mr. Faxas stated yes.

Chairman Olenius stated okay.

Mr. Faxas stated that's basically...

Board Member Bodor stated well, we can't do anything with the application the way it was presented because we're hearing that there are perhaps different numbers involved...

Mr. Faxas stated yes.

Board Member Bodor stated based upon the new plans that you are holding. We need to have all those numbers up to date.

Mr. Faxas stated yes.

Board Member Bodor stated so that...

Chairman Olenius stated and they have to be noticed properly.

Board Member Bodor stated and it has to be...The public notice in the newspaper with the correct figures.

Mr. Faxas stated that's right.

Board Member Bodor stated so that's why we've got to...

Mr. Faxas stated that's exactly what I discussed with Nick.

Board Member Bodor stated right.

Mr. Faxas stated and that's what we're doing now.

Board Member Bodor stated okay. So those...

Mr. Faxas stated in the near future.

Board Member Bodor stated you're going to get three sets of plans to Sarah...

Mr. Faxas stated yes.

Board Member Bodor stated with the correct up to date figures on them.

Mr. Faxas stated right.

Board Member Bodor stated okay. And we will be going out and making a site visit in the interim. But we have to hold this over based upon what has been previously said.

Mr. Faxas stated that's my understanding.

Board Member Bodor stated okay.

Mrs. Herman stated thank you.

Board Member Buzzutto stated you have somebody that wants to talk back there.

Dave Harrison stated just...I'm the next door neighbor.

Board Member Buzzutto stated wait, wait, wait.

Dave Harrison stated okay. [Walks up to the microphone].

Chairman Olenius stated you've got to state your name.

Dave Harrison stated yes. Hello, my name is Dave Harrison. I live at 121 Cross Road. My wife and children live there. And I happen to have a barn that predates all kinds of zoning here. It's 2 and half the times of what they are proposing. I really think this is the best use of the property. You can say...Don't send another notice because I'd really like them to build it. So....And I've talked to two other neighbors in the area and they don't have any problem with it either. So I really think that...I mean, there's not much you can really do with that property once you go out and walk this particular area. So I think that you're...It's all going to come to natural conclusion. It's just that I prefer not to come back to another meeting.

Chairman Olenius stated no, that's...

Dave Harrison stated and the less mail I get the better off I am because I'm going to have to ask why I got this piece of paper.

Chairman Olenius stated you're on the record now...

Dave Harrison stated okay. Thank you.

Chairman Olenius stated in support. So, thank you.

Board Member Buzzutto stated thank you for your input.

Mr. Faxas stated thank you very much.

Chairman Olenius stated so we'll...

Board Member Buzzutto stated we'll let you know.

Chairman Olenius stated where'd the property owner go.

Mr. Faxas stated you don't need me now.

Chairman Olenius stated nope. You're all set. I just wanted to...If we come out for a site walk...

Mrs. Herman stated yes.

Chairman Olenius stated is there...Are weekends okay for you.

Mrs. Herman stated anytime.

Chairman Olenius stated we're probably going to make the date after and the Secretary...

Mrs. Herman stated okay. Anytime.

Chairman Olenius stated will contact you to let you know. But we prefer if somebody was there to kind of just...

Mrs. Herman stated oh.

Chairman Olenius stated point us...

Mrs. Herman stated okay.

Chairman Olenius stated to where it's going. Like the four corners.

Mrs. Herman stated because I was going to say the land's there and it doesn't go anywhere.

Chairman Olenius stated yeah.

[Laughter]

Board Member Bodor stated no, we want to know...We want to walk it with you.

Mrs. Herman stated okay.

[Laughter]

Mrs. Herman stated okay. So someone will just call us and let us know.

Chairman Olenius stated you'll get a call as soon as we...We've got to figure out how many more we get tonight...

Mrs. Herman stated okay.

Chairman Olenius stated and kind of divvy them up over the weekends.

Mrs. Herman stated okay, great. Thank you.

Chairman Olenius stated thank you very much. Alright, so we're going to table this pending...

Board Member Bodor stated renounce.

Chairman Olenius stated possible renouncement, more submissions and a site walk. Fire away.

4) THOMAS & DEBORAH DOUGLAS CASE #05-12

Mr. James Gagliardo, general contractor, was present.

The Secretary read the following legal notice:

Thomas & Deborah Douglas Case #05-12 – Area Variance

Applicant is requesting an area variance pursuant to §154-7 of the Patterson Town Code, Schedule of regulations, in order to reconstruct the dwelling that was destroyed by fire on October 31, 2011, and add an attached garage. The Code requires there to be a minimum setback of 15' from the front property line; Applicant is proposing 10'; Variance requested is for 5'. This property is located at 435 Haviland Drive (RPL-10 Zoning District).

Chairman Olenius stated Mr. and Mrs. Douglas, or their representative.

Mr. James Gagliardo stated I'm James Gagliardo, the tentative contractor for the Douglas'. They couldn't make it tonight so I'm here to represent them as their general contractor.

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

Mr. Gagliardo stated yes.

Chairman Olenius stated thank you, Sir.

Mr. Gagliardo stated basically, what we want to do is they're going to be rebuilding the house completely. They're trying to negotiate with the insurance company right now on the plans or...the funding. They had to hire a private adjuster because the adjuster was nowhere near the proper numbers to even rebuild the house that's there now. So they're in that part of the negotiation. The idea of coming for the variance was to see if we can get the variance before we even add the garage and start giving them numbers. They don't know if they can afford to do it or not. Basically, we're just trying to before I give them the numbers saying yeah, this is what it's going to cost you, and they're all hyped up about doing it and then finding out we can't have a variance. So basically, this is a preliminary plan for a possible garage attached to the new dwelling.

Board Member Bodor stated what...

Chairman Olenius stated was this house totally destroyed by fire.

Mr. Gagliardo stated pretty much.

Chairman Olenius stated it's uninhabitable.

Mr. Gagliardo stated yes. This is the one up by Sacred Heart Church that was caught on fire during the Halloween snowstorm. This was one of the three that we had at that time. And, like I said, they're basically looking for a variance before they continue to see if it's even affordable to do. They just wanted to be one step ahead. If they can get a variance, then they know they can do it or not when I give them all the final numbers on everything. I already staked out the property;

I'm sure you guys want to go up there and look at it. It's all staked out, ready for everybody. It's approximately 20' off the existing foundation and the same with the existing foundation. The new house will be possibly...most likely a modular because the prices are coming in in their price range. And it's going to be like a 2' overhang on each side of the existing foundation. But it's still within the variance that way. So that's not a problem with the setbacks.

Chairman Olenius stated this is a big lot.

Mr. Gagliardo stated it's a pretty big lot but it's, unfortunately, in the wrong direction for us. I know talking with Richie earlier when we first brought this in, his biggest problem was parking cars into the garage because of where the lines are. And we proposed the parking area on the side and leaving the old driveway which doesn't have a garage; it's just a driveway off of Haviland [Drive] in the front there, so people are not parking into the road. Even though, like I said, if you go up there, you'll see the road is really nowhere near the area that we want to use, but I know the property line is a lot closer than what it shows on the survey.

Chairman Olenius stated that's what I was just going to ask you. The circumference here...

Mr. Gagliardo stated the brush...

Chairman Olenius stated on the survey...

Mr. Gagliardo stated the brush...The area and the circumference there for the...where you got your pen now, Chairman [referring to where Chairman Olenius is looking on the survey], that's the actual property line. But where the hedge row is, it's another good five to six feet in towards the road. Plus, there's a parking area before the blacktop. So I mean, there is a big area there, but it's not their property. It's...I guess the road is off a little bit, as they say in Put[nam] Lake. You know that. They don't always match where they're supposed to be.

Chairman Olenius stated I found that out about 10 years ago when I came for my own variance...

[Laughter]

Chairman Olenius stated how far off my road was. Nice home.

Mr. Gagliardo stated that plan there, Chairman, shows a four bedroom which it's not going to be. It's going to meet the new...you know, the requirements for what they already have. That was just a preliminary plan just to get the ball rolling with the modular company and give them an idea of what's available. I have a newer set if somebody wanted to look at them. I didn't make new copies for everybody because, like I said, everything is still tentative.

Chairman Olenius stated this existing home didn't have a garage.

Mr. Gagliardo stated no, it did not.

Chairman Olenius stated this is kind of where this is coming into play from.

Mr. Gagliardo stated yes. Mr. Douglas has had a stroke recently and has a hard time walking around with the bad weather and stuff. So we're thinking, you know, so he can pull one car into the garage and then walk up a couple of stairs and be in the main house now. We talked about putting it on the other side, it would be a little more room, but unfortunately the septic and the well are there so we can't do that.

Chairman Olenius stated towards this side [referring to the survey]

Mr. Gagliardo stated on the left side, where the (inaudible) driveway is. There's a little more room there, but that's where the septic and everything is over that way. So it wasn't feasible to start moving that stuff around. It just ain't going to work.

Chairman Olenius stated so if I was entering this garage from Irby Road, I was...

Mr. Gagliardo stated yes.

Chairman Olenius stated pulling into it. You're proposal, what you were trying to state before that you discussed with Mr. Williams, was to put a gravel or a parking area to right of that.

Mr. Gagliardo stated a little parking area to the right where all that property is.

Chairman Olenius stated okay.

Mr. Gagliardo stated Mr. Williams' one concern was there was no parking towards the road. I thought we put it on there, but maybe we didn't.

Chairman Olenius stated there is a something shaded in here...

Mr. Gagliardo stated yeah.

Chairman Olenius stated but I wasn't sure what it was.

Mr. Gagliardo stated yes. We wanted to put a little parking area there so a car is not actually on the roadway. Like I say, when you guys come and do your site walk, you'll see...

Board Member Bodor stated where is the entrance to the garage. I thought it was over.

Chairman Olenius stated it is. It's from here.

Board Member Bodor stated oh.

Chairman Olenius stated but the cars are parking into...

Mr. Gagliardo stated it's a two corner...It's a corner lot.

Chairman Olenius stated technically Irby Road.

Board Member Bodor stated yes.

Chairman Olenius stated even though Irby [Road], the actual road doesn't start...

Board Member Bodor stated okay. So how do you make this swing to get in there.

Chairman Olenius stated no. Just for additional cars. So you don't have cars loaded up...

Mr. Gagliardo stated so the cars are not hanging out...parked half way into the street.

Board Member Bodor stated okay.

Mr. Gagliardo stated off the property line, technically.

Chairman Olenius stated you know, the ones that aren't in the garage.

Mr. Gagliardo stated right.

Board Member Bodor stated now, where are the garage doors.

Chairman Olenius stated here [referring to the survey].

Board Member Bodor stated and how do you get into them.

Chairman Olenius stated from Irby Road.

Board Member Bodor stated from Irby [Road]. Take out the...whatever this is in here [referring to the survey].

Mr. Gagliardo stated yes. That's just a...that's a hedgerow.

Board Member Bodor stated it will be all cleared out of there.

Mr. Gagliardo stated that's all hedges.

Board Member Bodor stated oh, okay.

Mr. Gagliardo stated yes. We'll take them all out.

Board Member Bodor stated alright.

Mr. Gagliardo stated they have like a hedgerow there with a bunch of rocks to keep...

Board Member Bodor stated yes.

Mr. Gagliardo stated cars from...

Board Member Bodor stated that's what I'm looking at.

Mr. Gagliardo stated going into their house. That's basically what's there now.

Board Member Bodor stated okay.

Mr. Gagliardo stated like I said, I already staked it out when I submitted everything knowing everybody likes to take their walk out there, which is... Everything is signed and delivered and ready to go. So whenever you...

Chairman Olenius stated so if we go out there, there's stakes on the...

Mr. Gagliardo stated I have two stakes 20' off the house.

Chairman Olenius stated okay.

Mr. Gagliardo stated even with the existing foundation, yes.

Chairman Olenius stated do you want to...

Mr. Gagliardo stated unless somebody moved them.

Chairman Olenius stated get a visual.

Board Member Bodor stated yes, I do.

Chairman Olenius stated okay. Is there any comment from the audience on this application. Hearing none. Alright. Should the Secretary contact you as to the date of the site walk.

Mr. Gagliardo stated yes. Yes.

Chairman Olenius stated and if you're available you can...

Mr. Gagliardo stated and I'll make myself available or I'll have one of Douglas' meet you there.

Chairman Olenius stated okay.

Board Member Buzzutto stated is this authorization for him to represent them [referring to the application].

Chairman Olenius stated yes.

Board Member Buzzutto stated it's got to be signed and notarized.

Chairman Olenius stated yes.

Mr. Gagliardo stated I thought we did all of that.

Board Member Buzzutto no.

Mr. Gagliardo stated I know they had something notarized.

Chairman Olenius stated they just didn't notarize the fact that...

Mr. Gagliardo stated the right part.

Chairman Olenius stated that you could speak for them.

Board Member Buzzutto stated yes. It's got to be...

Mr. Gagliardo stated okay.

Chairman Olenius stated that's all they have...

Mr. Gagliardo stated that's no problem. I'll take care of that.

Chairman Olenius stated yes.

Board Member Buzzutto stated take care of that.

Chairman Olenius stated yes. It's just the one section on page 4.

Mr. Gagliardo stated okay.

Chairman Olenius stated just that you can speak for them. But that's going to be held over till next month anyway...

Mr. Gagliardo stated okay.

Chairman Olenius stated so it's not going to...

Board Member Buzzutto stated them sign that you're authorized to...

Mr. Gagliardo stated no problem.

Board Member Buzzutto stated okay.

Mr. Gagliardo stated they live in Danbury now. They're renting an apartment over that way, so... They asked me if they needed to come and I told them no. I thought that that was all taken care of already.

Board Member Buzzutto stated well, it's just in case something does come later on.

Mr. Gagliardo stated yes. No problem.

Board Member Buzzutto stated and they say well, it wasn't...

Mr. Gagliardo stated understandable.

Board Member Buzzutto stated authorized.

Chairman Olenius stated alright, Sir.

Mr. Gagliardo stated alrighty.

Chairman Olenius stated thank you for your explanation.

Mr. Gagliardo stated thank you very much.

Chairman Olenius stated we will probably see you within the next couple weeks.

Mr. Gagliardo stated yes.

Chairman Olenius stated and...Do you know when the next meeting is. It will be March 21st. But we will remind you of that at the site walk.

Mr. Gagliardo stated okay. Thank you.

Chairman Olenius stated alright. Thank you.

5) BARBARA MURPHY CASE #06-12

Mrs. Barbara Murphy and Mr. Rich Murphy were both present.

The Secretary read the following legal notice:

Barbara Murphy Case #06-12 – Area Variances

Applicant is requesting area variances pursuant to §154-4 of the Patterson Town Code, Definitions – Private garage and §154-7 of the Patterson Town Code, Schedule of regulations. Applicant wishes to construct a detached garage in order to house a boat and other vehicles. The Code requires that a private garage does not exceed 50% of the bulk area ratio of the principal dwelling and does not exceed the height of the principal dwelling. Applicant's proposed garage is 12% larger and 5.5' higher than the principal dwelling. Applicant is requesting a variance of 62% in bulk area and a variance of 6' in height. Applicant is also requesting a side and a rear yard variance. The Code requires there to be a 20' side yard setback; Applicant is proposing 10'; Variance requested is for 10'. The Code requires there to be a 30' rear yard setback; Applicant is proposing 10'; Variance requested is for 20'. This property is located at 24 Danby Lane (C-1 Zoning District).

Chairman Olenius stated Mrs. Murphy, how are you.

Mrs. Barbara Murphy stated good.

Chairman Olenius stated could you state your name for the record please.

Mrs. Murphy stated Barbara Murphy.

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

Mrs. Murphy stated yes.

Chairman Olenius stated okay. Thank you. You, Sir.

Mrs. Murphy stated this is my husband, Rich.

Mr. Rich Murphy stated Rich Murphy.

Chairman Olenius stated okay, thank you. Just fill us in. We've read your application.

Mrs. Murphy stated okay.

Chairman Olenius stated just fill us in in your own words what you...

Mrs. Murphy stated alright. We're looking to put up a garage, a two-car garage, that's one and a half story. Top part would be for storage. We have, right now, on our property, we have two boats that are covered, shrink wrapped on the side. We have several cars and a single car garage right now. The hardship with that is that, you know, you have one car in there and to do work on anything else, the car has to come out.

Mr. Murphy stated I need a work area for the two boats. And possibly storing them, too. Eventually anyway.

Board Member Buzzutto stated is this what you plan to...

Mr. Murphy stated this one on the... This was right here [referring to pictures of the proposed garage].

Board Member Buzzutto stated okay.

Mr. Murphy stated and the only reason, if you're looking at the surveys, why we're putting the garage in that area, the other side of the property there's a pool there. We kind of use it for when we have people over. We people volleyball and etcetera. And this other side of the property is not used. And also, the other side of the property, since the water table has risen in the past, it's very wet on that side. It's sloped. It has a drywell there. And it just wouldn't be the right place to put it. It would be very hard to put a driveway in there, too, because it's right at the dead end road. The road stops.

Board Member Buzzutto stated is a driveway (inaudible) border your property.

Mrs. Murphy stated yes.

Board Member Buzzutto stated it does.

Mrs. Murphy stated right behind us.

Board Member Bodor stated right behind.

Board Member Buzzutto stated right behind the property.

Mrs. Murphy stated actually, I can show you.

Board Member Buzzutto stated oh yeah. Okay. (Inaudible).

Mr. Murphy stated yes.

Mrs. Murphy stated this is where we're proposing to put it and this where the boats are right now. But you can see the...

Mr. Murphy stated the other boat you can't see.

Mrs. Murphy stated there's one behind the other there.

Chairman Olenius stated oh, that's the net from the...

Mrs. Murphy stated but you can see the nets and the holes right there.

Chairman Olenius stated okay.

Mr. Murphy stated that's from the golf range.

Mrs. Murphy stated just to give you a visual of what we have there.

Board Member Bodor stated your single-car garage is under the house.

Mrs. Murphy stated yes.

Mr. Murphy stated yes.

Board Member Bodor stated it's not detached.

Mr. Murphy stated no.

Mrs. Murphy stated no.

Mr. Murphy stated this one's going to be detached. It's going to be in this area over here. And I want to kind of center it, you know, to make it look right with the trees. Those are the neighbor's trees. He owns them. They're on his property.

Chairman Olenius stated okay.

Mr. Murphy stated so I want to kind of set it in between...putting it in between there the right way. I don't want it too close to the house and too far away. I want to like, center it, so it looks kind of nice. That's why I'm kind of asking for the variance.

Board Member Bodor stated couldn't you bring it in 10 more feet and comply with the side line.

Mr. Murphy stated I think it will be too close to the house. I don't think it...

Board Member Bodor stated but it could happen.

Mr. Murphy stated it could, but I would really rather it not be that close. I don't think it would look right. I'm trying to keep the look of the neighborhood. Actually, everybody on the road does have garages. Well, two people have garages. There all on the line and they're on the right side. And there's a carport, too, on the first house. And that's on the right side, too. So I'm trying to keep it the same way. And I know that years ago, probably these setbacks weren't that way. And I am in a...I am residential, but I'm in a commercial development.

Chairman Olenius stated commercial zone.

Mr. Murphy stated commercial zone. So I mean, if I was in a different area in the Town, I could go actually closer to the line. So that's why I'm asking you people to look this over and maybe you can come within these variances that I'm asking for.

Board Member Buzzutto stated is there any reason why you got to go so high with it.

Mr. Murphy stated it's a...The height is...

Board Member Buzzutto stated the height is...

Mr. Murphy stated it's only 5' higher than the peak of the house. It's because I'm...Like I said, we have a small home and actually I'm going to use the upstairs for storage. We don't have a lot of closet area. You know, if I'm going to build something, I might as well build it so that I can utilize it. And the upstairs will be for storage and I'm going to put closets up there so that we're able to put our winter clothes up there and then bring the...Because we have very small closets.

Board Member Buzzutto stated just a question. It would never be used as an apartment.

Mr. Murphy stated no. That would be impossible.

Board Member Buzzutto stated just a question.

Mr. Murphy stated I know. You have to ask me.

Board Member Buzzutto stated something we have to ask you.

Mr. Murphy stated that would be taking in... You have to put a whole new system in for a septic system and...

Board Member Buzzutto stated yeah, well...

Mr. Murphy stated you know, I don't... No. It will never be used for that. It will be actually used for storage. The reason why I went with that style I thought it would make the property look right. In other words, if I went with a peaked roof, like a regular garage and wanted to have the storage, when you people come out to do your site walk, I think you would see what I'm saying. My roof isn't that long and when you build one of those other type of garages, the roof is very long and it wouldn't look right. So this building the way it's built and it's facing I think would look right because the way you see the garage doors on that, that will be facing out towards the road.

Mrs. Murphy stated and on this picture here, actually, this is the road right here. This blacktop you see right there [referring to pictures].

Chairman Olenius stated you're taking it from the street.

Mrs. Murphy stated I'm on the street taking it. This is the road and this is the whole area that we're talking about.

Board Member Buzzutto stated are you the last house on Danby Lane.

Mr. Murphy stated yes.

Board Member Buzzutto stated you're the last house.

Mr. Murphy stated yes.

Mrs. Murphy stated yes. At the dead end.

Board Member Buzzutto stated yeah, okay. So you got nothing to you... Well, facing you, you have nothing to the left.

Mr. Murphy stated the left is what I stated is the left is our recreation area. There's a pool there.

Board Member Buzzutto stated I mean, that's your though.

Mr. Murphy stated oh, yes.

Board Member Buzzutto stated I mean...

Board Member Bodor stated beyond that.

Board Member Buzzutto stated adjoining your property there's nothing...

Mrs. Murphy stated nothing. No.

Mr. Murphy stated no. That's...Actually, the owner of that property...It's the wetlands. It's the Great Swamp.

Board Member Buzzutto stated okay.

Mr. Murphy stated Ralph Burdick does own it.

Board Member Buzzutto stated oh.

Mr. Murphy stated well, the Burdicks. I mean, Ralph...

Board Member Buzzutto stated yeah.

Mr. Murphy stated deceased a while ago. But that is the starting of the Great Swamp; it borders with my property.

Board Member Buzzutto stated Great Swamp. Just familiarizing myself with all these figures here. Some are about bulk. Some are...

Chairman Olenius stated I think we're going to have to go and take a look at it just...

Board Member Buzzutto stated go out there and...

Chairman Olenius stated to see...

Board Member Buzzutto stated go over these figures.

Mr. Murphy stated need a hand.

Mrs. Murphy stated the figures.

Board Member Buzzutto stated no.

Mr. Murphy stated to help. Probably the writing's small there. We tried to fit it in.

Board Member Buzzutto stated alright.

Chairman Olenius stated does anybody from the audience have any input on this case.

Board Member Herbst stated somebody's coming up.

David Strong stated hi.

Chairman Olenius stated hi. How are you.

David Strong stated good. Speak into the mic.

Chairman Olenius stated yes please.

Board Member Bodor stated yes please.

David Strong stated David Strong. My wife and I own the property adjacent to the Murphy's at 18 Danby Lane. And the Applicants are correct, the houses are small on the street. We have a garage; three of the five houses do have garages. One has a carport. So, and you know, a garage is a nice thing to have when it's raining or snowing. I certainly understand that. My concern was the size of the garage. Just, to us, it seemed a little bit...In addition, the bulk area ratio was 884 square feet, at least by my calculations. I took a look at the application and so I was concerned that the variance, while it's stating for 62%, a house that's a little over 1,000, you know, 884 square foot garage would be at 84% variance. So I was a little concerned seeing that and...Just, generally with the character of the neighborhood, I don't dispute that. Everybody else has a garage. It's not fair...If they want a garage, you know what, we all have them, so it's not fair to say absolutely not. My concern here though is mainly with the size of the garage. And in addition, the location of the garage being set far back would require a driveway. And again, being close to our property line and the additional impervious surface, it's a wet area. There's a lot of clay in the soil. The water doesn't drain well. Water is a real problem for us. And, you know, for everybody on the street. So, it's just something I would like the Board to consider. We have the...The prior owner, who was my wife's grandmother, had a sump pump installed; it cost them over \$6,000. So it's a significant concern for us, is the water, and then just generally, the size. If, you know, there's a reasonable alternative, if they are able to build it, you know, closer to the house on the other side, however. You know, I'm not trying to stop them from building a garage completely, I'm just trying to say, you know, is there some reasonable, you know, understanding we can come to or reconsider. There's also...there's an established tree line there. There's about ten or twelve cedar trees and two spruce trees and a lilac bush. You know, if something tall was built there with, you know, the effect of the lack of sunlight, are we going to lose the border and the privacy. But, you know, again, I'm not saying these things can't be mitigated or overcome, just raising the concerns for the Board's consideration. You have any questions for me.

Chairman Olenius stated thank you.

Board Member Buzzutto stated thank you.

Board Member Bodor stated thank you.

Chairman Olenius stated that's honestly, that's the reason we go for the site walk; to kind of see what the impact is going to be on the, you know, adjacent...adjoining properties and everything and, you know, offer, hopefully suggestions to minimize these variances. That's our goal, is to minimize any variance. But I appreciate your input.

Board Member Buzzutto stated yes.

Chairman Olenius stated and we'll let you know, this meeting's...this decision's going to be held over until next month, minimum, so we have time to do the site walk and, you know, weigh some more of the facts.

Board Member Bodor stated thank you.

David Strong stated thank you.

Chairman Olenius stated thank you very much.

Board Member Buzzutto stated thank you for your input.

Chairman Olenius stated do you have anything.

Mrs. Murphy stated no.

Chairman Olenius stated okay.

Mr. Murphy stated yeah, like I said, the other side of the property is very wet.

Chairman Olenius stated okay.

Mr. Murphy stated and like my neighbor's brought up, a lot of the water that's there is because their water table did go up and they actually pump all the time out of the house which created a great problem for me on the road. And they did some changes on the road but the main waterway across the street is still not cleaned and we've tried to get it cleaned out. It's a big deal. The DEC...Rich Williams probably knows about that. And the table's lifted up because one day there were beavers in the back and the silt came down and the defined waterways filled in. And that's why their water table risen in their house and that's why they had to spend the \$6,000. But all of that's been going by my house for years, causing my driveway to heave up because they pumped it into the road.

Chairman Olenius stated okay.

Mr. Murphy stated and the only area that I can put that garage because the other side is very wet. And I just hope that the Town can let me do what I think I need because smaller, than there's no sense of me building it. I can't put a boat in it that's 28' long.

Chairman Olenius stated right.

Mr. Murphy stated because you're going to have your foundation, takes away. You've got walls. Okay.

Chairman Olenius stated okay.

Mr. Murphy stated alright.

Chairman Olenius stated the Secretary will give you a call and let you know when we're going to come out. Hopefully you can be there and kind of...

Mr. Murphy stated yes.

Chairman Olenius stated give us four points in the ground where you're...

Mr. Murphy stated I have...

Chairman Olenius stated where this proposal is.

Mr. Murphy stated I have it staked already.

Chairman Olenius stated you do.

Board Member Bodor stated good.

Chairman Olenius stated beautiful.

Board Member Bodor stated thank you. Is there a time that's bad for us to come out to your place. The weekend.

Mr. Murphy stated I'd like the weekend.

Mrs. Murphy stated well, you said you wanted somebody to be there, right.

Board Member Bodor stated yes.

Chairman Olenius stated if you can.

Board Member Bodor stated we want someone there.

Mr. Murphy stated sure.

Mrs. Murphy stated so that's fine. Yes.

Board Member Bodor stated weekend's best.

Mr. Murphy stated fine.

Mrs. Murphy stated weekend is best. Yes.

Mr. Murphy stated probably Barbara will be there.

Chairman Olenius stated okay. Typically, this time of year it just gets dark too early.

Mr. Murphy stated we're easy. Just...

Chairman Olenius stated then we can't get...That's why we got...

Mr. Murphy stated whatever time you want to come. That's all.

Chairman Olenius stated to do weekends.

Mrs. Murphy stated weekends are fine.

Chairman Olenius stated okay. Very good. Secretary will be in touch.

Board Member Bodor stated you'll be contacted by Sarah.

Mrs. Murphy stated alright.

Mr. Murphy stated thank you.

Chairman Olenius stated we've got a lot of scheduling to do later tonight.

Mr. Murphy stated right.

Mrs. Murphy stated thank you.

Chairman Olenius stated thank you.

Board Member Buzzutto stated thank you.

Chairman Olenius stated alright. We'll hold that over for...

6) VERIZON WIRELESS CASE #07-12

Mr. Jordan Fry, Snyder & Snyder, and Ms. Tammy Nosek, Tectonic Engineering, were both present.

Board Member Buzzutto stated now.

Chairman Olenius stated Counsel.

Joe Charbonneau stated yes.

Chairman Olenius stated do we read the notice on Verizon.

Joe Charbonneau stated you can. Yes, it's not going to make a difference one way or the other.

The Secretary stated okay.

Joe Charbonneau stated you're just not opening the public hearing. And you can...As long as you state that, you're fine.

Chairman Olenius stated I'll do that as soon as she's...

Joe Charbonneau stated yes.

The Secretary stated okay.

Chairman Olenius stated done reading. Go ahead, Sarah.

The Secretary read the following legal notice:

Verizon Wireless Case #07-12 – Use Variance and Area Variances

Applicant is requesting a use variance and area variances in order to install a public utility wireless communications facility. The Patterson Town Code does not permit wireless communication facilities in the GB Zoning District. The proposed facility consists of a 140' flagpole with antennas mounted within, with related equipment at the base. §154-7 of the Patterson Town Code, Schedule of regulations, states that the maximum height of a structure is 38'; Variance requested is for 102'. The Code also states that impervious surface coverage not exceed 65%; 67.6% is being proposed; Variance requested is for 2.6%. This property is located at 72 Fairfield Drive (GB Zoning District).

Chairman Olenius stated I just want to preface this: I'm not going to open the public hearing tonight. So there won't be time for public comments tonight because the application is incomplete, as I'm sure you were just made aware by the memo you received from the Town Planner. However, we would like to hear you're initial...

Mr. Jordan Fry stated sure.

Chairman Olenius stated speak as to what you're looking for and run over a few other things because this is obviously continue...

Mr. Fry stated sure.

Chairman Olenius stated longer as we have to get out there with the Planning Board for a joint site walk and...

Mr. Fry stated absolutely. My name is Jordan Fry. I'm from the law firm of Snyder & Snyder, 94 White Plains Road, Tarrytown, New York. Also with me tonight is Tammy Nosek of Tectonic Engineering. The engineer is assisting Verizon Wireless with connection with this application. Just to clarify, we're here on behalf of New York SMSA Limited Partnership d/b/a Verizon Wireless. So Verizon Wireless is proposing a public utility wireless communications facility at 72 Fairfield Drive, which is owned by the Putnam Lake Fire Department. The proposed facility consists of a flagpole with antennas concealed within the flagpole, together

with related equipment at grade. The facility was designed to be incorporated into the fire department property as a memorial garden with the flagpole memorial wall and the related equipment is designed to blend in with the existing fire department building as it will have a brick façade designed to match the building. This facility will be very beneficial to the Town as it will provide a wireless coverage. There currently exists a gap in coverage in the vicinity of the site and of that Putnam Lake area. It's very beneficial to the fire department as it will provide wireless service...emergency wireless service for both the fire department volunteers as well as the community in the event that they needed to call 911, as well as provide, you know, general wireless service for the area. I am in receipt of Mr. Williams' memo. We just received it tonight so we're fully prepared to answer, you know, all the questions in his memo. And as you suggested, we are prepared to have a site visit with both the Planning Board and the Zoning Board and also Verizon Wireless is prepared to at the site visit to provide either, you know, a crane that can show the height of the proposed facility or a balloon test. Whatever's feasible at the property and, you know, obviously invite both Boards to come. Very fully prepared to provide a visual analysis. We'd recommend that we'd do the site visit with the crane or balloon shortly so that we can prepare the visual analysis without any leaves on the trees. And that's, you know, that's primarily, for now, our introduction to the project. We're happy to answer any questions, go through the plans. But again, it's just our request that the Zoning Board and the Planning Board, the secretaries can speak and get in touch with Verizon and we will be able to set up a site visit. Tectonic and stake out the areas of the property that need to be staked out and we can coordinate with a visual expert who can prepare the crane take photos. If the Board has any viewpoints that you are aware of that you would like us to take photos from at the site visit, we're happy if you can tell us now. Or we can be in touch with the Secretary or Mr. Williams. We're fully prepared to take any visuals that you, you know, request in addition to suggestions we have such as, you know, on Fairfield [Drive], Haviland [Drive], East Branch Road. So we're open to suggestions as well.

Chairman Olenius stated do you want to ask your question before we discuss it. Before, about the computer.

Board Member Bodor stated yes. What I would like to see is a computer generated finished product view from like the monument. What is this going to look like from the monument when it's finished.

Mr. Fry stated okay, so you're looking for a view of the memorial at the bass.

Board Member Bodor stated yes.

Mr. Fry stated okay.

Board Member Bodor stated the flagpole. The Fire Department memorial sign, or whatever is there. The equipment shed. What is this going to look like to scale on the computer rendering.

Mr. Fry stated sure.

Board Member Bodor stated okay. And one of the places I would like to have it viewed from, I don't know the name of the road, but there's a road right behind the firehouse.

Audience stated Dryden Road.

Board Member Bodor stated Dryden. I'd like to see the viewpoint from there. Not on that computer rendering, but when we do the balloon or crane, whatever.

Mr. Fry stated yes, sure.

Board Member Bodor stated thank you.

Chairman Olenius stated I actually have a list of viewpoints...

Board Member Bodor stated good.

Chairman Olenius stated I'd like you to photograph from. You're not sure if it's going to be a balloon test or a crane. Or maybe a combination.

Mr. Fry stated the...we'll have to see what's feasible. If a crane is feasible at that property. If not, whatever's feasible, you know, Verizon will use. So at this time, I'm not sure what's available.

Chairman Olenius stated that's fine. I know in the past we've tried to set these up and they can only do a balloon. And the day didn't...

Mr. Fry stated right.

Chairman Olenius stated work out because we had high winds or whatnot, you know. So we'll have to setup alternate dates, too. Like, we may do the site walk guaranteed on a certain day but you may have to do the balloon test...I know.

Mr. Fry stated okay.

Chairman Olenius stated we hope everything works out perfect but sometimes it doesn't.

Mr. Fry stated sure.

Chairman Olenius stated you know, and that's why we're going to ask for the pictures of when the balloon test is done from different locations just in case certain members make it to the initial site walk...

Mr. Fry stated okay.

Chairman Olenius stated but couldn't make the balloon test. Or, you know...

Mr. Fry stated right. Absolutely. Just let us know what photos you'd like and the day when the balloon is there, that's balloon and/or crane, that's when, you know, our consultant will go out and take the photos obviously so you...

Chairman Olenius stated that's perfect. Were you taking notes. I know...

Mr. Fry stated sure. If you want to tell me now I can take down the site...the areas you'd like us to take these.

Chairman Olenius stated I wanted to see one from Doansburg Road just before Green Chimneys by the County Highway garage. It's where you...after you cross over the swamp it starts to flatten out and you got kind of a view of the slope there. Also from East Branch Road by the VFW intersection with Doansburg [Road]. Fairfield Drive by the Citgo gas station. Jackson Beach and Warren Beach and /or the Castle. I think that about covers everything you could possibly...

Board Member Bodor stated Warren Beach and the Castle. Because isn't the Castle higher than Warren Beach.

Chairman Olenius stated the Castle is higher, yes.

Board Member Bodor stated yes.

Chairman Olenius stated so you could do both.

Board Member Bodor stated both of those.

Chairman Olenius stated both Warren Beach and the Castle.

Mr. Fry stated okay.

Chairman Olenius stated the Castle's on Haviland Drive.

Mr. Fry stated sure.

Chairman Olenius stated what else do I have to talk to you about. I noticed from the initial submission here that there was some talk of collocating on the existing tower at the other end of the Lake.

Board Member Buzzutto stated Quail Ridge site.

Chairman Olenius stated the Quail Ridge site. And it was kind of our impression when we approved that site that with the amount of collocation they provided on there it would be enough to cover...You know, their RF assessments at that time showed a much broader coverage band from up there then the ones you submitted.

Mr. Fry stated yes, our...Right. We...Verizon Wireless' consultants, C Squared, who's very well experienced in this field, did RF studies and based on the studies and maps developed, there's still a significant gap in service even if Verizon Wireless was to collocate on the Quail Ridge site. With respect to other carriers RF maps, we can't speak on what their consultants found. Plus, they used different technology so it's not, you know, totally accurate. And as indicated in the RF affidavit that Verizon submitted, Verizon does plan on going on that tower but it doesn't satisfy the gap in service where this proposed, you know, site is located. So, you

know, as a scheme with respect to covering this whole Town, Verizon is interested in collocating on the Quail Ridge site, along with some of the other sites listed in the RF affidavit. But it doesn't satisfy the gap in service based on their, you know, detailed analysis.

Chairman Olenius stated how did they come up with their analysis. Did they come out in the field to look at it or was it...

Mr. Fry stated I believe they did. But we submit more details to help the Board understand how they came up with their analysis. But I believe they did. And also, there's computer modeling that's very sophisticated. So we can have them, you know, speak on, you know, with respect to that. I'm not qualified to do so but we're fully prepared to, you know, as best explain the studies to the Board.

Chairman Olenius stated the tower that you're proposing here at the firehouse, do you plan on collocation at that tower as well, or...

Mr. Fry stated so...And actually, you know, we will certainly address Mr. Williams' memo, but the plans do show that three carriers can collocate antennas within the tower. And actually, again, we'll reply to Mr. Williams' memo. But, you know, those three spots can accommodate, depending on the carrier, but most likely at least antennas per carrier. Not just one as Mr. Williams' memo indicates. In addition...So in addition to antennas within the flagpole. With respect to the equipment, Tectonic did do an analysis and there is room for other carriers if they chose to come at the site. And we can submit kind of a conceptual plan because we can't predict what, you know, carriers are going propose. But we can show you space at the property showing where other carriers can go as well as, you know, carriers could potentially go within, you know, the firehouse. We created that way as well. So again, we can respond to Mr. Williams' memo: we can submit a conceptual plan just giving the Board an idea of how other carriers if they chose to come, you know, may be able to use the property.

Chairman Olenius stated okay.

Board Member Buzzutto stated didn't Quail Ridge have an open...understanding that they could reopen the application, another tower at the dam. Wasn't that like an understanding if they wanted to reopen that one and leave it standing. If T-Mobile wanted to move... You say you can't go out on the tower with T-Mobile over there. Could it be reverse that T-Mobile might want to go on your tower...

Mr. Fry stated well...

Board Member Buzzutto stated to give them...

Mr. Fry stated just to give you an understanding, it's not that Verizon Wireless can't go on that tower over in Quail Ridge. They actually intend on, you know, in the future going over there. But if Verizon Wireless was to put antennas, you know, and equipment at that location, the maps provided by our experts show that that location wouldn't provide coverage within this area that we're proposing. So by the Fire Department. So at this time, Verizon Wireless is trying to satisfy its gap in service over by the Fire Department. Was that clear or do you need...

Board Member Buzzutto stated yes.

Mr. Fry stated further...

Board Member Buzzutto stated well, suppose if T-Mobile wanted to come over to Verizon there, that would give them a greater coverage area...

Mr. Fry stated yeah...

Board Member Buzzutto stated on this side of Put[nam] Lake.

Mr. Fry stated yes. So what...And I can't speak on...

Board Member Buzzutto stated rather than have them build another tower down at the dam.

Mr. Fry stated right. I can't, you know, speak on behalf of T-Mobile but generally, you know, speaking, if T-Mobile was to collocate where Verizon Wireless is proposing then if they had a gap in coverage which, you know, I don't know, they fill some of their gap by, yes, coming and collocating and potentially we'd take away the need for them to build another tower. But again, I don't...can't speak on behalf of T-Mobile...

Board Member Buzzutto stated well, I guess if anybody wanted to see what it looks like, I believe Carmel Fire Department has a tower which is exactly like what you want to put up there.

Board Member Bodor stated yes.

Chairman Olenius stated yeah. I just don't know if the height is the same.

Board Member Bodor stated yeah. I don't know.

Board Member Buzzutto stated I don't know. But it's...

Board Member Bodor stated you know, you've mentioned a couple times that Verizon, yes, does plan to collocate on the Quail Ridge antenna. It's there. Why have they not gone ahead and done that instead of going out to find...trying to build a new tower. You said the coverage would not be complete, but at least you're going to get something and there's a plan to collocate anyway.

Mr. Fry stated right. Well, the issue is that there's two areas where Verizon Wireless...Well, more than two areas. But there's areas within the Town where Verizon has gaps in service.

Board Member Bodor stated yes.

Mr. Fry stated you know, in terms of timing, Verizon plans on, you know, eventually submitting an application. To me, it's not relevant when exactly they do it because Verizon has had plans to come at the Fire Department for a long time now and, you know, now that things in the economy are starting to change they're going through with their plans and their going to fill that gap in service by the Fire Department, which is very important for, you know the Fire Department

volunteers and the community, you know, especially by Putnam Lake. So again, there's a big, you know, broader plan to fill all, you know, gaps in service in the Town. But, you know, you got to start somewhere and Verizon Wireless has started...has decided to start here. They have, you know, a lease with the Fire Department which can take a long time, you know, to do. And we're ready to make our proposal. We understand that it does take some time so we're going ahead and these are our plans.

Board Member Bodor stated but there is a plan in place, I'm hearing you say, to collocate on the Quail Ridge antenna.

Mr. Fry stated right.

Board Member Bodor stated doesn't make any sense to me not to go ahead and do that. You can do that. And now you're going to start from the ground over here.

Mr. Fry stated right. Again, they plan on doing it but it's, you know, a choice of... We need to cover our gap in service so you can't cover your gap by only going on one of those sites. So they're starting with this site and, you know, it's just a business decision, so to speak, to say let's start with the place where we already have a lease and have secured our real property rights.

Board Member Buzzutto stated do you have an antenna on the Noletti site.

Mr. Fry stated yes. But...

Board Member Buzzutto stated oh, so you do have on there.

Mr. Fry stated yes. Yes.

Board Member Buzzutto stated so that would cover a gap between Noletti's and the Fire Department. Noletti's covers the gap between the tower that's in the silo down here on [Route] 311. Isn't that Verizon down there. The silo.

Mr. Fry stated yes. The Pien property is...

Board Member Buzzutto stated it's enclosed.

Mr. Fry stated is Verizon. And the maps that we submitted show specifically the coverage from the Noletti property, which I believe is Northwest of here. And unfortunately due to the terrain, the topography, distance...

Board Member Buzzutto stated yes.

Mr. Fry stated the coverage doesn't come all the way down to the southern portion of Putnam Lake area.

Board Member Buzzutto stated but would that tower at the Fire Department, would give you complete...

Mr. Fry stated it would...

Board Member Buzzutto stated well...

Mr. Fry stated you know, it would...I don't know about complete. You could piece the coverage together and certainly you'll see that there will be much less of a gap. You know, as far as, you know, complete coverage I can have the RF expert testify on that behalf. But it will be a, you know, a connecting type of site, so to speak.

Chairman Olenius stated I wanted to, while you were taking your notes there, to...when we make the site walk if you could get us some information on the...I know there's usually a generation involved with these towers for backup power.

Mr. Fry stated right.

Chairman Olenius stated like decibel ratings and stuff on the proposed generators that you plan on...

Mr. Fry stated okay, so you're looking for the noise that would come. Just so you know, the generator is within the equipment shelter. So that would deflect some of the noise. And generally, you know, unless there's a need for the generator, it only runs approximately half an hour once a week. We can set it up for a specific time if the, you know, Board, you know, suggests a specific time during the afternoon business hours. But it just needs to run for half an hour or maybe...

Chairman Olenius stated exercise.

Mr. Fry stated yes. But sure, we'll get you information. I believe the specs of the generator are submitted in connection text and plans...

Chairman Olenius stated I looked at them, I didn't see decibel rating on it. That's why...

Mr. Fry stated alright, so we'll...

Chairman Olenius stated and it may change because what was submitted here, if there is one, isn't inside the shelter. You know what I mean. Like your engineers may be able to come up and maybe less...

Mr. Fry stated sure.

Chairman Olenius stated because it's inside the shelter as opposed to...

Mr. Fry stated we can certainly give you information on it.

Chairman Olenius stated just a little bit more.

Board Member Buzzutto stated well, the unit actually runs on public utility doesn't it, to start with. It isn't principally on generator.

Chairman Olenius stated no, no. Only in emergencies.

Board Member Buzzutto stated only in emergencies.

Mr. Fry stated right. Correct. It's just...

Board Member Buzzutto stated not constantly.

Mr. Fry stated correct.

Board Member Bodor stated but it has to have a test run so frequently.

Chairman Olenius stated right.

Mr. Fry stated half an hour, once a week.

Chairman Olenius stated I think I'm good till the site walk though.

Board Member Bodor stated yes. I am.

Board Member Buzzutto stated yes.

Chairman Olenius stated I don't think we have anything further tonight.

Mr. Fry stated okay.

Chairman Olenius stated like I said...

Mr. Fry stated if the Board can just, you know, coordinate with the Planning Board and get in touch with myself and I can get in touch...If you give us a couple of dates It would be great so then this way...

Chairman Olenius stated we always do give like a rain date, like an extra date. So if one works better for you then...

Mr. Fry stated okay.

Chairman Olenius stated that's fine. I think we're probably going to dedicate a day to you. I'm not going to jump all these other ones on with you.

Mr. Fry stated yes, sure.

Chairman Olenius stated because it's probably going to take some more time.

Mr. Fry stated do you think the timing would be in the next couple of weeks.

Chairman Olenius stated it will be prior to the next meeting which is March 21st. So...

Mr. Fry stated okay. So I'll just be in touch with Sarah and then we'll coordinate it and confirm everything. Just that, you know, I guess it will take some time to just coordinate the crane.

Chairman Olenius stated right.

Mr. Fry stated so...

Chairman Olenius stated so...

Mr. Fry stated the sooner you can let us know the easier it will be for us to meet...

Chairman Olenius stated but the sooner we can let you know but the later it is from now is better probably because it gives you more time to...

Board Member Buzzutto stated yes.

Mr. Fry stated if you want to just give me a couple of dates, you know...

Chairman Olenius stated okay.

Mr. Fry stated it all depends on when the crane's available.

Chairman Olenius stated okay. Fair enough.

Audience member stated excuse me. Could you just orientate us to that map [referring to the map on the bulletin board] because I'm seeing Haviland Road on this side and it doesn't really seem...

Audience member stated yeah. It's not making...

Audience member stated correct that way to me.

Audience member stated yeah. It doesn't make any sense.

Audience member stated because if it's where the Christmas tree was, then the Christmas tree is off of Haviland Road, isn't it.

Board Member Buzzutto stated

Ms. Tammy Novek stated this is where the road splits, right here.

Audience member stated okay.

Ms. Novek stated this is where the existing memorial garden is.

Audience member stated what's the building...is that where the...

Ms. Novek stated the existing shed that's... There's an existing shed out there.

Audience member stated alright.

Ms. Novel stated that's coming out.

Audience member stated alright. Okay. Thank you.

Ms. Novek stated and this is where...

Audience member stated that was what was throwing me off.

Ms. Novek stated yes. It goes right on top of where the shed would... Where the shed is.

Audience member stated alright. That was what was throwing me off though because I thought that that didn't look right from there. I see what you're saying now.

Ms. Novek stated and then here's the fire house.

Audience member stated yup. Got you.

Audience member stated is it tall enough to require a light on top of it.

Mr. Fry stated I...

Board Member Buzzutto stated ask the questions later on.

Mr. Fry stated you know, we'll double check that and get back to if it's required.

Rich Williams stated we're not going to get these... If they're not up at the mic then we're not going to get these.

Chairman Olenius stated I didn't open the public hearing. I'm not going to take public comment tonight.

Audience member stated can I just ask a question about the meeting, that's all.

Chairman Olenius stated yes.

Board Member Buzzutto stated yes. We'll take it.

Audience member stated I was wondering if it's possible to consider having the next open hearing at the Rec Center instead.

Chairman Olenius stated we discussed that previously.

Audience member stated okay. Just...

Chairman Olenius stated we'll notice that.

Audience member stated yes.

Chairman Olenius stated we're not sure yet because it depends on availability and everything.

Audience member stated thank you.

Chairman Olenius stated but that potential is definitely there.

Rich Williams stated a couple of quick housekeeping items. The next meeting is the 16th or 21st.

Chairman Olenius stated it says the 21st on the...

Rich Williams stated okay.

Chairman Olenius stated why. Is that the fourth Wednesday or something.

Rich Williams stated no. Other people have a different date. So we're going to have to confirm that date.

Chairman Olenius stated okay.

Rich Williams stated to move this process along, the Board may want to declare their intent to do Lead Agency tonight.

Chairman Olenius stated yes.

Rich Williams stated okay.

Chairman Olenius stated I am going to make a motion that we do a coordinated review on then and take Lead Agency. We'll do a coordinated review with the Planning Board but we'll take Lead Agency on the environmental.

Board Member Bodor stated I'll second that.

Chairman Olenius stated all in favor. Motion carried by a vote of 4 to 0.

Board Member Buzzutto stated could this be a special meeting or...Have that meeting and have the other four or five...

Board Member Bodor stated we'll have to discuss that issue.

Chairman Olenius stated we'll have to discuss it.

Board Member Buzzutto stated (inaudible – papers shuffling).

Chairman Olenius stated thank you.

Mr. Fry stated thank you very much.

Chairman Olenius stated we'll be in touch.

Mr. Fry stated okay. Great. Thank you very much.

Audience member stated okay. Off the record. Are you guys aware that a cell tower just went up at Ball Pond Firehouse. It just went up. Brand new.

Board Member Herbst stated that's Connecticut, isn't it.

Audience member stated doesn't matter what town it is. It's real close to Putnam Lake and could very well cover that area. So I just wanted to make sure that you guys were aware of that. Just went up.

Board Member Buzzutto stated thank you.

Board Member Herbst stated we don't have any rights in Connecticut anyway.

Board Member Buzzutto stated no, not really. Besides, that's so far away it (inaudible – too many talking). The next meeting could be at the Rec Center though. They should be aware of that.

(A lot of noise from the audience)

Chairman Olenius stated let's just wait on that until it quiets down a little bit. I will make a motion to accept the minutes from the January meeting.

Audience member stated will they put any kind of notification of when they're doing the balloon test. Is there going to be any kind notification in the paper or anything.

The Secretary stated the balloon test...

Audience member stated or is it just when it happens it will happen.

The Secretary stated I believe the balloon test gets noticed.

Chairman Olenius stated I think it gets noticed.

Joe Charbonneau stated I think it does.

Audience member stated will they do a mailing or is it...

Joe Charbonneau stated no.

The Secretary stated there's not a mailing. It's just a notice.

Audience member stated there will be like a notice in the paper or something.

The Secretary stated in the paper and then on the website. The Town website.

Audience member stated oh, okay.

Board Member Bodor stated yes. The website.

Audience member stated and did you decide when the meeting was. Is it the 16th or the 21st.

Chairman Olenius stated I have the 21st.

Board Member Bodor stated I have the 21st.

Audience member stated it will be on the website anyway, so...

Chairman Olenius stated yes.

Audience member stated okay.

The Secretary stated the website should say the 21st.

Audience member stated okay, great.

Board Member Bodor stated 21st, right.

Audience member stated thank you.

Chairman Olenius stated that's the third Wednesday, so...

Audience member stated thanks.

Chairman Olenius stated I want to make a motion to accept the minutes from January 18th.

Board Member Bodor stated oh, yes. I'll second it.

Chairman Olenius stated all in favor. Motion carried by a vote of 4 to 0.

Board Member Herbst stated we can't do anything on the site walks until we talk to Marianne, right.

Chairman Olenius stated oh, we'll get... We're going to make some dates tonight and then...

Board Member Bodor stated (inaudible) too, so.

Board Member Herbst stated and see where she can fit in.

7) KATHLEEN PETTEY APPEAL

Chairman Olenius stated the big one involves Shawn also, so we'll deal with that. You know, if something comes up we'll do alternate dates. Are you comfortable, Counsel. Is it quiet enough for you to discuss the Pettey...

Joe Charbonneau stated oh, absolutely. I'll do it in a room full of people, too.

Chairman Olenius stated okay.

Joe Charbonneau stated I have no problem. We filed a notice appeal. The Town Board...Rich has spoken directly with the Town Board with respect to the court's decision. Although they did take pains to set forth a lot of the factual recitations, I think what they did was Court seized on certain actions that were perceived actions by the Town such as the assessment of three garbage districts; three units for three collection assessments. How the Town Assessors Office listed the property. How the property has been taxed for a period of years since 1991, '92. A notation that was made on the Tax Assessor's records: a 3F 1991. Changing that from two-family. These are all issues that, in our opinion...First of all, there's no law in the judge's decision that supports the basis of finding that because a municipality has done these affirmative things, that negates...that somehow lessens the burden of proof that an individual would have to demonstrate a zoning board of appeals that there was, in fact, a lawful three-family residence at the property. There is municipal estoppel, which essential means that where a Town makes mistakes, they are not estopped. In other words, the applicant can't come back and say to the Town you've made these mistakes therefore I get the greater use of the property. You can't hold that against a municipality for the very reason that if somebody had a relative that worked in the Assessor's Office and made those changes on the cards, you couldn't then go back and say well, it's legal because there's a change made on the Assessor's card. So, the biggest issue, legally, that we have with the Court's decision is it's completely unsupported with case law. They came to this decision. They seized on there, what we believe are, estoppable issues and relatively minor issues in comparison to the language that was used when the 1961 addition was proposed. The facts and circumstances surrounding that addition and the lack of factual circumstances from '61 forward to support a legal three-family. So we filed a Notice of Appeal. We have six months to perfect the appeal. The Town Board has authorized us to do legal research with respect to the likelihood of success on appeal. From what we've done so far with respect to the municipal estoppel issue, I think we have a good appellate issue that the second department would seize on and in all likelihood reverse Judge Nicoli's decision which could do one of two things: They could remand it back to the Board for further findings or remand it back to the court to establish a reasonable legal basis for its findings. And I don't...If the Court could have seized upon a Court of Appeals case, or even a Second Department case, that shows that where these procedural issues come up, where the municipality taxes for three garbage districts. The municipality assesses for a three-family over a period of time, that in and of itself is sufficient to establish the existence of a legal three-family pre-existing use. They would have cited that. And it doesn't exist in the Second Department or we would have found that case already. It doesn't exist in the Court of Appeals. So, I do think the likelihood of success, and I'm pretty sure Don Rossi told this to the Town Board a few nights ago, that the likelihood of success on appeal is relatively good. But want us to do more preliminary research. Town Board would have to

authorize the filing of the appeal. We have to get permission from the Town Board. There has to be a resolution. So, we're in the process of doing the research prior to asking the Board for a resolution authorizing us to move forward with the appeal. The applicant certainly was not happy when they found out that we were going to appeal as you can well imagine. You haven't issued anything, right. You haven't issued a building permit or anything like that. Nobodies asked for anything.

Rich Williams stated not that I'm aware of there's not.

*Due to a technical error, the last 22 minutes of the meeting were not recorded. The following is a summary.

8) SITE WALK

The Board discussed and setup the days and alternate days to do four site walks: Herman, Murphy, Douglas and Verizon Wireless. Herman and Murphy were scheduled for Saturday, March 3, 2012 at 9:30 a.m. and about 10:30 a.m., respectively, with an alternate date of Sunday, March 4, 2012 at the same times.

Douglas and Verizon Wireless were scheduled for a site walk on Saturday, March 10, 2012 at 9:00 a.m. and 9:30, respectively, with an alternate date of Saturday, March 17, 2012 at the same times.

Board Member Bodor made a motion to close adjourn the meeting and Board Member Buzzutto seconded that motion. Motion carried by a vote of 4 to 0.

Meeting was adjourned at 8:50 p.m.