

**TOWN OF PATTERSON  
ZONING BOARD OF APPEALS  
February 16, 2011**

**AGENDA & MINUTES**

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|---------------------------------------|---------|---|
| <b>1) Kathleen Pettey Case #01-11</b> | 1 – 22  | Application tabled pending more information                               |
| <b>2) Eric Schmidt Case #02-11</b>    | 22 – 28 | Public hearing closed;<br>Side yard variance for a 26'x24' garage granted |
| <b>3) Other Business</b>              |         |   |
| <b>a) Minutes</b>                     | 29 – 30 | December 15, 2010 and January 19, 2011 minutes approved                   |

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**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF  
APPEALS**

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

**PLANNING BOARD**

Shawn Rogan, Chairman  
Charles Cook, Vice Chairman  
Michael Montesano  
Thomas E. McNulty  
Ron Taylor

**Zoning Board of Appeals  
February 16, 2011 Meeting Minutes**

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

Present were: Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Howard Buzzutto, Board Member Gerald Herbst, and Rich Williams, Town Planner.

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

There were approximately 2 members of the audience.

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

Board Member Buzzutto led the salute to the flag.

Board Member Buzzutto stated okay, you want to...

**Roll Call:**

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

**1) KATHLEEN PETTEY CASE #01-11**

Ms. Kathleen Pettey was present.

Board Member Buzzutto stated okay. Read the...

The Secretary read the following legal notice:

**NOTICE IS HEREBY GIVEN BY THE TOWN OF PATTERSON BOARD OF APPEALS** of a public hearing to be held on Wednesday, January 19, 2011 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following applications:

**Kathleen Pettey Case #01-11 – Interpretation**

Applicant is appealing the determination of the Director of Codes that her existing dwelling is limited to two families. This property is located at 35 South Street (R-1 Zoning District).

Board Member Buzzutto stated okay. Kathleen Pettey.

Ms. Kathleen Pettey stated yes.

Board Member Buzzutto stated the agenda as read...Well, we...Have you had any new...

Ms. Pettey stated yes. Last time I was here I was asked to get voting records for my grandparents, which I did.

Board Member Buzzutto stated okay.

Ms. Pettey stated here.

Board Member Buzzutto stated okay.

Ms. Pettey stated here's a copy of that. And the dates of the three prior refinances.

Board Member Buzzutto stated oh, you're going to make copies of it or what.

The Secretary stated yes. We're going to...

Ms. Pettey stated I have more. Yes. The first mortgage that I took on the house was in 1984. The first refinance was in 1986, it was through Pawling Savings Bank, and the original one was Pawling Savings Bank. The first...The second refinance was the bank Pawling Savings that turned into M&T. So that was where that one was. That was in 1992. And the final one was through M&T which was in 2002. However, M&T sold the mortgage to Chase. So, it's very...

Board Member Buzzutto stated can you talk sort of into the mic. Thank you.

Ms. Pettey stated very hard for me to locate any records here because Pawling Savings Bank is not...nonexistent. And, you know, each, you know, step that I took to try to, you know, actually locate something, you know, just referred me to, you know, M&T. And then M&T sold it to Chase, and then they said Chase had all the records. And apparently nobody has the records. So, Chase has the one for now and they have the prior one from M&T. But these first two from Pawling Savings I don't know. However, I do have my paperwork of those mortgages, which is here. I don't know if you want to copy all of this, but these are the dates that are on there.

Board Member Buzzutto stated basically, what do they tell you on there. That it's...

Ms. Pettey stated they don't tell you anything. The only thing that...I also went to Chase to try to get, you know...Timmy Curtiss had told me to try to get a, you know, title report or something, you know. And

they did send me the title report. However, you know, the lady on the phone said yes, it says three-family. However, I don't know, it's a big long thing. And I see it say 1 to 4 family on it. So this was the most original title report that they have. Well actually, you can keep that copy because they sent me two. On this one, the closest that I can comply with what you asked here is my original application for the 1991 refinance where I have on the application a 3-family dwelling and this is what that's all based on, the title report and everything.

Board Member Buzzutto stated well, who filled that out. You did.

Ms. Pettey stated I did. This is the bank's copy.

Board Member Buzzutto stated yes, but you filled it out.

Ms. Pettey stated yes. I filled it out.

Board Member Buzzutto stated yes.

Ms. Pettey stated but the title report and the appraisal and everything confirmed a 3-family, and everything came to the Town, and it never kicked back. You know, the bank...

Board Member Buzzutto stated yes, but basically what I'm trying to say, it's on there but it's no record of it in the Town or anything.

Ms. Pettey stated well, the title report was done. And the title report confirmed it as a 3-family and then...

Board Member Bodor stated where is that title report...

Board Member Buzzutto stated yes.

Board Member Bodor stated that confirmed.

Ms. Pettey stated but the title report does not specifically say that. And if you go down to the County and search all the records, which I did for hours and hours, it doesn't say anything. It describes the land. It does not describe the dwelling.

Board Member Herbst stated so it's not really...

Ms. Pettey stated what happened this time...

Board Member Herbst stated the title report...It's not a title report that states it's a three-family though, does it. Is it.

Ms. Pettey stated I don't know what it states. I know that a title report...a title search was done this time, just like it's been done the three previous times. However, this time, the Town of Patterson said there's a violation. Three prior times, the Town of Patterson never said there was a violation. That's all I'm saying here; that it's gone through three times through the Town of Patterson and been okayed. And then Timmy Curtiss told me to go see George Michaud, or whatever his name is, down at the County Building. And I brought it to him to help me. And he printed out these papers; for the past 7 years, which is all they have in their computer. And he...And it says right on here three-family. And he said this house was built in 1960

and this is a three-family. And it's on our records as a three-family, and it always has been. So he gave me this. And the other thing, the last thing I was thinking about was an affidavit from Betty Bubenicek. I usually see Betty Bubenicek everyday at the post office, she's my aunt and she's my godmother. I have mentioned this to her, she said okay. However, I've been calling her for two weeks now and I just get her answering machine and I have not seen her at the post office. So I'm guessing she's probably on vacation or something. So I was not able to get that, but I can get that after and mail it to you if it's necessary. Although, I do have affidavits from my brother and I also have affidavits from the Gronke's; Marie and Bill Gronke who are original Patterson residents that are in their 80s and do remember. They gave me a sworn affidavit. And...

Board Member Buzzutto stated well, let's go back to the tax records and the Town. Did they say you were paying taxes on a three-family.

Ms. Pettey stated yes. They do.

Board Member Bodor stated for how long. When was it determined that it was a three-family.

Ms. Pettey stated 1991.

Board Member Buzzutto stated in '91.

Board Member Herbst stated and how long has it been a three-family.

Ms. Pettey stated since 1960.

Board Member Herbst stated long time without it being on the record.

Ms. Pettey stated I don't run the records here. I don't know anything about this. I didn't have a problem up until this point. Right now I'm building a \$100,000 garage in the back of South Street on my credit cards because I can not get my refinance until this matter is resolved. There's already been an appraisal. There's already been a title search. Everything is just pending on this.

Board Member Burdick stated Kathy, the documents that you had that you said were from previous mortgages, were there appraisals in any of that packet of stuff.

Ms. Pettey stated no. I've never gotten copies of any...

Board Member Burdick stated okay.

Ms. Pettey stated of the appraisals.

Board Member Buzzutto stated what was this [referring to copies made of Kathleen Pettey's paperwork].

The Secretary stated this is copies of what she just...

Board Member Buzzutto stated oh.

The Secretary stated just pass them.

Ms. Pettey stated you got the voters records, right.

The Secretary stated yes.

Board Member Bodor stated is this one whole set or is this two.

The Secretary stated yes.

Board Member Bodor stated this is one set.

The Secretary stated yeah.

Board Member Bodor stated thank you. Alright, this states that they did live at that address, but it does not verify that that was a separate residence in there. It just gives an address there.

Ms. Pettey stated right. But I believe we discussed that all at last month's meeting. And...

Board Member Bodor stated I mean, it could be in a room in the attic, you know what I'm saying. It does not...

Ms. Pettey stated right. But I have affidavits here...

Board Member Bodor stated verify...

Ms. Pettey stated from people saying that it was a separate apartment with separate entrance, which it still is.

Board Member Bodor stated would you happen to be aware Kathy, of how many legal three-family residences there are in that area there.

Ms. Pettey stated yes. There is quite a few actually.

Board Member Bodor stated legal ones.

Ms. Pettey stated I don't if they're legal.

Board Member Bodor stated according to voter...according to Assessor's records.

Ms. Pettey stated I have not looked at the Assessor records, but I grew up here and I know that there was, you know...Bill Martin's I know is a legal one because he just...

Board Member Bodor stated it's a legal three-family residence.

Ms. Pettey stated yes. Bill Martin's, you know, the one on First Street, because he just went through the whole thing here, too.

Board Member Bodor stated on First Street.

Ms. Pettey stated right. That, years ago, was Lagerio's house. It was, you know, familiar because I lived right there. That was a three-family. The one across from...across the street from me and to the right, that was the Pugsley house. It was Peggy Pugsley and Eloise Pugsley each had an apartment. There was a little apartment around the back that Ms. Kent, the first grade teacher, lived in.

Board Member Bodor stated and these are all separate living quarters within the structures...

Ms. Pettey stated yes.

Board Member Bodor stated that each had their own facilities there. Each one...

Ms. Pettey stated yes.

Board Member Bodor stated had a kitchen and a bathroom...

Ms. Pettey stated yes.

Board Member Bodor stated so to speak.

Ms. Pettey stated yes.

Board Member Bodor stated those are the essentials.

Ms. Pettey stated yes.

Board Member Bodor stated plus a sleeping area.

Ms. Pettey stated the one that's the children's center up there, that also was a three-family.

Board Member Bodor stated I'd like to see that...

Board Member Buzzutto stated but it don't make them legal, though...

Board Member Bodor stated verified.

Board Member Buzzutto stated I mean...

Board Member Bodor stated yes. That's what I need to know. Are they legal.

Board Member Buzzutto stated that's right. Well, the only thing I can say if they were legal, then there'd be some documentation in the Town here...

Board Member Bodor stated yes.

Board Member Buzzutto stated that there are three-family...legal three-families...

Board Member Bodor stated right.

Board Member Buzzutto stated on South Street.

Board Member Bodor stated South Street and adjoining streets. I'm sorry to say the voting records are not going to convince me.

Board Member Buzzutto stated no.

Board Member Bodor stated because it doesn't say they had their own apartment within the...

Ms. Pettey stated but I have it backed up by affidavits from people who remember it as this separate apartment and remember my father building it or, you know, knew my parents. Or came to the house and knew the situation.

Board Member Buzzutto stated but that's only affidavits, like hearsay.

Ms. Pettey stated it's not hearsay. A sworn affidavit is not hearsay. If somebody signs their name to something, they're not lying.

Board Member Buzzutto stated well.

Ms. Pettey stated I'm not lying. I have one from my brother. I mean, you asked me to get one from Betty Bubenicek. I don't see what the difference is between Betty Bubenicek and my brother or my mother.

Board Member Bodor stated what other information have you brought us. Is Rich making copies of other stuff.

The Secretary stated take one [referring to copies that were made].

Board Member Buzzutto stated take just the top.

Board Member Herbst stated take the top.

Board Member Buzzutto stated stapled.

Board Member Bodor stated it's not.

Board Member Herbst stated no, we're all out of staples.

Board Member Buzzutto stated there's three of each.

The Secretary stated yes.

Board Member Herbst stated alright. Just pass them down and they'll...

Board Member Buzzutto stated okay. There's more than one there.

Board Member Burdick stated she packaged them altogether, Buzzy. So you got a complete package.

Board Member Herbst stated I think there's one for Lars in there.

Board Member Buzzutto stated yes.

The Secretary stated thank you.

Board Member Buzzutto stated and these are...

Board Member Bodor stated okay, this is... Why is the address on this one 16 South Street.

Ms. Pettey stated the numbers for 9-1-1 changed it.

Board Member Bodor stated okay. If it was, you know, determined... a decision was made that it is in fact a two-family structure as opposed to a three-family, how does that change the financial situation right now. What does that do to...

Ms. Pettey stated I already told them that...

Board Member Bodor stated application.

Ms. Pettey stated actually, when they first said there was, you know, the Town saying there was a violation, even though the Town didn't say it the last three times, and I said, so then, make it a two-family. I don't...didn't really care. You know, I just need to get the loan...

Board Member Bodor stated right.

Ms. Pettey stated and they said that the appraisal has been done and verified it's a three-family and they have comparables for three-family. They do not have any for a two-family.

Board Member Bodor stated where are they getting their comparables from.

Ms. Pettey stated I have no idea. But the guy told me flat out, that this was the only option. If I was...

Board Member Bodor stated no, he told you the paperwork was done based on a three-family.

Ms. Pettey stated he told me...I told him to redo it and make it a two-family.

Board Member Bodor stated yes.

Ms. Pettey stated I don't care. And he said it...Bottom line was I have to come here and resolve this to make it...

Board Member Bodor stated alright. But he didn't say that nothing would work out if it were determined to be a two-family.

Ms. Pettey stated yes. He said I could not have a loan. There's no comparables.

Board Member Bodor stated he did say that.

Ms. Pettey stated yes. He did say that...

Board Member Bodor stated alright.

Ms. Pettey stated right out. Because, actually, it would be easier for me to just say, okay, make it a two-family.

Board Member Bodor stated yes.

Ms. Pettey stated I don't care.

Board Member Buzzutto stated well, I don't follow that.

Ms. Pettey stated just give me the loan.

Board Member Buzzutto stated why is that not applicable to get it, the loan, on a two-family rather than the three.

Ms. Pettey stated I'd like to know myself.

Board Member Buzzutto stated is it value.

Ms. Pettey stated I have no idea why. I don't know.

Board Member Burdick stated it's very confusing because there's plenty of houses down...

Ms. Pettey stated none that have sold recently. There's been no two-families that have sold. That's what the guy's telling me. I mean, it seems crazy to me, too, because it would be much easier just, alright, so give me a loan on a two-family.

Board Member Bodor stated yes, yes.

Ms. Pettey stated and I did say that to him, but he said no. This was my only option. I mean, I know you know I don't want to be here.

[Laughter]

Board Member Buzzutto stated well, that's for sure. Even if we voted to legalize a two-family, it...

Ms. Pettey stated it's already a legalized two-family.

Board Member Buzzutto stated yes.

Ms. Pettey stated I'm looking to get it to be a legalized three-family. I mean, according to the County records, it's already a legalized three-family for as far back as he could go on his records. I've been taxed for a three-family. The reason it was just written on the card in 1991 was because that's when garbage pickup came and they were assessing how many to charge, you know, how many units...

Board Member Buzzutto stated yes, I remember that.

Ms. Pettey stated to charge for. That's why it's written on there, for that. But I've been taxed all along for a three-family.

Board Member Burdick stated when did you purchase the house.

Ms. Pettey stated 1984.

Board Member Burdick stated do you...Have you tried to get any old tax records. I don't know, do the tax records say three-family on them.

Ms. Pettey stated they don't say.

Board Member Burdick stated they don't.

Ms. Pettey stated they don't even say a two-family. They don't say anything other than the map number and the address. It says that, you know, I guess the card is where the info comes from.

Board Member Herbst stated Sarah, should we have two of these. There are two parts, huh [referring to the copies made].

Ms. Pettey stated I mean, I would think that since there were three prior refinances and three prior applications that I made to the bank saying it was a three-family, and three prior title reports that came through the Town to verify...I mean, the first time I refinanced the Town kicked back that I didn't have a C.O. for my swimming pool. So, I know it came to the Town, and I...it wasn't that I didn't have one, I did have it. I just didn't know you had to file it. And I had filed that and then it went through. But nothing was ever said for three refinances since 1984. Nothing was ever said when the title report came to the Town. They never said anything.

Board Member Buzzutto stated the Town has no record of you coming here for the swimming pool. You say you came here to get the...

Ms. Pettey stated the Town...The first refinance I did...well, it must have been the second one because I got the swimming pool in 1988, it kicked back. The Town kicked it back and said it was a violation; that there was a swimming pool with no C.O. And then the bank called me and told me that, just like this time the bank called me and told me now they're saying it's, you know, you have the illegal apartment. So, then I went through my...I didn't know what...how to...what that was. I didn't even know you needed one. And then when I went through my papers and looked into it, I found it, brought it down, and filed it; for the swimming pool.

Board Member Buzzutto stated yes, but when you filed it to get a C.O. for the swimming pool, shouldn't there be documentation in the Town that it was applying to a three-family building.

Ms. Pettey stated I have no idea. I don't know how the Town works. I have a hard enough time figuring out how I work, you know what I mean. I don't know what they do over here or how it works. Alls I know is that it kicked it back because it needed a C.O. for the swimming pool, and I brought it and got it resolved, and then I got the refinance. So there's been three prior refinances and three prior title reports that came to the Town and the Town let them go through never saying anything about this not being a legal apartment until this time. This time you're saying it. I don't see how it went through three other times. I

mean, isn't that sort of like a past practice: You condoned it three times, three times you said it was alright. It's on the County records, and then all of the sudden this time it's not alright.

Board Member Buzzutto stated yes, but three times you came for refinancing, that don't mean it was anything...

Ms. Pettey stated three times a title report was done. And three times the...

Board Member Buzzutto stated yes, but that...

Ms. Pettey stated title report...

Board Member Buzzutto stated yes, but that don't mean it came before the Town.

Ms. Pettey stated yes it did. I just said that I had to produce a C.O. for the swimming pool so it did come...

Board Member Buzzutto stated yes. Only for the swimming pool.

Ms. Pettey stated yes. You didn't...The Town didn't say anything about the apartment. They said it about the swimming pool.

Board Member Buzzutto stated and there's no documentation in the Town here, whatsoever, on legalizing the swimming pool to get the C.O.

Ms. Pettey stated I don't know what the Town has. I don't see it on my thing. It's an above-the-ground pool. It's not a, you know, built in big thing. It's above the ground. But I'm just saying that when you refinance, you fill out your application. They take your application, like the one that I showed you that I filled out, the three-family dwelling, and then they do a title search on that. And they come to the Town to see if it's legal and see if everything that's on the application is legal and everything that is on the appraisal is legal. So, three prior times they've come to the Town. And three prior times, I got the refinance and the Town never said a word about that apartment. It's on my card as a three-family. It's in the County records as three-family, but this time, all of the sudden, they're saying something about the third apartment.

Board Member Buzzutto stated well, the Town is not...the bank.

Ms. Pettey stated the title company, when they do a title search...

Board Member Buzzutto stated the title, yes.

Ms. Pettey stated they send it to the Town...

Board Member Buzzutto stated right.

Ms. Pettey stated to make sure that all the information that's on the appraisal is correct. So the time with the swimming pool, when they came and they did the appraisal, here's the swimming pool and then they said to the Town is this all correct. Oh, well we don't know she has a swimming pool.

Board Member Buzzutto stated I'd like to let Rich...

Rich Williams stated if I can...I can answer some of that for you.

Board Member Buzzutto stated thank you.

Rich Williams stated past title...Past practices with title reports, the title report does not send anything to the Town saying is this information correct. They send are there any pending violations, and the Town's past practices were they would pull out the folder, if there's no pending violations they would issue a letter back to the financing company, there are no pending violations, without doing any further investigative work. As times have changed and we run into more and more problems like Mrs. Pettey had...Ms. Pettey, sorry, has...

Board Member Burdick stated one's the property description and the other one is...

Board Member Bodor stated okay.

Board Member Burdick stated site...

Rich Williams stated the Town has...

Board Member Burdick stated I know, just too many...

Rich Williams stated adopted a new policy, and there's better communication, better coordination, between the Building Department, the Assessor's Department, who actually determine what is on the site and whether there may be any pending violations. Again, we're still not going out there doing a site survey on every property, but we're doing more of a document search internally.

Board Member Buzzutto stated yes, but...

Rich Williams stated we also have new tools available to us, where there's better coordination and communication between the Building Department and the Assessor's Department.

Board Member Buzzutto stated yes, but that application came through for a three-family apartment, and it came before the Town...

Rich Williams stated well, all they're looking at...

Board Member Buzzutto stated wouldn't that be a violation right there that the Town...

Rich Williams stated they weren't looking as to whether it's legal under zoning or whether there is a violation, they were only looking as is there a pending violation. And that's all they're looking at.

Ms. Pettey stated there was no pending violation on my swimming pool. Nobody even knew I had it.

Board Member Buzzutto stated well, wouldn't that be a pending violation though.

Rich Williams stated excuse me.

Board Member Buzzutto stated wouldn't that be a pending violation.

Rich Williams stated no. They were not flagging it as a violation. They were...I'm telling...They were opening the folder, if there was a violation that had been already issued and written, then they would flag that to the title company. And that's all they were doing. That's past practices. So...

Ms. Pettey stated but I didn't have any prior violation in there already. I didn't...

Board Member Buzzutto stated excuse me [referring to clearing his throat].

Ms. Pettey stated have anything with the swimming pool until after they got, you know, when I tried to refinance. So, there wasn't like...

Rich Williams stated yes. I'm talking in a very generic fashion...

Ms. Pettey stated okay.

Rich Williams stated about Town policies that I've been involved with that have changed. I can't speak to specifics with about swimming pool; that you'd need to talk to Nick about.

Ms. Pettey stated well, that was in like 1988 or something. But...

Board Member Buzzutto stated thanks, Rich. I really don't see anything in here to acknowledge, except written in is a three-family dwelling over here.

Ms. Pettey stated that's my official application to the bank. That went to the bank and that was the information they've used to do the appraisal and the title search.

Board Member Bodor stated which bank are you currently trying to get this loan from.

Ms. Pettey stated it's Chase.

Board Member Bodor stated Chase.

Ms. Pettey stated well, it's actually M&T.

Board Member Bodor stated M&T is the same as Chase.

Ms. Pettey stated no, M&T used to be Pawling Savings Bank, and then I had my mortgage there and then they sold it to Chase. However, for some reason, I still deal with M&T. So I'm refinancing...

Board Member Bodor stated the current application is before M&T.

Ms. Pettey stated yes.

Board Member Bodor stated I still would like to see documentation of other three-family residence...legal three-family residence on that street and in that neighborhood. That would help. That would help if we could find that information.

Ms. Pettey stated the old library.

Board Member Bodor stated and I...But I need to see the legal documentation that the old library is in fact today...

Ms. Pettey stated I have to get that.

Board Member Bodor stated a three-family residence.

Ms. Pettey stated how do I get that.

Board Member Bodor stated listen, I'm just throwing this out. That's what I, you know, would like to know, number one. And number two, I'm not comfortable with this company telling you that if it is in fact a two family residence, you're not going to get the loan.

Ms. Pettey stated well, I'm not comfortable with that either, but...

Board Member Bodor stated so, you know, I...

Board Member Buzzutto stated I can't understand...

Board Member Bodor stated would like to see documentation that they're...No, we're not going to give her a loan.

Board Member Buzzutto stated why.

Board Member Bodor stated and then I don't know why either. I would think the amount would be lower, perhaps, of the loan. But to not give you the loan at all, I don't understand that.

Ms. Pettey stated no, I didn't understand that either.

Board Member Bodor stated thank you.

Ms. Pettey stated and everything that he gave me was that there is no comparables. There apparently is comparables for a three-family, but there is no comparables for two-family.

Board Member Bodor stated well, I would like him to document that, too. That would be, you know...

Board Member Buzzutto stated comparable to what though.

Board Member Burdick stated he's telling her there are no other two-families that have been sold recently for him to do a comp on, is what she's saying he told her.

Board Member Buzzutto stated okay.

Board Member Herbst stated have you tried applying to another bank.

Ms. Pettey stated no. I do everything through M&T. That's where my...everything is.

Board Member Bodor stated why not attempt, you know, make a like...shop around type of thing.

Ms. Pettey stated they've already always handled it, and my family. They're local.

Board Member Bodor stated yes, but you might have better luck somewhere else.

Board Member Buzzutto stated possibly. It won't hurt.

Ms. Pettey stated I don't know about that.

Board Member Buzzutto stated as far as decision making tonight, I think it's going...I'd like to...Would you want more time.

Ms. Pettey stated well, I'm really at the wire and my credit cards are pretty maxed out here with that garage on there. Really need to do this. I really think, you know...I mean, George Michaud, whatever his name is, you know who I'm talking about, down in County Building.

Board Member Burdick stated Real Property Tax.

Ms. Pettey stated yes. He seemed to think, what's the problem. I mean, I was like can find me something. And he was like what's the problem; it's on our records this house is built in 1860. As far as the County's concerned, it's been a legal three family since then. Just give them this and he printed it out. I was like, well, you know, I mean, it says that on my card. He goes, what's the problem. Just give them this. It's a three-family. They taxing you for three-family, does it say on your card it's a three-family. Then it's a three-family.

Board Member Bodor stated but it wasn't built in 1860 as a three-family.

Ms. Pettey stated I told him that.

Board Member Bodor stated so I, you know, I'm not willing to accept...

Ms. Pettey stated I told him it was built in 1960...

Board Member Bodor stated his testimony then.

Ms. Pettey stated well, he...

Board Member Burdick stated he's telling...He's just stating that the record shows it's a three-family. He doesn't understand the implication that we need to show it was a three-family back then.

Ms. Pettey stated right.

Board Member Burdick stated that's all. He's not, you know, he's not looking at it from a zoning point of view.

Ms. Pettey stated I know that.

Board Member Burdick stated Rich, how would we go about determining if there are other three-family houses in that area that are legal.

Rich Williams stated I would start off by saying I don't understand the relevance.

Board Member Bodor stated because it would of a precedence setting situation.

Board Member Burdick stated well, she's testifying that there's other legal three-families and the Board is saying show them to us. We don't think that there, you know, not that we know of because the Code doesn't allow it.

Rich Williams stated okay, but the question before the Board really is: is this a legal three-family home, i.e. was it in existence as a three-family home prior to the zoning being adopted, which then prohibited it from being a three-family home. That is what the Building Department determined: That in 1960, in order...in the case of the Town's assessment cards, in 1964, it was shown as a two-family home...

Board Member Burdick stated two-family. Right.

Rich Williams stated whereas 1960, the Code did not permit three-family homes within the...Actually, it was...I believe the M-1 Zoning District...

Ms. Pettey stated right.

Rich Williams stated without site plan approval by the Planning Board.

Ms. Pettey stated well, you know Bill Martin's house is there. I mean, he just went through this. So, you know, that's a legal three.

Board Member Burdick stated we don't know that it's a legal three. I don't think he presented it as a three-family house to us. Isn't it just him and his family that's in it.

Rich Williams stated I believe he got the zoning variance.

Board Member Burdick stated did he.

Ms. Pettey stated no, not the one he lives in. The other one.

Board Member Burdick stated oh.

Ms. Pettey stated the other one.

Board Member Burdick stated oh.

Ms. Pettey stated the one he owns there right on First Street, right across the street from me.

Board Member Burdick stated oh, okay. I thought you meant the one he lived in.

Ms. Pettey stated it's got three apartments in it. He just...he was, I guess, sited by Paul Piazza saying his was not a three-family. And he was able to get his made, you know, legalized as a three-family.

Board Member Buzzutto stated Martin, I think I remember that. Wasn't he before us twice.

Board Member Burdick stated well, he had his own house and then...

Board Member Buzzutto stated yes.

Board Member Burdick stated I don't recall the details of what information he provided to us.

Board Member Buzzutto stated I'd like to see that case pulled up in files and get documentation of that one there. You know, so we get information from whether, you know, what type of three-family it would be or whatever.

Rich Williams stated I go back to the, you know, the issue before the Board really is this particular house...

Board Member Buzzutto stated this particular...

Rich William stated and whether it is a legal pre-existing nonconforming use. If other houses along South Street are a legal three-family home. It has no bearing, really, on this case. Similarly, if there are several illegal three-family homes along South Street, then it really has no bearing on this particular application. The question before the Board is this particular house, was it a legal three-family at the time that the zoning, you know, allowed it, and then the zoning changed. And, you know, again, there's been a lot of information that's been submitted, and I know you haven't had a chance to digest it. The Town Attorney hasn't had a chance to digest it. Certainly the office hasn't taken a look at it. You know, there maybe documentation in there which...

Board Member Buzzutto stated yeah.

Rich Williams stated proves the case or not. I don't know.

Board Member Buzzutto stated well, we won't know until it's investigated again.

Rich Williams stated yes, I mean...

Board Member Buzzutto stated more proof.

Rich Williams stated you're looking at it now...

Board Member Buzzutto stated yes.

Board Member Bodor stated exactly.

Rich Williams stated I don't know how well you...

Board Member Bodor stated we have not had a chance to go through this.

Board Member Buzzutto stated yes.

Rich Williams stated digest this. Yes.

Board Member Burdick stated Kathy, when you were talking to George, did he mention anything about the old cards that they used to have on record before they went to the computer system and whether those cards are still in existence some place.

Ms. Pettey stated he said the only records they have access to now is the last seven years.

Board Member Burdick stated okay.

Ms. Pettey stated because I asked him if he would go in there and show me where to look and he just wanted to show on the computer and that's it.

Rich Williams stated yes. The old cards were really originally initial...held by the Town, and we still do. But we have the cards going back to, again, prior to 1964.

Board Member Burdick stated the ones that he used to have in his office. Because George used to have his own cards in his office.

Rich Williams stated yes.

Board Member Burdick stated those are the ones that you guys have.

Rich Williams stated similar exactly to what George used to have in his office, yes.

Board Member Buzzutto stated well, the only thing I can say is maybe we can table it and give you another month to come up with something.

Ms. Pettey stated I have to come up with something else.

Board Member Burdick stated well, if you can get Betty...If you can find Betty and get her to do that.

Ms. Pettey stated okay.

Board Member Burdick stated I mean, that's really the only thing. There's a lot of information here that I feel like I would like to be able to sift through to see if anything proves your case.

Board Member Buzzutto stated yes. Especially...

Board Member Burdick stated because I have to be honest, from what I'm seeing right now...

Board Member Buzzutto stated yes.

Board Member Burdick stated there isn't. So I'd like to be able to go through it and...

Ms. Pettey stated well, I would think that there should be, you know, sort of like a grandfather thing. If you let it go through three times and nobody said anything. You know, I mean there's case law on that.

Board Member Burdick stated who knows why it went through. I mean, the...

Ms. Pettey stated no, there is. There's case law on that. If you work at a job and they give you a turkey every year for ten years and on the eleventh year if they don't, you can sue them. There's case law.

Board Member Burdick stated there's also case...

Board Member Bodor stated it doesn't make it right.

Board Member Burdick stated it doesn't. And there's also...

Ms. Pettey stated whether or not, it's still...there's case law on it.

Board Member Burdick stated but Kathy, there's also case law that if a building permit is issued, but it's proven that a mistake was made in the issuance of that, that it can be revoked, so...And our attorney hasn't looked at everything either. He's, you know, I think he should...

Board Member Buzzutto stated and of course he's not here tonight.

Board Member Burdick stated look at everything. That's just my opinion. I would like to take time to be able to go through everything...

Board Member Buzzutto stated yes.

Board Member Burdick stated to...

Rich Williams stated if I could make one small request in the future, typically it's been the Board's policy that any material that they're going to be reviewing for a meeting gets submitted prior to the meeting a week to ten days and...

Ms. Pettey stated okay.

Rich Williams stated seven copies.

Board Member Buzzutto stated yeah.

Rich Williams stated that way we can...Kathy, we can get it to everybody.

Ms. Pettey stated okay.

Board Member Burdick stated we can review it.

Rich Williams stated so they have a chance to digest it so that...

Board Member Buzzutto stated yes.

Rich Williams stated we don't run into these stumbling blocks where, you know, this drags on and on and on.

Ms. Pettey stated so, what I'm getting there is you want the documentation from the bank of why they're refusing the loan.

Board Member Buzzutto stated yes, right.

Ms. Pettey stated and why it can't be done on just a two-family, and the statement from Betty Bubenicek.

Board Member Buzzutto stated well...

Board Member Burdick stated and anybody else that you...there's other people that are still around.

Ms. Pettey stated hard to find them now.

Board Member Burdick stated okay.

Board Member Buzzutto stated the address, when was it your father who passed away, was he living there at the time.

Ms. Pettey stated was my father living in the house...

Board Member Buzzutto stated yes.

Ms. Pettey stated when he passed away.

Board Member Buzzutto stated yes.

Ms. Pettey stated yes. He was living there with me, but he was a judge up in Friendship, New York.

Board Member Buzzutto stated yes.

Ms. Pettey stated he had cancer, I took him to my house. So yes, he did live there his last year.

Board Member Buzzutto stated well, I mean...

Ms. Pettey stated but it was my house. He lived in my living room in a hospital bed.

Board Member Buzzutto stated okay. I won't go into what I was going to say. Alright, so we'll...

Ms. Pettey stated my mother lives there now. She still lives there.

Board Member Buzzutto stated well, I see in the minutes that she was kind of senile. You said that she would...

Ms. Pettey stated well, she's, you know, in her late 80's.

Board Member Buzzutto stated yes.

Ms. Pettey stated I mean, she obviously still remembers, you know, the apartment and all that. She's not that senile. She's a little confused.

Board Member Buzzutto stated but that's not really documentation that we would be looking for. I think the best thing is what Rich said. We're going to go over this again, talk with the attorneys, and going to see what he recommends and bring it to some kind of a head at next meeting, if possible.

Ms. Pettey stated well, I hope so.

Board Member Buzzutto stated well, do you have to...I make a...Do I have...

Board Member Bodor stated make a motion to table it until next meeting.

Board Member Buzzutto stated second. All in favor. Motion carried by a vote of 4 to 0.

Board Member Buzzutto stated alright.

Board Member Burdick stated we'll meet on the 16<sup>th</sup>, Kathy.

Board Member Bodor stated March 15<sup>th</sup>.

Board Member Burdick stated 16<sup>th</sup>.

Board Member Bodor stated 16<sup>th</sup>. It's March 16<sup>th</sup> meeting.

Ms. Pettey stated so, you're just looking for some kind of documentation...

Board Member Buzzutto stated yes.

Ms. Pettey stated from Betty Bubenicek and anyone else I can find that remembers.

Board Member Buzzutto stated and from the bank...

Ms. Pettey stated and the letter...

Board Member Buzzutto stated as to why...

Ms. Pettey stated from the bank. Right.

Board Member Buzzutto stated a two-family house won't recognize it as a place you can get a loan on it.

Ms. Pettey stated right. Well then, what about the fact that I'm being taxed for a three-family all these years. Am I getting a refund.

Board Member Burdick stated what would really, really help is if you could find one of those old appraisals...

Board Member Buzzutto stated yes.

Board Member Burdick stated that shows that it's a three-family. I mean, that's really the documentation that we're kind of bound by that...to make this a favorable decision.

Board Member Buzzutto stated or if you could find anything, you know, that you might think is important.

Board Member Burdick stated I mean, that's even...that's more important than the statements from people. It's really, you know, a third party, you know, the bank or something produce documents. That would be...

Ms. Pettey stated right.

Board Member Burdick stated really, really helpful. I mean, I know some of the loans are really and...

Ms. Pettey stated with all due respect here, I've had a month to do all of this, and let me tell you something, this is not an easy task, everything that I've had to do here. I've been on the phone for hours and hours. Going here, going down there. They have to get stuff off of microfilm down at the thing. You have to submit an application and then you have to come back later. Then you have to pay money for everything. The bank, \$18.00 a page for what I got from the bank. They were supposed to mail it, it didn't come, it wasn't here. I called them up, fax it to me then, because I need for today. Eighteen dollars a page.

Board Member Buzzutto stated that's crazy.

Ms. Pettey stated yes. So, you know what, I mean, that's all I've done all month. So...

Board Member Buzzutto stated alright.

Ms. Pettey stated I've done the best I can do. I don't know what else I can, you know, give you. I will get the rest of these things...

Board Member Buzzutto stated yes.

Ms. Pettey stated and...

Board Member Buzzutto stated okay, fine.

Ms. Pettey stated okay.

Board Member Buzzutto stated thank you for your patience.

Ms. Pettey stated okay. Thank you for yours.

## **2) ERIC SCHMIDT CASE #02-11**

Mr. Eric Schmidt was present.

Board Member Buzzutto stated okay. Next.

The Secretary read the following legal notice:

**Eric Schmidt Case #02-11 – Area Variance: Held over from the January 19, 2011 meeting**

Applicant is requesting an area variance pursuant to §154-7 of the Patterson Town Code, Schedule of Regulations, in order to construct a 26' x 24' attached 2-car garage with a family room above and attic storage. The Code requires a minimum 40' side yard setback; Applicant will have 29.2'; Variance requested is for 10.8'. This property is located at 31 Cornwall Hill Road (R-4 Zoning District).

Board Member Buzzutto stated Mr. Schmidt, you want to come up to the mic.

Mr. Eric Schmidt stated hi, how are you again.

Board Member Buzzutto stated you've heard the agenda again. Any changes been made.

Mr. Schmidt stated nothing. No changes.

Board Member Buzzutto stated okay, we've been out to the dwelling out there for a site walk and found it well marked well...Appreciate it, it was very well done. Everything seemed to be pretty well documented on what he wants to do. Okay.

Board Member Bodor stated the attic storage is just dead storage, right.

Mr. Schmidt stated correct.

Board Member Bodor stated and the family room will be accessed from the present.

Mr. Schmidt stated yes. It will only be accessed from the present structure. It's not going to be accessed, we're not going to have anything outside for that.

Board Member Bodor stated nothing on the outside and no stairway going up from the garage area itself.

Mr. Schmidt stated nah. We haven't even thought that, but thank you.

Board Member Buzzutto stated yes.

[Laughter]

Mr. Schmidt stated but no, I don't...That will probably just take up too much room from the garage and I don't know if that would look right either.

Board Member Bodor stated alright. I was hoping that.

Mr. Schmidt stated yes.

Board Member Buzzutto stated which is this, 26' x 24'. Do they say 26' wide, 26' long. What...Should that be documented on which way that's going to be.

Mr. Schmidt stated I think it was a 26'...

Board Member Buzzutto stated well, it's 26' x 24'.

Mr. Schmidt stated I think it was the 26' long...going out and then 24'...

Board Member Buzzutto stated I mean, I never...

Board Member Bodor stated 24' deep.

Board Member Buzzutto stated I never really thought about it before.

Mr. Schmidt stated 24' deep; so when you go up the driveway, you go back 24' from the house, it goes out 26'.

Board Member Buzzutto stated okay.

Board Member Bodor stated and it was determined that the exterior will be conforming to the current...

Mr. Schmidt stated yes.

Board Member Bodor stated exterior.

Mr. Schmidt stated yes. We don't want to change that.

Board Member Buzzutto stated no.

Board Member Bodor stated it's not going to look like an add on.

Mr. Schmidt stated yes. That's one of our biggest concerns.

Board Member Bodor stated okay.

Mr. Schmidt stated it's enough that we're doing it that way that you'll see that it's a cape, but we don't want it to look like, okay, that piece and that piece and that. We want it to fit in.

Board Member Bodor stated and the roofline will be representative, too, of...

Mr. Schmidt stated yup. Correct.

Board Member Bodor stated good planning and...

Mr. Schmidt stated yup. Then who knows this winter's going, we might be doing the front roof of the existing house and

Board Member Bodor stated we never did ask, where is your well. In the front, back.

Mr. Schmidt stated it's in the back corner if you can see...

Board Member Bodor stated it's in the back.

Mr. Schmidt stated actually, it might not be in the corner.

Board Member Bodor stated it's not indicated on this [referring to the survey].

Mr. Schmidt stated it should be. I was just looking at it, yes. This one right over here.

Board Member Bodor stated okay.

Mr. Schmidt stated okay.

Board Member Bodor stated and then the septic is...

Mr. Schmidt stated the septic fields is up in front of the house...

Board Member Bodor stated the other side.

Mr. Schmidt stated over here. Going down the hill.

Board Member Bodor stated okay.

Board Member Buzzutto stated what is blocked off...will there be enough room to get a car in there if...

Mr. Schmidt stated probably. You know, because we'll probably keep that as a garage door and, you know, I'll probably put in the wintertime, I'll probably have the snow blower in there. In the summertime, have the lawn tractor in there and everything.

Board Member Buzzutto stated but it will never be used to house a car.

Mr. Schmidt stated no. Again, just for...

Board Member Buzzutto stated under the house.

Mr. Schmidt stated a bunch more space.

Board Member Buzzutto stated okay. Now, I don't see anybody in the audience here unless Rich has something to say. Okay. I have to ask. Does the Board have anymore questions on this particular application.

Board Member Herbst stated nope, I think the site walk was...

Board Member Buzzutto stated yes, we did the site walk and the site walk was very...

Board Member Herbst stated was very informative.

Mr. Schmidt stated yes. I probably should have put pictures in the first application. It probably would have made it a little bit more...

Board Member Buzzutto stated yes.

Mr. Schmidt stated but...

Board Member Bodor stated we like pictures.

[Laughter]

Mr. Schmidt stated the first time I'm doing this, so hopefully...

Board Member Bodor stated that's okay.

Mr. Schmidt stated the last.

Board Member Buzzutto stated now we need a reso.

Board Member Bodor stated yes. Shall I make a motion to close the public hearing.

Board Member Buzzutto stated you may.

Board Member Bodor stated I make that motion.

Board Member Buzzutto stated do I have a second.

Board Member Herbst stated second.

Board Member Burdick stated second.

Board Member Buzzutto stated all in favor. Motion carried by a vote of 4 to 0.

Board Member Buzzutto stated opposed. None. Okay, public hearing is now closed. And we'll read it in just a second.

Board Member Burdick stated I'll do it if you want.

Board Member Buzzutto stated I'm sorry.

Board Member Burdick stated I said I'll do it if you want.

Board Member Buzzutto stated if you will, that's fine.

Board Member Burdick read the following resolution:

**IN THE MATTER OF THE APPLICATION OF**  
***Eric Schmidt, Case #02-11***  
***For an Area Variance for a 24'x 26' 2-car garage***  
***with a family room above and attic storage***

**WHEREAS, *Eric Schmidt* is the owner of real property located at 31 Cornwall Hill Road (R-4 Zoning District), also identified as **Tax Map Parcel #23.-1-22, and****

**WHEREAS, Eric Schmidt** has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code, Schedule of regulations, in order to construct a 24'x 26' 2-car garage with a family room above and attic storage on the side of the dwelling, and

**WHEREAS, §154-7** of the Patterson Town Code requires a 40' side yard setback; Applicant will have 29.3'; **Variance requested is for 10.7'**, and

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

**WHEREAS, a public hearing** was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on **January 19, 2011 and February 16, 2011**, and a site walk was conducted on **January 29, 2011**, 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 added garage will enhance the appearance of the structure and it is not visible from any of the other neighbors; it is well hidden because of topography and the location of the property.**
2. the benefit sought by the applicant **cannot** be achieved by any other feasible means **because of the layout of the property.**
3. the variance requested **is not** substantial.
4. the proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district **because the area where the garage is going to be placed is already back topped; It's not increasing impervious coverage.**
5. the alleged difficulty necessitating the variance **was self created but 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 **Eric Schmidt for an area variance** pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, **of 10.7' from the 40' required for a side yard setback**, in order to construct a 24'x 26' 2-car garage with a family room above and attic storage on the side of the dwelling.

Board Member Bodor stated I'll second it.

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

Resolution carried by a vote of 4 to 0.

Mr. Schmidt stated okay.

Board Member Burdick stated good luck.

Mr. Schmidt stated okay, thank you.

Board Member Bodor stated when the ice melts.

Mr. Schmidt stated honestly, it's been a pleasure hearing water run.

Board Member Bodor stated yes.

Mr. Schmidt stated you know.

Board Member Bodor stated right.

Mr. Schmidt stated it's...

Board Member Bodor stated we want it to keep running.

Mr. Schmidt stated yes. Actually, I think it was the morning that you got there, finally, in the mail, came my roof rake.

[Laughter]

Board Member Bodor stated oh.

Board Member Buzzutto stated oh.

Board Member Bodor stated okay.

Mr. Schmidt stated I was quite happy about that.

Board Member Burdick stated I've used one for the first time this year and they're a god send.

[Laughter]

Mr. Schmidt stated exactly.

Board Member Bodor stated I borrowed one.

Mr. Schmidt stated okay, thanks very much guys. Have a nice night.

Board Member Burdick stated good luck.

Board Member Buzzutto stated good luck to you.

Board Member Burdick stated yes, we did, too.

**3) OTHER BUSINESS**

**a. Minutes**

Board Member Buzzutto stated okay. Unfinished business.

Board Member Herbst stated do we have any minutes to be approved.

Board Member Bodor stated we have two sets of minutes.

Board Member Herbst stated hey Buzzy...

Board Member Bodor stated are we ready to act on the minutes or...

Board Member Herbst stated huh.

Board Member Bodor stated are we ready to act on the minutes.

Board Member Buzzutto stated yes.

Board Member Herbst stated yes.

Board Member Burdick stated yes.

Board Member Bodor stated okay.

Board Member Herbst stated I am. I just had a question for Buzzy about something else.

Board Member Buzzutto stated oh, okay.

Board Member Herbst stated I'll wait till the end.

Board Member Bodor stated I'll make a motion to accept both sets of minutes. I don't have the dates, where are they.

Board Member Burdick stated the 15<sup>th</sup>...

Board Member Buzzutto stated would that be the January...

The Secretary stated December 15<sup>th</sup> and January 19<sup>th</sup>.

Board Member Buzzutto stated December and January.

Board Member Bodor stated December and January's minutes.

Board Member Herbst stated okay, I'll second it.

Board Member Bodor stated all in favor.

Board Member Buzzutto stated all in favor. Motion carried by a vote of 4 to 0.

Board Member Buzzutto stated so be it, all in favor.

Board Member Bodor stated anything else.

Board Member Buzzutto stated no. Other business.

Rich Williams stated (inaudible – too distant).

Board Member Bodor stated I'm sorry.

Rich Williams stated Tim just pulled in.

Board Member Bodor stated oh, well...

Rich Williams stated (inaudible – too distant) like to get the heck out of here.

Board Member Bodor stated he's a little late.

Board Member Buzzutto stated yes, okay. Okay.

Board Member Bodor stated alright, is that it. Make a motion to adjourn the meeting.

Board Member Burdick stated second.

Board Member Buzzutto stated all in favor. Motion carried by a vote of 4 to 0.

Board Member Buzzutto stated meeting adjourned.

Meeting was adjourned at 8:00 p.m.