

**TOWN OF PATTERSON  
ZONING BOARD OF APPEALS  
February 18, 2009**

**AGENDA & MINUTES**

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**PLANNING DEPARTMENT**

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

Michelle Russo  
Sarah Wagar  
*Secretary*

Richard Williams  
*Town Planner*

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



**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF  
APPEALS**

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

**PLANNING BOARD**

Shawn Rogan, Chairman  
David Pierro, Vice Chairman  
Michael Montesano  
Maria DiSalvo  
Charles Cook

**Zoning Board of Appeals  
February 18, 2009 Meeting Minutes**

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

Present were: Chairman Howard Buzzutto, Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Gerald Herbst, Board Member Lars Olenius, Carl Lodes, Attorney with Town Attorney's Office Curtiss & Leibell and Rich Williams, Town Planner.

Chairman Buzzutto called the meeting to order at 7:00 p.m.

There were approximately 4 members of the audience.

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

Chairman Buzzutto stated Sarah, do you want to read the...

Roll Call:

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

**1) ALAN STEGER CASE # 16-08**

Chairman Buzzutto stated okay. Do you want to 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, February 18, 2009 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following application:

**Alan Steger Case #16-08 – Use Variance, Held over from November 24, 2008 and December 11, 2008 meetings**

Applicant is requesting a use variance pursuant to §154-30 of the Patterson Town Code; Permitted principal uses, in order to allow a single family residential use of the site. The property is located within a General Business Zoning District, in which residential uses are not permitted by Code. The property is located at 5/19 Center Street/Front Street.

Chairman Buzzutto stated okay. Is Mr. Steger here tonight. I believe he didn't show up tonight, yet. Or is he still in Florida.

Board Member Bodor stated he mentioned he might not be available for subsequent meetings the last time he was here, due to his plans to spend some time in Florida.

Chairman Buzzutto stated right. Well, he wasn't here the last time either.

Board Member Bodor stated he wasn't at the last meeting, nor is he here tonight apparently.

Chairman Buzzutto stated well, I guess we can ahead with it and get it off the agenda. You want to let it ride until the end here, or see if he comes in or just take a...

Board Member Bodor stated I believe that we had requested information from him, and I...More detailed information and I'm not sure that we received it.

Chairman Buzzutto stated nothing...A breakdown on the properties.

Board Member Bodor stated there was some very, very explicit financial information regarding one of the pieces of the variance that he was requesting. I'm looking for it as I'm reading here. The use variance. One of the criteria that he had to show us was that he could not realize a reasonable return substantial. And we needed complete financial evidence, and we never did receive that information from him. And I know it was requested. That was one of the four criteria that he had to prove to us.

Chairman Buzzutto stated well, according to Tim...

Board Member Bodor stated in his request.

Chairman Buzzutto stated at the last meeting, with his figures, that his income is substantial within the reasoning of what he should be getting.

Board Member Bodor stated yes, because this refers to a whole parcel of property...a lot. It doesn't refer to one structure on that lot.

Chairman Buzzutto stated right.

Board Member Bodor stated he's got to talk about the whole lot, and even though there are one, two major structures on it, he's got to be able to show a less than reasonable return on the income from the property itself. Not just one piece of it. And he did not prove that to us, to my knowledge.

Chairman Buzzutto stated yeah. Because his biggest income is from the post office.

Board Member Bodor stated the other piece, too, there is, we believe, a violation...a zoning violation on the property in that there was a rather large...

Chairman Buzzutto stated shed.

Board Member Bodor stated storage shed placed there, and we don't have any documentation regarding the history of that. And again, we were asked for it.

Chairman Buzzutto stated okay. Do we table it for another month. Or just go ahead and...

Board Member Herbst stated I think we should table it for one more month and we'll see what happens. If he doesn't show up, he doesn't give us anything, then you can move on it.

Chairman Buzzutto stated well, he was supposed to send us all of his financial statements.

Board Member Herbst stated well, I know. He may still be in Florida, because that's where he said he's going.

Chairman Buzzutto stated okay.

Board Member Herbst stated I mean, look at the weather. I can't blame him if he's still there.

Chairman Buzzutto stated so what's your (inaudible).

Board Member Bodor stated it's up to you. We can make a motion to...if that's the pleasure, make a motion to pass it...We extend it for another month.

Board Member Burdick stated but I think if we do that, I think that we need to send him a letter telling him we need that information.

Board Member Bodor stated or we will be making a decision at the next...

Board Member Burdick stated because it was my recollection that he said he would be here at this meeting, and that...

Chairman Buzzutto stated that's right. Yeah.

Board Member Burdick stated that he would come back for the meeting. He wasn't happy about it, but to my recollection, he said he would be here.

Board Member Bodor stated that's correct.

Board Member Burdick stated and the information was asked for because Mr. Curtiss said they're office would review it when it came in.

Chairman Buzzutto stated okay. Rich, have you heard anything from Mr. Steger about coming back.

Rich Williams stated I talked to him about a week ago. He had planned on being here tonight, yes.

Chairman Buzzutto stated alright, then we can set it up to just pick it up at the end of the meeting. And if he doesn't show...Alright, so we'll give him that much anyway. Alright, so we'll just push this one aside.

Board Member Bodor stated and table it to later till this evening in event that...

Chairman Buzzutto stated table it till later.

Board Member Bodor stated he shows up.

Chairman Buzzutto stated then we'll make a decision later.

Board Member Bodor stated okay.

Chairman Buzzutto stated okay, hold over. Okay, so the next one on the agenda would be... You want to read that in Sarah.

## 2) SUSAN & HOSSEIN MOEIN CASE #01-09

Mrs. Susan Moein was present.

The Secretary read the following legal notice:

### **Susan & Hossein Moein Case #01-09 – Area Variances; Held over from January 21, 2009 meeting**

Applicant is requesting an area variance pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings. Applicant wishes to construct a second story addition in order to relocate the existing bedrooms and renovate the downstairs of dwelling and to construct an attached two-car garage. This property is located at 4045 Old Route 22 (R-1 Zoning District).

Chairman Buzzutto stated okay. Mr. Moein. Here's Mr. Steger.

(Mr. Alan Steger walks into the meeting)

Chairman Buzzutto stated okay, you heard what the agenda read. This one we took a site walk on a week or so ago. Couldn't find anything really out of the way on it except, what was the...When you come back out...It was the driveway...backing out of the driveway with the...

Board Member Herbst stated that was the question that was raised, backing out of the driveway. However, I took another site walk on it, and I noticed that you had one of your cars parked back against the snow pile. And if you could do that, then you wouldn't have any problem, and you wouldn't have to back out. In other words, when you do this, if you make arrangements, you know, to patch there, someplace in there where you can turn around, then you can just pull straight out...

Mrs. Susan Moein stated right.

Board Member Herbst stated and there's no problem at all then.

Mrs. Moein stated yeah.

Chairman Buzzutto stated your normal procedure, do you back out or do you...

Mrs. Moein stated no, I never back out.

Chairman Buzzutto stated you never back out.

Mrs. Moein stated I always kind of make a U-turn and...

Chairman Buzzutto stated yeah, because that's quite blind there.

Mrs. Moein stated yeah, it's bad.

Board Member Bodor stated or you can back in.

Chairman Buzzutto stated yeah, well...

Mrs. Moein stated you can see it, sure.

Board Member Herbst stated see, but what was mentioned was that when you put on the addition, you might not have room to turn around in the driveway at all. But if you put that extra patch there, you could.

Mrs. Moein stated right.

Board Member Herbst stated and just back right into it like you did before.

Mrs. Moein stated right. I think we were going to have to put something on the side there.

Board Member Herbst stated yeah.

Mrs. Moein stated we are going to have to do something.

Board Member Herbst stated alright.

Chairman Buzzutto stated do I have any input from the audience here. No. Alright. Do you have any reason to continue with this, or shall we just...

Board Member Bodor stated no. I'd like to close the public hearing.

Chairman Buzzutto stated yeah, okay. The public hearing will be closed.

Board Member Burdick stated second.

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

Chairman Buzzutto stated I'm open for a reso...

Board Member Bodor stated I think Lars has a reso.

Chairman Buzzutto stated you got it.

Board Member Olenius stated I'll do my best.

Chairman Buzzutto stated okay. This is on Moein, case number...What was it. 01-09.

Board Member Olenius stated yes.

Board Member Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF  
*Susan & Hossein Moein, Case #01-09*  
*Enlargement of a Nonconforming Building***

**WHEREAS, *Susan and Hossein Moein are*** the owners of real property located at 4045 Old Route 22 (R-1 Zoning District), also identified as **Tax Map Parcel # 35.6-1-55**, and

**WHEREAS, *Susan and Hossein Moein*** have made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-58 of the Patterson Town Code; Enlargement of a nonconforming building, for construction of a second story addition in order to relocate the existing bedrooms and renovate the downstairs of the dwelling and to construct an attached two-car garage, and

**WHEREAS, §154-58** of the Patterson Town Code requires any building which does not conform to the requirements of these regulations regarding building height limit, area and width of lot, percentage of lot coverage and required yards and parking facilities shall not be enlarged unless such enlarged portion conforms to all of the provisions of this chapter applying to the district in which such a building is located. No non-conforming portion of any building may be extended, nor any non-conforming use extended into any other area of a building or lot, and

**WHEREAS, §154-7** of the Patterson Town Code requires a 35' front yard setback; Applicant currently has 10'± from the property line; the new addition will remain 10'± from the front property line, 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 21, 2009 and continued on February 18, 2009***, and a site walk conducted on ***January 31, 2009***, 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 most homes in the area are two-story, currently, and are of similar size.***

2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because of the existing location of the driveway*.
3. the variance requested *is* substantial *however not so much so as to deny the variance*.
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because space for construction is already impervious due to the existing driveway*.
5. the alleged difficulty necessitating the variance *was self-created* but *is not so 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 *Susan and Hossein Moein* for an *area variance* pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings, for construction of a second story addition in order to relocate the existing bedrooms and renovate the downstairs of the dwelling and to construct an attached two-car garage.

Board Member Burdick stated second.

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

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

Chairman Buzzutto stated okay, you'll see the...

Board Member Olenius stated Building Inspector.

Chairman Buzzutto stated Building Inspector, tomorrow or whenever, you know. Get the final (inaudible). Good luck.

Mrs. Moein stated okay. Thank you so much.

Board Member Olenius stated good luck.

Chairman Buzzutto stated okay. Do we take Mr. Steger.

Board Member Bodor stated no. Do Martins and then...

Chairman Buzzutto stated do Martins. Yeah, we have Martins. Do you want to read off of...

3) **CELESTE & FRANCISCO MARTINS CASE #02-09**

Mr. Steve Miller, Badey & Watson, was present.

The Secretary read the following legal notice:

**Celeste & Francisco Martins Case #02-09 – Area Variances; Held over from January 21, 2009 meeting**

Applicant is requesting three area variances pursuant to § 154-7 of the Patterson Town Code; Schedule of regulations. Applicant proposes to subdivide the property into two lots and has an application currently pending with the Town of Patterson Planning Board. The Patterson Town Code requires 225' of road frontage Lot 1, once subdivided will have 50.01'; the variance requested is for 174.99'. Lot 2, once subdivided will have 128.53'; the variance requested is for 96.47'. The Patterson Town Code requires 250' for lot width in the R-4 Zoning District, once subdivided Lot 1 will have 183.86'; the variance requested is for 66.14'. The property is located at 25 Cassandra Court (R-4 Zoning District).

Mr. Steve Miller stated good evening.

Chairman Buzzutto stated good evening.

Board Member Bodor stated use the microphone.

Chairman Buzzutto stated yeah.

Mr. Miller stated I'm Steve Miller with Badey & Watson. I'm representing Mr. and Mrs. Martins this evening. We were here at the last meeting, at such time the Zoning Board elected to go out and make a site visit to look at the situation on Cornwall Hill Road and the property in general. At the last meeting, there was some discussion about...The original request was for a total of three variances, which would have been, as Sarah mentioned, would have been for lot frontage for both Lot 1 and Lot 2 and a lot width for Lot 1. After listening to the Board's concerns about the possible future driveway that might come out on to Cornwall Hill Road from the Lot 1, I had an opportunity to talk to Mr. and Mrs. Martins, and they were in agreement that we could eliminate this proposed 50' strip, thus creating Lot 1, not providing the 50' strip for Lot 1, and only using the existing access over it. Subsequently if we change the lot line around, we'd only be requesting one variance now, which would be for this Lot 2 for frontage. We'd be required to have 225' of road frontage, and we'd have...we would be providing 178 [feet], and we'd be requesting a single variance of approximately 47'. I know that the Zoning Board had gotten an opportunity to go out and look at the site. As I said, we're in a position now to modify our request from a total of three variances to one variance. So...

Chairman Buzzutto stated but right now you're...excuse me (Chairman Buzzutto cleared his throat) eliminate the driveway on...right up there.

Mr. Miller stated that's correct. We had originally had a 50' strip that came in like this (referring to plans)...

Chairman Buzzutto stated right.

Mr. Miller stated and had made it a part of Lot 1, with the understanding...with the idea that sometime in the future, somebody could build this driveway and eliminate one lot on this common driveway.

Chairman Buzzutto stated we requested some kind of a statement from the County, if they will allow another driveway on that...

Mr. Miller stated I took that to mean this second driveway here, not this one (referring to plans). Was I correct. We inquired at the County and made several telephone calls, and not had response back. So we're hopeful that because we're eliminating this strip in here now, and thus asking for only the one variance, that the Board would be more...

Chairman Buzzutto stated just the one variance for the frontage.

Mr. Miller stated that's correct.

Chairman Buzzutto stated yeah.

Mr. Miller stated that's correct.

Chairman Buzzutto stated and you have the easement originally...

Mr. Miller stated the existing house currently has an access easement over this common driveway.

Chairman Buzzutto stated right. And the driveway will feed that piece of property up on top, where will that go through...

Mr. Miller stated this will be on this lot. This Lot 2 was the proposed new lot...proposed new...

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

Board Member Herbst stated he's eliminating that now.

Board Member Bodor stated and that driveway would be on the western side of that piece...of that lot. Coming in.

Mr. Miller stated yes it would.

Board Member Bodor stated okay.

Mr. Miller stated they're...

Board Member Bodor stated that's the west I think.

Mr. Miller stated okay. We fully expect that we may end moving this entrance into the middle of this lot now. We'll give us some more site distance down here.

Board Member Bodor stated okay.

Mr. Miller stated we'll eliminate the proximity of this driveway to the driveway next door. I think that the point that we want to make to the Board, is that we're only going to have one new driveway onto Cornwall Hill Road. We're not providing any possibility in the future to construct a second driveway from this dwelling. Did you get an opportunity to look at this (talking to Robert Deikus – audience member).

**Robert Deikus stated** but now your saying that from the original driveway, you want to gain access...

Chairman Buzzutto stated do you want to...

Mr. Miller stated no. No. This here...this is the existing driveway which you have access over...

**Robert Deikus stated** right.

Mr. Miller stated and the Martins currently have access over.

**Robert Deikus stated** it crosses over my property, yes.

Mr. Miller stated okay.

Chairman Buzzutto stated sir, do you want to give your name and address.

**Robert Deikus stated** Robert Deikus. I reside at 11 Cassandra Court. Property owner. I'm here with my brother, who is a financial backer in my properties. I was curious...

Chairman Buzzutto stated and your question was...

**Robert Deikus stated** if the public easement that goes over my property to gain access to 25 Cassandra Court, was now...then going to be used to gain access to other properties.

Mr. Miller stated no.

Board Member Bodor stated no.

Mr. Miller stated no. It will only...It will continue to be used for accessing 25 Cassandra Court.

Chairman Buzzutto stated right.

Mr. Miller stated and that will be it. The proposed second lot, which is a proposed house, will have an individual driveway from Cornwall Hill Road, to access that lot. There will be no access to another dwelling off of this common driveway.

**Robert Deikus stated** (inaudible – too many talking) driveway.

Mr. Miller stated exactly.

Chairman Buzzutto stated so there will be two driveways there; One on...What is that, Cassandra [Court].

Mr. Miller stated well...

Board Member Olenius stated that's existing.

Board Member Bodor stated it's existing.

Chairman Buzzutto stated that's existing.

Mr. Miller stated this is existing. This currently exists.

Chairman Buzzutto stated and then you would have another driveway up...

Mr. Miller stated and then we're proposing one new driveway to access this new proposed dwelling here.

Board Member Bodor stated on Lot 2, at the most...At the safest location.

Mr. Miller stated at the safest location, correct.

Board Member Bodor stated along that frontage.

Mr. Miller stated yes.

Board Member Olenius stated from the site walk, that was my biggest concern...

Board Member Burdick stated yeah.

Board Member Olenius stated because where it's proposed there on this map, it was awful close to that corner there.

Mr. Miller stated right. And we...

Board Member Olenius stated in my mind I was...

Mr. Miller stated we saw that the members were concerned about that, and we fully expect that between ourselves, the County, and the Planning Board, that we will choose an adequate and safe location for the driveway entrance. It will not be here.

Chairman Buzzutto stated which way are we going on that road. Going up is going towards...

Mr. Miller stated this is Cornwall Hill Road. This is heading out towards [Route] 311.

Chairman Buzzutto stated going that way.

Mr. Miller stated that's correct.

Chairman Buzzutto stated or going...Okay, fine.

Mr. Miller stated this is...[Route] 311 swings up like this.

Chairman Buzzutto stated alright, fine. I'm just getting directions mixed up here.

Mr. Miller stated there's townhouses or condominiums across the street here.

Chairman Buzzutto stated yeah. And you're house...up on the top part.

Board Member Bodor stated way up at the top, off the mountain.

Chairman Buzzutto stated okay. That's...

Board Member Bodor stated I'm on the corner.

Mr. Miller stated okay. Right at the corner of [Route] 311 and...

Board Member Bodor stated right at the intersection.

Mr. Miller stated okay.

Board Member Bodor stated not the big white house.

Mr. Miller stated oh. The other house. So...

Board Member Bodor stated that plan makes a lot more sense to me.

Mr. Miller stated okay.

Board Member Bodor stated and I appreciate you and your clients working with us and making something that makes a lot more sense and minimizes the variances necessary to...

Mr. Miller stated and I understand that. And we understand that.

Board Member Bodor stated to do the job that hopefully is going to be agreed to by everyone.

Chairman Buzzutto stated do I have any more input from the audience on this.

**Robert Deikus stated** I'm just still curious how much frontage will they have.

Mr. Miller stated this frontage will have 178'. We'll be 178'.

**Robert Deikus stated** that's what's there right now, 178'. I have...

Mr. Miller stated that's correct.

**Robert Deikus stated** so now what is 25 Cassandra Court going to have as frontage. Nothing.

Mr. Miller stated it doesn't have any frontage.

**Robert Deikus stated** he'll give up his frontage.

Mr. Miller stated this...the 25 Cassandra Court currently exists with 178'.

**Robert Deikus stated** with 178' frontage.

Mr. Miller stated that's correct. You have 178' with...In this plan, Cassandra Court will not have any legal frontage, but it has access over a common driveway, which is allowed by the Town.

**Robert Deikus stated** so he's taking benefit of my 100' worth of street frontage and make his legal. I'm not too thrilled with that. With everybody supposed to have one hundred...minimum, minimum, minimum of 100 foot. Now he wants to give his parcel 178 [feet]. I'm kind of against that. Why does this person, you know, just suddenly get to request a change of law so drastically that he doesn't have to have the minimum. Any minimum.

Board Member Bodor stated parcel...

**Robert Deikus stated** where he has to drive over my lawn, literally, for the access to his driveway, you know. My...The driveway goes across the middle of my lawn here, if I could show you [referring to the plans]. This is my house down here. This is my lawn all in here. The driveway extends for this one part where...My property's all this. Then it goes into the 17 Cassandra Court, but here, this is all mine, he goes to there. Now he suddenly doesn't have to have minimum of 100[feet], but he's going to be able to sell off this, and take advantage of my driveway for his common use, and not have to have the minimum 100 feet of frontage. I don't see that as being fair or just.

Board Member Bodor stated alright. His property has always been accessed via that common driveway.

**Robert Deikus stated** yes. That it has.

Board Member Bodor stated that is preexisting.

**Robert Deikus stated** that I have no problems.

Board Member Bodor stated historically that was that way.

**Robert Deikus stated** yes, I know. When it was Schepple's. But, when it was subdivided, they made sure that this had it's 100' or greater, or I had to have 100' or greater, and this encompassed so he would have his 100' or greater. I think that he should have to have a bare minimum of 100 [feet].

Board Member Bodor stated he will have...

**Robert Deikus stated** if he wants to chop this down and give them 78', that's fine and dandy. But I don't want to lose anything next to my little field, you know. I think he should have to have a minimum of 100 [feet]. The law is the law. It was set that way in stone a long time ago, am I correct.

Chairman Buzzutto stated but you're not losing anything. You're...

**Robert Deikus stated** but he's gaining. He's able to give up 100' mandatory. He's being able to...What he wants is to give up his mandatory 100 [feet] so that he can sell off something, and not have to have his minimum, you know, what everybody has to have. Do you see where I'm coming from.

Chairman Buzzutto stated no, I can understand what you're saying. But you're not giving up any land.

**Robert Deikus stated** no I'm not. I'm not giving up my land.

Chairman Buzzutto stated you're just giving up a variance. You know.

**Robert Deikus stated** so that...What you're asking me to do is say that, okay, it's alright for you not have 100' so that you can sell your land. But you can always have access to your house cutting across my yard. But your don't have to have 100' on the street, when everyone else does, and more. What gives this person the right to even ask to go so far against the law that he has to give up his minimum of 100 feet. That's my beef.

Chairman Buzzutto stated well, that I can understand where you're coming from here. That's why...

**Robert Deikus stated** that's my main objective. Why does he not have to have 100' like this house does, like this house does. Mr. Gibson's did. Your house has 300 [feet]. Now this person just wants to use a public access...

Mr. Miller stated I don't think one of these Schepp pieces in the back has frontage. Did you notice that.

**Robert Deikus stated** yeah. That was done illegally. I know all about that. That was done illegally.

Mr. Miller stated well...

**Robert Deikus stated** that was before I got here. That was illegal. I mean, that's been...

Mr. Miller stated the Town has allowance for common driveways and...

**Robert Deikus stated** common driveways...But that was done illegal and it's being fought in court. I know about it. But I just want to know why this resident, who just moved here...I don't know if they even have, you know, legal citizenship. If they don't have a green card. Why, suddenly, he has to...he's going to be able to give up his mandated 100' on the street.

Board Member Bodor stated right.

**Robert Deikus stated** why is he going be granted the permission to...

Board Member Bodor stated this gentleman, has a piece of property that is large enough by today's zoning Code to be subdivided. And that's what he's looking to do, okay.

**Robert Deikus stated** sure. But than he should...

Board Member Bodor stated now, try to...

**Robert Deikus stated** keep his 100 [feet] and then just use 78'.

Board Member Bodor stated alright. Use the 50' and you'll have two driveways coming off into the property, just to the other side of your property line. To us, looking at that when we were out there that day...

**Robert Deikus stated** right.

Board Member Bodor stated that appeared to be too many openings out onto Cornwall Hill Road at that area.

**Robert Deikus stated** right.

Board Member Bodor stated you know yourself. You live there.

**Robert Deikus stated** but yeah.

Board Member Bodor stated there are a lot of openings...

**Robert Deikus stated** (inaudible – too many talking).

Board Member Bodor stated they're coming out of the hill. You can't see one way or the other. We were looking to make it safer, number one. We are also mandated when a person comes to us, which they have the permission to do, to ask for relief, a variance, for the existing codes that we are working on.

**Robert Deikus stated** right. I understand that.

Board Member Bodor stated we are mandated to see if there is a better way to do what the property wants to do with fewer variances, or maybe no variance at all.

**Robert Deikus stated** I understand that.

Board Member Bodor stated okay. And that's what we're looking at. He's asked us to help him out in this respect, so he can subdivide this land.

**Robert Deikus stated** correct.

Board Member Bodor stated he's got access to that one piece of property.

**Robert Deikus stated** right.

Board Member Bodor stated and he's looking to us to say, okay. You can continue to use that common driveway to reach your property.

**Robert Deikus stated** I have no problems with that.

Board Member Bodor stated and this is where we're coming from at this point in time, okay. We've got this so that the Applicant has worked with us and is down to requesting one variance as opposed to three. That's our mandate. Okay. And, you know, you could come to us and ask for a variance, too. And your neighbors may say, oh I don't like that because, I don't know, he's got...

**Robert Deikus stated** but I would (inaudible) shot down.

Board Member Bodor stated exactly. You know, and I understand you're the property owner, and perhaps you don't care to have someone driving over your property. However, you bought that property with that common driveway going over it. You knew what had existed when...

**Robert Deikus stated** yes I did.

Board Member Bodor stated you came there. So...

**Robert Deikus stated** but, I also bought my property knowing that everybody had to have a minimum of 100'.

Board Member Bodor stated well...

**Robert Deikus stated** right now, what he's asking is that he can be the only person that doesn't have to have 100 feet of frontage.

Board Member Bodor stated no. There are other common driveways and landlocked pieces of property. Maybe not right on this street, but within the Town, all over the country.

Board Member Herbst stated can I ask you a question. Assuming, just for arguments sake, that he has 100 feet...

**Robert Deikus stated** right.

Board Member Herbst stated and he put it in there, would that change anything with your house.

**Robert Deikus stated** no. But it would just make me happy knowing that, you know...

Board Member Herbst stated so what is the problem.

**Robert Deikus stated** he would be conforming to the existing law that everyone had to have 100 feet...

Board Member Herbst stated does the 22 feet really make that much of a difference to you.

**Robert Deikus stated** well, what he wants to do...What you're telling me is that he wants to give up all his street frontage for this parcel of land; for Parcel #2. So that he has zero street frontage. I don't care that he has...uses the driveway to get to his house. That's fine and dandy, but I should be able to sell off my lot and put another house here, even if it doesn't conform because why do I have to have 100' of street frontage. If I have to have it, why doesn't he have to have it. That's my question.

Chairman Buzzutto stated that's why we have the Zoning Board of Appeals. To make exceptions to the rule. That's why we're here. If it's within reason, and by him doing it that way there, he's eliminating, what, two variances.

Board Member Bodor stated mmhmm.

Mr. Miller stated that's correct.

**Robert Deikus stated** and what...he has 178', right. Why not keep 100 [feet] and then use this one shortened, to 78'.

Chairman Buzzutto started then he has to have the second variance on it.

**Robert Deikus stated** he can have the second here, except...Why do they need 178'. Why can't they go with 78' and he still has to maintain his 100 [feet].

Board Member Burdick stated the road frontage is actually 225', that's what's required. So you wouldn't be able to do...

**Robert Deikus stated** so now I bought my house illegally is what you're telling me. So I went against Code.

Mr. Miller stated no. The Code...

Board Member Burdick stated the Code has changed.

**Robert Deikus stated** okay, so now it's been upped to 225 [feet]. So now he wants to go above and beyond the mandate of 225 [feet], where he can have no frontage.

Chairman Buzzutto stated well...

**Robert Deikus stated** do you understand what...

Chairman Buzzutto stated yeah, I understand...

**Robert Deikus stated** you peoples upped it to 225 [feet]. Now this person wants to say, okay, I want you to sell off this 178', I'll use nothing. I'll have no frontage. Isn't that...That doesn't...If this new house was suppose to...The law says 225'. Where is he going to get the 225' for that. Okay. You can't do that, but then this house now has zero. If this house has zero, this one's going under the minimum specification...In my eyes, that's breaking two laws. He's going from 178 [feet], which was legal; a minimum of 100 [feet], which was at the time when I bought my house was, a minimum of 100'. To now, he wants to go to zero and sell this one off, still being 50 some odd feet short.

Chairman Buzzutto stated well, to start off with, his is not breaking any laws.

**Robert Deikus stated** not breaking any law, but ask for a change...

Chairman Buzzutto stated as far I see, he's not breaking any laws.

**Robert Deikus stated** he's not breaking a law, but he's asking you to change an existing law.

Chairman Buzzutto stated well, that's why we're here. If...

Mr. Miller stated the law has a provision for it. It's called a variance...

**Robert Deikus stated** yes.

Mr. Miller stated by the Zoning Board. I mean, we had originally come in, if you remember the last time, we had come in and...

**Robert Deikus stated** yes.

Mr. Miller stated had a 50' strip here.

**Robert Deikus stated** yes. Right.

Mr. Miller stated and then the Board's concern was...

**Robert Deikus stated** was safety wise.

Mr. Miller stated this...Right.

**Robert Deikus stated** to (inaudible – too many talking).

Mr. Miller stated to put up another...But if you...

**Robert Deikus stated** the three driveways would look horrendous there.

Mr. Miller stated okay. But...

**Robert Deikus stated** I mean (inaudible – too many talking)...

Mr. Miller stated if you're suggesting that just so he has some frontage, we do the same thing and move it over, that would still give a provision to put another driveway in, which the Zoning Board thought was excessive.

**Robert Deikus stated** okay. So...

Mr. Miller stated the reason that they took the 50' strip...The reason they asked us to remove the 50' strip...

**Robert Deikus stated** right.

Mr. Miller stated was to prevent the possibility of another driveway going in. So, if they provided any frontage along here [referring to the plans] is going to provide the possibility that somebody could construct a driveway...

**Robert Deikus stated** right.

Mr. Miller stated which is what they were trying to prevent.

**Robert Deikus stated** but now...All I'm saying is, if he has to keep at least 100 [feet], then this has 78' and if everything's going to be short...I just, you know, see that he has to have some street frontage. That's my personal beef. That's my main concern. You know, he has to have something on the street. And I think...

Mr. Miller stated we had originally taken that position, too, but that would have required two other variances, for a total of three. By doing it this way, we only need one variance...

**Robert Deikus stated** (inaudible – too many talking) dropping it from three to two. Okay.

Mr. Miller stated fine.

**Robert Deikus stated** now why is his two going to get the whole thing. Why can't this be shortened up so this house will still have some. That's what I'm asking.

Mr. Miller stated because, at that point, we need a variance for this lot. We don't need a variance to have no frontage. In the configuration that it's in and in the history of the property...

**Robert Deikus stated** right.

Mr. Miller stated it was determined that if the lot stayed this way with no frontage and common driveway access, it didn't need a variance. But the minute we attach some portion of road lining to it, it needs a variance for the difference between whatever it is we provide and 225'. And the Zoning Board elected that they didn't want to grant any...I'm sorry. I don't mean to be speaking for...

Chairman Buzzutto stated no. That's alright. Go ahead.

Mr. Miller stated and they elected to propose a solution that would reduce the number of variances required and reduce the possibility of the construction of another driveway on Cornwall Hill Road. And the lot layout that we have now does that.

**Robert Deikus stated** I just personally don't think that it's right that suddenly now you don't have to have any street frontage. I've said peace. You people going to do what you want anyway.

Chairman Buzzutto stated well, basically by giving him the variance to do all this here, how is that hurting you other than we're making the exception to the rule that he will get the variance. He's not taking the land from you.

**Robert Deikus stated** no. But when I first moved in here, my kids weren't allowed to play in this field [referring to the plans]. I mean, he moved in there he put up a barbed wire fence, which the building code people made him take down because, you know, he didn't have livestock there. I mean, they're not exactly desirable neighbors, for one. You know...

Chairman Buzzutto stated we have no control over that.

**Robert Deikus stated** (inaudible – too many talking). I just don't like the fact, you know...

Chairman Buzzutto stated but we're talking about figures. He's not taking anything from you.

**Robert Deikus stated** he's not taking anything from me...

Chairman Buzzutto stated he's just giving you something that maybe someday you'll need it.

**Robert Deikus stated** he's not giving me anything.

Chairman Buzzutto stated that's right. And nor are you taking anything. (Inaudible).

**Robert Deikus stated** well, he's taking away the fact that when everybody had to have a minimum of 100 [feet], he's asking if he can be an exception. That's what I...

Chairman Buzzutto stated that's why the Zoning Board was created.

**Robert Deikus stated** that's true.

Chairman Buzzutto stated okay.

Board Member Burdick stated but it's my understanding...Rich, maybe you can help out with this, or Carl, that because that lot is already existing with that common drive, it's kind of grandfathered in and doesn't need road frontage. Is that correct.

Rich Williams stated right.

Board Member Burdick stated so they're...he's not illegal...That lot is not illegal. It does not require road frontage because of that common drive. So...

**Robert Deikus stated** okay.

Board Member Burdick stated that lot was created, it's grandfathered in, it has it's access. Because of that common drive, it's kind of like it does have road frontage by extension because it goes through there. So that lot is not legal as it stands right now. So all that we were trying to do by not having that 50 foot, is minimize variances because that lot is not in violation the way it stands now. It doesn't require anything.

**Robert Deikus stated** that's true, because it has 178', but now...

Board Member Burdick stated no, no, no. The way Lot 1 laid is right now...

**Robert Deikus stated** right.

Board Member Burdick stated with that configuration, and no road frontage, it's not in violation.

**Robert Deikus stated** it doesn't need it.

Board Member Burdick stated it's not in violation.

**Robert Deikus stated** like the way Schepple has four houses down here.

Board Member Burdick stated I don't know anything about that. But, we have legal counsel here, and the Town Planner, and...

**Robert Deikus stated** but Schepp's house is the one wrapped up in the legal problems for years.

Board Member Burdick stated I don't know anything about Schepp's house, but that, right there, is legal the way it's sitting without having the road frontage because it's preexisting and it has access to it over that common drive.

**Robert Deikus stated** so in essence, he didn't need any street frontage.

Board Member Burdick stated no. Because of the way it was subdivided and that common drive, way back when.

**Robert Deikus stated** so then why don't you give him the three parcels that he wants. If he never needed...

Board Member Burdick stated because he's only asking for...

**Robert Deikus stated** because now...Only because of safety reasons there now that you're going to cut it down to one driveway as opposed to three. Where it would have been one, two, three [referring to plans].

Board Member Burdick stated we didn't feel that another driveway coming out there...Or I shouldn't speak for everybody. I didn't feel that another driveway coming out there would be safe.

**Robert Deikus stated** not only would it have been an eyesore, but yeah, not safe. I mean, you only got...

Board Member Burdick stated but you're saying that we shouldn't let him not have road frontage. That lot is not in any kind of violation at this point without having road frontage, because of the common drive.

**Robert Deikus stated** whatever. You stated your point, I've stated mine.

Chairman Buzzutto stated well, that's alright. That's we're here for. Well, we thank you for your...

**Robert Deikus stated** thank you.

Chairman Buzzutto stated concern. Okay, do I have any more input from the audience on this. Anybody else got anymore...

Board Member Bodor stated no.

Chairman Buzzutto stated input. Shall we...

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

Chairman Buzzutto stated close...Okay, great.

Board Member Herbst stated I'll second it.

Chairman Buzzutto stated close the public hearing...

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

Chairman Buzzutto stated alright. You got another block (inaudible). Do you want to read a reso on that.

Board Member Olenius stated I'll try.

Chairman Buzzutto stated you'll try that. Are there any stipulations that we should put in this particular...with the County or anything about the road. Well, it doesn't make any difference.

Board Member Olenius stated they have to abide by that.

Board Member Burdick stated yeah.

Chairman Buzzutto stated yeah.

Board Member Bodor stated the County would have to approve the opening...

Chairman Buzzutto stated yeah. They'll have to approve it anyway.

Board Member Bodor stated then and if it's legally presented.

Board Member Burdick stated yeah. And they would choose the safest...

Board Member Bodor stated right.

Chairman Buzzutto stated oh, did you get the new figures on it with the...Okay, fine.

Board Member Bodor stated do we need a formal amended application to reflect the change.

Rich Williams stated I'm referring to your attorney.

Carl Lodes stated no, he can amend that.

Mr. Miller stated okay.

Carl Lodes stated I don't know whether he...

Board Member Bodor stated just verbally.

Carl Lodes stated sure.

Board Member Bodor stated state that the Applicant...

Mr. Miller stated or for the record...

Board Member Bodor stated oh.

Mr. Miller stated I have prepared a sheet that indicates the existing and proposed. And this would indicate this is the variance that is requested. So, at this time...

Board Member Bodor stated can he...

Chairman Buzzutto stated would you care to see that sheet.

**Robert Deikus stated** if I could have a copy, I would...

Board Member Bodor stated the Applicant is requesting to amend the original application for a variance which had been for three variances on the property owned by Mr. Martin, to reflect only one variance for the frontage on Cornwall Hill Road.

Carl Lodes stated take a vote on that.

Board Member Bodor stated anyone second that.

Board Member Burdick stated second.

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

Chairman Buzzutto stated that easement on it, is that blacktop or is that just...

Mr. Miller stated it's blacktop.

Chairman Buzzutto stated it's all...Okay, fine.

Board Member Olenius stated good.

Chairman Buzzutto stated yeah.

Board Member Olenius read the following resolution:

**N THE MATTER OF THE APPLICATION OF  
*Celeste and Francisco Martins, Case #02-09*  
For Area Variance**

**WHEREAS, *Celeste and Francisco Martins* are the owners of real property located at 25 Cassandra Court (R-4 Zoning District), also identified as **Tax Map Parcel # 13.7-1-59.1, and****

**WHEREAS, *Celeste and Francisco Martins* have made application to the Patterson Zoning Board of Appeals for area variances, associated with a two lot subdivision, pursuant to §154-7 of the Patterson Town Code, and**

**WHEREAS, §154-7 of the Patterson Town Code requires 225' of road frontage in the R-4 Zoning District; Lot 2 will have 178.54'; *variance requested is for 46.46'*, 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 21, 2009 and February 18, 2009*, and a site walk conducted on *January 31, 2009*, 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 Applicant has agreed to reduce number of initially variances down to one to allow only one new driveway out onto Cornwall Hill Road.*
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because the existing access to the property is through a common drive.*
3. the variance requested *is* substantial *however not so much so as to deny the variance.*
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because said new lot meets current Code requirements.*
5. the alleged difficulty necessitating the variance *was not self-created nor is it 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 *Celeste and Francisco Martins* for *an area variance* pursuant §154-7 of the Patterson Town Code; Schedule of Regulations, for *Lot 2 of 46.46' for road frontage requirements.*

Board Member Olenius stated that's it.

Board Member Bodor stated yeah. That's it. The variance... You might want to tie it in. A variance of 47'. Is it 47 [feet].

Board Member Olenius stated a variance of 46.46' for road frontage.

Board Member Bodor stated you said road frontage.

Board Member Bodor stated I'll second it.

**UPON ROLL CALL VOTE:**

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

Resolution carried by a vote of 5 to 0.

Mr. Miller stated thank you.

Board Member Bodor stated you're welcome

Board Member Olenius stated thank you.

Board Member Bodor stated good luck.

**3) ALAN STEGER CASE #16-08**

Mr. Alan Steger was present.

Chairman Buzzutto stated okay. Next case would be Mr. Steger. Or would it be...

Mr. Alan Steger stated I have to apologize for being late. But there was a light out and (inaudible – too distant) sort of got hung up.

Chairman Buzzutto stated okay. Let's see. Did you get the information that was requested; the financial statements and stuff like that.

Mr. Steger stated I supplied that to you the last time.

Chairman Buzzutto stated we didn't get that.

Board Member Bodor stated we did get some...

Chairman Buzzutto stated some figures...

Board Member Bodor stated financial stuff from you, but it was not sufficient. It was not indicating exactly what your investments versus losses was, on the whole parcel that you own there. And we also requested for you to find out regarding the shed, more information.

Mr. Steger stated no, no. Nobody gave me any information on the shed. I filled out the variance report...request.

Rich Williams stated let me speak for (inaudible – papers shuffling).

Chairman Buzzutto stated okay. Go ahead Rich.

Mr. Steger stated (inaudible – too many talking) talking about. So I can't give you...

Chairman Buzzutto stated Rich Williams.

Rich Williams stated the Building Department reviewed the issue with the shed. Mr. Steger has been requested to submit an application for site plan approval, to place the shed on the property. It doesn't need to meet the 15' separation because it's a commercial piece of property. So that will leave... That 15 foot separation as it relates to our Zoning Code, only applies in our residential zoning districts. However, there may be other fire code issues, related to the New York State Building and Fire Code that come into play here. We're still waiting for that written opinion back from our building inspector and fire code enforcement officer. In initially looking at it, it also appears it doesn't meet the side yard setback, because this is a corner lot. Again, I've reviewed this with the Building Inspector, and they concur. I talked to Mr. Steger tonight about... And I am saying it right, am I not.

Mr. Steger stated yes.

Rich Williams stated okay. Alright. About potentially looking at other locations on the site to move the shed, which would be reviewed by the Planning Board. But that currently is all, at this point, before the Planning Board.

Chairman Buzzutto stated just the shed.

Rich Williams stated just the shed.

Chairman Buzzutto stated just the shed.

Rich Williams stated just the shed.

Board Member Bodor stated thank you.

Chairman Buzzutto stated okay. Thank you, Rich. Alright, now we didn't get the full wins and losses on that...financial statement, because that would be one of the, what do you call it, the...

Mr. Steger stated nobody made any request for me, for anything other than what I gave you last time. I came back from Florida because you were going to give me a decision tonight.

Board Member Bodor stated well, we're not going to give you a decision because now you're right before the Planning Board with that shed issue. And until that's resolved, we're not going to go anywhere with this. But we need...

Mr. Steger stated oh no. Now this has been going on for a year now.

Board Member Bodor stated well, it hasn't been going on for a year. You haven't been before this board for a year.

Mr. Steger stated no, but I mean, I've got permission to...from the Building Inspector in April of last year to go ahead and change it to a one family house. Now it's almost a year, and now you're going to say that I'm going to have to go through all of this, and it will be another six months before I get it straightened out on the Planning Board side. I mean, now I'm going to be denied any advertise my property. I think this is getting to be unfair.

Chairman Buzzutto stated well, we can't make a decision on anything if there's a violation on the property. That has to be...Violations have to be corrected, unless we...

Mr. Steger stated but the violation was not a violation because they spoke to the, according to Raines, they spoke to the building inspector at the time, and he gave them permission to put it there. Now, maybe not...well, you know, it may not fit the requirements, but it was given permission. So, I guess...see how that could be a problem with this other problem. It has nothing to do with this problem.

Chairman Buzzutto stated I'm almost sure that we did request financial statements...

Mr. Steger stated I gave you financial statements. All...everything. All my five years of income tax statements. I broke it down of how much came with each of the...thirds. The bodega, the what do you call it...and how much I lost on the upstairs because I never rented it.

Board Member Bodor stated not the upstairs. The whole parcel.

Mr. Steger stated the whole property.

Board Member Bodor stated the whole property.

Mr. Steger stated the whole property.

Board Member Bodor stated the whole property is considered one. We're not looking at the potential residential office building.

Mr. Steger stated I did give my five years of...

Board Member Bodor stated and did that show that you were losing money every year on the whole parcel.

Mr. Steger stated no. It didn't show I was losing money.

Board Member Bodor stated are you making money on the rental of the post office and the bodega.

Mr. Steger stated if you...no.

Board Member Bodor stated are you.

Mr. Steger stated I'm making money because I got a good rent with the post office. Yes.

Board Member Bodor stated so you are realizing a financial income, positively, yearly, due to rentals on that property.

Mr. Steger stated yeah.

Board Member Bodor stated you just said you were.

Mr. Steger stated I am. And if you consider I don't have a mortgage on it...if I was paying \$20,000, you know, in interest, I'd be losing money.

Board Member Bodor stated are you realizing a reasonable return on that property.

Mr. Steger stated no. No. I'm not realizing a...

Board Member Bodor stated why are you not.

Mr. Steger stated because it's worth \$300,000. I should be making at least \$30,000 a year, and I'm not. I'm making about five or six [thousand]. And that's not reasonable.

Board Member Bodor stated do we see this in print somewhere.

Mr. Steger stated yes. You got...

Board Member Bodor stated and who's to determine that reasonable. You're saying, you know, you're getting in...you're making \$5,000.

Mr. Steger stated yeah.

Board Member Bodor stated on a \$300,000 property.

Mr. Steger stated that's probably what it should be worth. That was...I bought it...That was \$310,000 when I bought it in 1988. It should be worth a little more than that now. I should be expecting at least a, you know, a \$30,000, \$40,000 return on that.

Board Member Bodor stated Counsel, perhaps you could step in and explain this a little better than I'm doing.

Carl Lodes stated you're giving the Board numbers. You need to give them financial analysis.

Mr. Steger stated I did.

Carl Lodes stated you did it by saying...You're telling them you should be making a certain amount of money. Where is the basis for that. You have to show that to the Board. It might be (inaudible) recognize financial (inaudible) but the Board gets to (inaudible) on a \$300,000 investment, you should be making \$30,000 or \$40,000 a year. You've got to show them.

Mr. Steger stated well, I submitted all these...information. Everything they could possibly ask for two months ago, and they told me to come back in February, from Florida, because they were going to give me a decision. And nobody asked me for anything else.

Chairman Buzzutto stated we did request...

Mr. Steger stated no you didn't. Nobody said anything at the last meeting that I did not give them enough information. Nobody said anything about that.

Board Member Bodor stated I believe at the last meeting, we received that and it was not clear enough, to us.

Chairman Buzzutto stated well, it was insufficient, so...

Board Member Bodor stated it's not a sufficient document for us to make a determination.

Mr. Steger stated well, then why didn't you tell me that the last time.

Chairman Buzzutto stated well, we didn't have the figures.

Board Member Bodor stated because we didn't get it.

Mr. Steger stated you did too. You have all of this.

Board Member Bodor stated excuse me. We did not have it prior to the meeting long enough to be able to analyze it and have someone in the financial...

Mr. Steger stated that was the reason that you told me you couldn't make a decision the last time; that I had to wait two months, because you wanted to analyze this. So...

Chairman Buzzutto stated yeah, but the information you come up with was, as far we were concerned, was insufficient to make a decision on it.

Mr. Steger stated (inaudible – too many talking)well then, somebody should have gotten to me and asked me for some more information, wouldn't you think.

Chairman Buzzutto stated and we have...You've been in Florida, or where ever, which is great.

Mr. Steger stated (inaudible – too distant). He [referring to Rich Williams] knew where I was. Raines knew where I was. They all had my telephone number. They all had my address. I never got one word from anybody. I filled out...They said I needed a variance for a request. So I filled it out and sent it in with the \$630.

Board Member Bodor stated which request are you referring to now.

Rich Williams stated site plan.

Board Member Bodor stated for the shed.

Rich Williams stated for the shed.

Board Member Bodor stated for a variance.

Rich Williams stated no. Site plan application.

Board Member Bodor stated site plan. That was not...That had nothing to do with us.

Mr. Steger stated no. Nothing to do with you.

Board Member Bodor stated and that issue is ongoing. It hasn't been resolved with the Planning Board yet, regarding the shed.

Mr. Steger stated no. No it hasn't. Nobody gives me the information I need to do anything about it.

Board Member Bodor stated nobody is giving you anything, are they. They're not asking you for anything, they're not giving you information. That one's not giving you information. You're not getting anything, are you, from any of us. This is what you're saying. You're not being requested to give us stuff. And we are requesting.

Mr. Steger stated nobody requesting anything more than that. I got a letter from Mr. Raines saying I had to fill out a site application plan before the 17<sup>th</sup> of February. I did it about, I guess, the 10<sup>th</sup> of February, and I had faxed it in with a check.

Board Member Bodor stated it seems to...

Mr. Steger stated nobody ever told me anything other than that. They said everything's fine. They...Nobody could make up their mind exactly where I could put the shed. And the post office can't live without it.

Board Member Bodor stated okay. I think that due to the fact that the applicant feels that we have not requested information from him in a timely fashion, and this is also before the Planning Board regarding the site plan issue of the shed, we need to put this off for another month.

Chairman Buzzutto stated yeah.

Board Member Bodor stated the financials that we have, I looked at them. They didn't make much sense to me. But I'm not a financial person. So, you know, you've got numbers listed here and there's no bottom line. And exactly what you're referring to automobile...How does automobile expense come into that property. It's not an automobile showroom or anything. That's why I don't know.

Mr. Steger stated you asked me for five years of my income tax, which I gave you.

Board Member Bodor stated no. No.

Mr. Steger stated which is the Schedule E on my income tax forms, and I given you the expenses that the IRS allows against property.

Board Member Bodor stated we did not ask for income tax forms. We asked for...

Mr. Steger stated yes you did. You said...

Board Member Bodor stated income information.

Mr. Steger stated I needed proof.

Chairman Buzzutto stated Rich.

Mr. Steger stated and the only proof you can have is an income tax form.

Board Member Bodor stated no it's not.

Chairman Buzzutto stated Rich, you want to...

Rich Williams stated (inaudible – too distant). From what I'm hearing, Mr. Steger feels that he's provided you with the financial information. The Board seems to think that the financial information is not adequate. My...

Mr. Steger stated then why did...My question is, why didn't you get back to me.

Chairman Buzzutto stated let him talk...Thank you Richie.

Rich Williams stated we're going round and round here. If I just might suggest that if... Unfortunately, it doesn't look like they're going to make a decision here tonight because they don't have the information that they need. Or if they do make a decision, it's not going to be favorable, I would assume. Might I suggest that the Board takes another look at that financial information, get back to our office with what you feel any additional information that you might need, as far as the financial information, or any questions that you have related to that, to try to run, you know, intermediaries, and you know, work it out with Mr. Steger about what additional information you might need to make a (inaudible) decision on this.

Board Member Bodor stated I will say, too, that I believe that Counsel, Tim Curtiss, said that he would be reviewing the financial information that was submitted, to see if it was satisfactory. So, that's another piece of it, too. I don't know if that goes to you now or not, but [referring to Carl Lodes]...

Chairman Buzzutto stated he did...

Carl Lodes stated I believe that Tim did analyze it at the time of the...

Board Member Bodor stated you thought he had already.

Carl Lodes stated he even said it wasn't sufficient for showing (inaudible – too distant). I don't want to put my two cents in here, but I will. I mean, honestly Mr. Steger, it's your application. It's not for them to tell you what you have to prove. You have to look at the statute, and prove it to the Board. It's not to them to tell you, oh, you need this, you need this, you need this. It's...

Mr. Steger stated as far as I'm concerned, I've proved it.

Carl Lodes stated well then, you have, you can submit to the Board, and then say that you are going to submit on the basis of the information you've provided, and the Board can determine on the basis of that information.

Mr. Steger stated besides, the other attorney did not say that it wasn't sufficient. He said that it was fine.

Rich Williams stated we can look at the minutes, go back.

Chairman Buzzutto stated yeah.

Rich Williams stated see what was said at the last meeting. See what outstanding issues there are. Get back to the Board with that also.

Chairman Buzzutto stated well, Timmy was taking figures. He was sitting right there, and he says, you know, it looks like Mr. Steger has a substantial...

Board Member Burdick stated 6-8% is what I believe he said.

Chairman Buzzutto stated yeah.

Board Member Burdick stated I have it noted here; rate of return for Tim Curtiss for financial data is 6-8%, which is considered reasonable.

Chairman Buzzutto stated he said it was reasonable.

Board Member Burdick stated that's what I have written down on my notes.

Carl Lodes stated I was sitting next to him, and he said from what you gave him...had given to him, he looked at, it was an adequate return. Now, if someone, you know, down (inaudible) to show that's not an adequate return, that's for him to give you financial information or analysis from an accountant, or whatever, to show that that's not an adequate return on that size investment. I don't think that not be friendly with an applicant, it's not for you to (inaudible – too many talking).

Chairman Buzzutto stated that's your opinion.

Carl Lodes stated for him to tell you what is needed to (inaudible – too distant).

Board Member Olenius stated from what you've submitted, sir, you've showed a positive return from the tax returns. I don't have '04 in my packet for some reason.

Board Member Herbst stated I don't have '04 either. I was just going to ask you why is '04 missing.

Mr. Steger stated because I lost it.

Board Member Olenius stated but you've been making...You've lost money...you've reported losing money in '03.

Chairman Buzzutto stated when did you get that.

Board Member Olenius stated but in '05 you made \$6,000, roughly, '06, \$10,000, '07, \$5,800. I...

Mr. Steger stated (inaudible – too distant) you know, not an adequate return, if you consider that the property is worth, or should be worth \$500,000.

## **TAPE ENDED**

Chairman Buzzutto stated that we'll review the minutes and see what was said in the minutes, what we had asked for. But I'm just going by what figures Tim had at the last meeting, and he came up and he says, well it looks like it's a substantial, you know, gains on it.

Mr. Steger stated at the last meeting you told me that you wouldn't be able to make a decision by January, but you would have a decision for me, and I came back from Florida and spent \$300 to come back here to find out...so I could get going on this thing. And now you're telling me, you know, it's like a mystery.

Board Member Bodor stated we're not making a decision on this tonight.

Mr. Steger stated pardon.

Board Member Bodor stated we are not making a decision on this...

Chairman Buzzutto stated no.

Board Member Bodor stated tonight, as far as I'm concerned, because there are too many things flying around out there, including the application for a site plan with the Planning Board. Perhaps this shed is too close to the sideline there. It may not be too close to the building because of its commercial area there. But there are other issues. And it's not clear. There are questions in people's minds. I'm not comfortable in making a decision.

Chairman Buzzutto stated no.

Board Member Bodor stated we would make one if we had information sufficient to intelligently make a decision one way or another.

Chairman Buzzutto stated so you feel that the information you gave us is all the information that you would give us anyway.

Mr. Steger stated no...

Chairman Buzzutto stated there is nothing else...

Mr. Steger stated no, I (inaudible – too many talking).

Chairman Buzzutto stated no, I'd like to know.

Mr. Steger stated do you have questions about them, I'd gladly give information. But nobody's ever had any questions on anything.

Board Member Bodor stated I don't know. I was just in there.

Mr. Steger stated and you can go back to the minutes of the December meeting, and you said to me that you were going to have a decision tonight.

Chairman Buzzutto stated well, when we reviewed the...

Mr. Steger stated and nobody got back to me and said well, I don't understand this or I don't understand that. And if you didn't, that means you understood it all, and I would expect that I would get my decision tonight. Is that unreasonable. (inaudible – too distant). I'll gladly, you know, submit anything that...whatever you don't understand, or whatever you think, you know, you need more. I'll gladly submit anything.

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

Chairman Buzzutto stated alright, what would be the...

Mr. Steger stated tell me that, you know, that inadequate or what's the question here, or, you know, I don't understand this.

Chairman Buzzutto stated well, I think the best thing to do would be to find out just what we need, get in touch with you, and tell you we need these figures or whatever.

Board Member Olenius stated the biggest thing is the financial return, sir. Because to be honest with you, you have to meet all four points of the regulation to get, you know, a use variance. And you're showing, with what you've submitted, that you are getting a reasonable return.

Mr. Steger stated that's not a reasonable return.

Board Member Olenius stated well sir, you have to prove that to me, because to me, it is a reasonable return. You're making money on that property, you're not losing money. You're showing a positive balance here. It's not negative.

Mr. Steger stated yeah, but, you know, I...

Board Member Olenius stated it's a positive.

Mr. Steger stated I don't have a mortgage. I don't have a... Well, that's not my fault, you know. If I had a mortgage and was paying \$20,000 on the interest a year, or more, I'd be losing a lot of money and then you'd be looking to at it and saying you're losing a lot of money. But just because I'm a prudent guy, and I paid off my mortgage, I mean, that shouldn't be held against me.

Board Member Olenius stated my point, sir, is this looks reasonable to me. If you could have...

Mr. Steger stated how could a \$5,000 return on a \$500,000 investment be reasonable.

Board Member Olenius stated speaking personally; because I sat on a property in Florida for the last three years and finally got rid of it with no income on it, and it was a burden to me. I know it's not your problem, but I'm just stating if I was making \$5,000 a year, that's a very reasonable return. I'd be very happy because I wasn't dumping money into it. In this real estate market, that's reasonable.

Mr. Steger stated I think that's unfair to include the whole property anyway because the post office is, you know, is the only thing making any money.

Board Member Olenius stated on the tax rolls though, it is one property...

Mr. Steger stated it is.

Board Member Olenius stated and you're being taxed on it and assessed on it as one property. You're not being assessed separately on that house.

Board Member Burdick stated Rich, where did this case law come from that's in our packet. Do you know. Did that come from Tim's office.

The Secretary stated yeah.

Board Member Bodor stated oh, okay.

Board Member Burdick stated if I can just read part, and it's going to what Lars just said.

“In analyzing whether a reasonable return may be received, an applicant may not segment property interests or parcels and must examine the property as a whole. The inquiry to be made by the board relates to the entire parcel of property and not merely to a portion of it.”

That’s from case law. So we understand what you’re saying, but we have to look at the whole parcel.

Rich Williams stated yeah, if I just might. It didn’t actually come from Tim’s office.

Board Member Burdick stated okay.

Rich Williams stated you know, the Zoning Board, they were, you know, unsure about what a reasonable return was. So I took some of the books that we have from...

Board Member Burdick stated okay.

Rich Williams stated some of the planning books, and pulled that out so they had some guidelines to look at.

Board Member Burdick stated okay.

Chairman Buzzutto stated hey Rich, this criteria here is made up by who. Not by Patterson. Not by...

Rich Williams stated I believe that came from the Planning Federation...the New York Planning Federation...

Chairman Buzzutto stated the New York, yeah.

Rich Williams stated New York State Law.

Chairman Buzzutto stated we don’t make this up. This is what they tell us.

Carl Lodes stated sorry, you talked a little about segmenting, you can’t segment.

Board Member Burdick stated yes.

Carl Lodes stated we also gave them a separate memo.

Rich Williams stated oh, you did.

Board Member Burdick stated okay. This references Crossroads Recreation Inc. v. Broz. Yeah.

Carl Lodes stated yes. That’s us.

Board Member Burdick stated that’s where that section comes from.

Carl Lodes stated yes.

Mr. Steger stated I just proved to you that it’s going to be but to my benefit to tear the building down.

Chairman Buzzutto stated I think we'll table this.

Mr. Steger stated you know, I lose \$30,000 to \$40,000 on that building.

Chairman Buzzutto stated well, we're going to table it anyway. So, no sense in going any further tonight, because we're not going to get any place with it. We're going to get figures...I think we'll get the figures from Tim, and we'll see what he comes up...He did a lot of figuring that night.

Board Member Bodor stated he may very well be in the minutes, which I don't have right with me right now. We need to look at them.

Chairman Buzzutto stated yeah. So it will be put back on the agenda...

Board Member Bodor stated have you given us all of the financial data that you have available and wish to submit to this Board, regarding that property.

Mr. Steger stated you know, you throw your income tax statements way out after five years. If you don't, that's not real smart. No, yeah. I have other information but nothing that I can back up.

Board Member Bodor stated but...

Mr. Steger stated I mean, I don't have any income tax returns or anything to back it up.

Chairman Buzzutto stated well, put the question to you...Do you have any further information that you can give us financially. Do you have anything else to give us.

Mr. Steger stated well I don't know what you need. You know...

Board Member Bodor stated we want more...

Chairman Buzzutto stated well...

Board Member Bodor stated financial information regarding that parcel, since you've owned it, that you have available.

Mr. Steger stated well, that's all of it...I mean, it's my income tax...

Board Member Bodor stated is that it.

Mr. Steger stated that's my income tax that I, you know, that's...

Chairman Buzzutto stated yeah.

Board Member Bodor stated alright, that's...

Mr. Steger stated what else can I give you.

Chairman Buzzutto stated if you have nothing else, then we're going to go by what Tim has now.

Board Member Bodor stated and that's what you've submitted to us; this packet.

Chairman Buzzutto stated that's right. Yeah.

Mr. Steger stated yeah, but I...I'll say it again, that because I paid off the mortgage and because I did a lot of it...

Chairman Buzzutto stated but that's...

Mr. Steger stated oh yes it does. It has too. Why...Because I'd have mortgage, why would that...That, to me...

Chairman Buzzutto stated well...

Mr. Steger stated I would be losing money. And then I would look good.

Chairman Buzzutto stated then your reasonable amount of return would be insufficient.

Mr. Steger stated yeah.

Chairman Buzzutto stated not substantial.

Mr. Steger stated what...I mean, I paid off the mortgage. I had a big mortgage and I paid it off. Not from the property but my other money.

Board Member Bodor stated do you have...

Mr. Steger stated because when I bought the property, interest was 12%. I mean, it would not be bright to carry a 12% mortgage. So I paid it off.

Board Member Bodor stated I'm going to assume that you presented to us all the financials regarding that property that you wish to present. Is that true or not.

Mr. Steger stated well, you want me to...

Board Member Bodor stated I'm asking you yes or no.

Mr. Steger stated no. I'm going to submit new data; what I'll make up with what I should...Have a financial return if I had a mortgage and all that kind of stuff. I'm going to submit that to you and show you what, you know, what it would be if it would be a normal property.

Board Member Bodor stated do you have a financial person that will be preparing...

Mr. Steger stated yes.

Board Member Bodor stated that for us and document...

Mr. Steger stated I will.

Board Member Bodor stated and signing off on it.

Mr. Steger stated I will. I'm a CPA ma'am. I think I can handle (inaudible).

Board Member Bodor stated I think we need...

Chairman Buzzutto stated yeah, but I don't think we should get it would be. What, if you...

Mr. Steger stated well I think you're...

Chairman Buzzutto stated you've got...

Mr. Steger stated but you're penalizing me because I was...

Chairman Buzzutto stated if you've got \$50,000...

Mr. Steger stated because I was a good business person. You're penalizing me.

Chairman Buzzutto stated no we're not.

Mr. Steger stated yes you are.

Chairman Buzzutto stated we're just going by figures and facts.

Board Member Olenius stated what I'm looking for, sir, is really competent financial evidence of your loss. Because what you've submitted so far, doesn't reflect a loss to me. Show me...

Mr. Steger stated why does it have to reflect a loss. It just doesn't reflect a decent return.

Board Member Olenius stated well, prove that to me.

Mr. Steger stated well I (inaudible). Here, I proved it to you. For five...

Board Member Olenius stated I don't have any market analysis that shows what other comparable propertied in the area received as a return over the last five years. You're just speaking through...

Mr. Steger stated oh my. Can I go up to, what do you call it, the guy next door; Katonah Partners, and ask them for their financial statements. I don't doubt it.

Board Member Olenius stated well, they could be estimates though, of comp...of the economy. You're showing me a positive return, that's all I can say right now.

Mr. Steger stated yeah.

Board Member Olenius stated you made money. Show me proof that you lost money, and where the hardship is. You need submit evidence to prove that to me, is all I'm asking for. Because right now you're proving to me that you've made money. That's all is see is that you've made money.

Mr. Steger stated I'm showing you what I showed on my income...So because you're asking me for something that is verifiable, right. But again, now, I'm saying a thousand times that if I would have had like normal people would have had a \$200,000 mortgage at whatever, 7 or 8%, I would have how many...\$14,000 a year interest expense.

Board Member Olenius stated you didn't submit that, sir. That's...

Mr. Steger stated I don't. Because I was a frugal person, and I paid off my debt.

Board Member Olenius stated but what I'm saying is that I don't have figures like that in front of me to look at.

Mr. Steger stated how can you compare...saying that I'm not making...I'm making a positive return. I'm making money. I'm getting return, but it's not a good return. I thought, you know, you should look at it and saying the property should be worth \$400,000 or \$500,000...\$450,000...\$500,000. And I should be making a 10% return which should be \$50,000.

Board Member Olenius stated well that's what you should...

Mr. Steger stated alright.

Board Member Olenius stated submit to us. Show me an appraisal on the property, a current appraisal of what that property is worth, and what you should be making on it. That's what I'm asking for.

Mr. Steger stated oh, okay.

Board Member Olenius stated I'm asking for physical proof.

Mr. Steger stated oh, well...

Board Member Olenius stated prove it to me that you're not making money. What you've submitted doesn't prove to me...proves to me that you are making money.

Mr. Steger stated oh, I can do that.

Board Member Olenius stated that's what I'm stating.

Mr. Steger stated I didn't...

Board Member Olenius stated I have to weigh my decision on what you've submitted.

Mr. Steger stated (inaudible – too distant).

Board Member Bodor stated no. We don't want you to make up numbers.

Mr. Steger stated well...

Board Member Bodor stated we want...

Mr. Steger stated that's what he's asking for.

Board Member Bodor stated no.

Board Member Burdick stated no. We needed an appraisal.

Mr. Steger stated there's not anything verifiable of what he's asking.

Board Member Bodor stated we need a valid appraisal. A real estate appraisal of that property.

Board Member Olenius stated it has to be based on fact. I don't expect you to just to go home and print something up. I'm just stating with what you've submitted...

Mr. Steger stated ma'am, don't you understand that on a...Basically on rental properties, the appraisal can not be more than 100% of the monthly income. So...

Board Member Bodor stated and what's...

Mr. Steger stated when you're dropping my income, you automatically drop my appraisal of my property.

Board Member Bodor stated what...Alright. What would it be worth on the market today. What could you get for it.

Mr. Steger stated right now...

Board Member Bodor stated maybe that's the figure we're looking at.

Mr. Steger stated probably five...\$400,000.

Board Member Bodor stated not probably. Where's the realtor out there that's going to tell you.

Mr. Steger stated I can get a real estate person to tell me. But he's going to tell me basically that's what it is. The estimated property is like 100% of the monthly value...or monthly income plus or minus anything that's extraordinary. That's all that...

Chairman Buzzutto stated oh, good...Go ahead.

Mr. Steger stated that's where the starting negotiation is when you want to sell a piece of property.

Board Member Bodor stated I've never sold (inaudible).

Rich Williams stated you know, I've been listening...

Mr. Steger stated it's been a long day. I left West Palm Beach this morning.

Rich Williams stated you can take me back with you. You know, listening to the Board, you know, you've kind of intimated that you would like an appraisal. But I think really what you're asking for is a market analysis of similar properties within the area showing their return on their investment, so that you could compare that with the return on the investment that he's shown. Am I in the ballpark.

Board Member Bodor stated that sounds good.

Board Member Olenius stated yes. I just used appraisal as a word. I just wanted some hard facts.

Rich Williams stated right. I mean (inaudible – too distant) assessed....

Board Member Olenius stated beyond what you've given me.

Rich Williams stated at 100%. I could tell you what the property's worth based on what our Assessor thinks it's worth.

Board Member Bodor stated but that's not the true market value. It's not.

Rich Williams stated it's supposed to be.

Board Member Bodor stated yeah, but it's not.

Carl Lodes stated what I think you're also looking for, is you're looking for someone independent who is going say that \$5,000 on a property worth \$300,000, is not a reasonable return under established accounting business (inaudible). I understand what you're saying, but that's not...Under (inaudible) case law, that's not proof to this Board. You have to have someone establish that that's not a reasonable return in this market, the way this market is right now. To say that \$5,000 on, whatever, the value of the building, whatever that is, is not a reasonable return. The Board could consider that and determine (inaudible). But right now, you're just saying it. That's not, honestly, proof. They're looking a financial analysis. Someone that's familiar with current real estate values, markets, and returns. I don't know that \$5,000...I guess that's sixteen...What, that's like 6%. I'm sorry, it's like 2%. In this market, you need someone to say, that's not a reasonable return. I thought Tim had come up with numbers of 5%...

Board Member Burdick stated I thought...Like I said, I have a note written down here, 6-8%.

Carl Lodes stated yeah. That's what...

Board Member Burdick stated I mean, he was just doing rough estimates, but...

Carl Lodes stated and I don't know whether that's a reasonable return in this market. If someone says to the Board that's not a reasonable return, given all the facts of this market, then that's what the Board will look...

Mr. Steger stated basically what I'm saying, (inaudible – too many talking)...

Chairman Buzzutto stated who sets that figure up.

Mr. Steger stated (inaudible – too many talking) dollars for a property that I bought twenty some years ago. That is what he was basically (inaudible – too many talking).

Board Member Burdick stated people, I think, you know, you have to intelligently, in this market, also think about what's reasonable.

Mr. Steger stated you know, I mean that (inaudible – too many talking).

Chairman Buzzutto stated (inaudible).

Board Member Burdick stated you can also... We are asking for what Rich just suggested, your market analysis comps on other properties, and see what kind of returns those places are getting, and compare it to the return that Mr. Steger's getting, and see whether or not we consider it reasonable.

Mr. Steger stated I can't submit that. I can't get that kind of data. You know, nobody, I mean (inaudible – too distant) I wouldn't give that data to somebody if they come and asked me. Now, like I said, I can't go to Katonah...

Chairman Buzzutto stated now how could they be true figures...

Mr. Steger stated I can't go to the Katonah Partners...

Chairman Buzzutto stated if there's two different types of businesses...

Mr. Steger stated and ask them what (inaudible – too many speaking).

Chairman Buzzutto stated and stuff like that.

Mr. Steger stated they're not going to tell me.

Board Member Burdick stated there's got to be financial advisors out there that can give you market comparables on rental properties. How does somebody go into making a decision as to whether they want to go into a business or not. There has to be that data out there to figure out whether...what's comparable...

Mr. Steger stated like I said, comparable if you want to start asking an asking price, for a rental property is 100 times the monthly rent. That's the starting price. And then you...

Board Member Bodor stated we need an expert in the field to document all of these things...these numbers that you are throwing at us. That's what we need. You're not the expert we want. We want someone else. An independent person to validate...You may be right on. But we need the expert in that person...in that field. That person who has that expertise, to document that for us. That's what we're asking you for. We're asking you to find that body to get that information for you to submit it to us.

Mr. Steger stated but ma'am. You're expecting me to spend another what, \$3,000 or \$4,000 for something and I'm not sure I'm going to get an okay anyway for. That's...This seems unreasonable. This...

Board Member Bodor stated well...

Mr. Steger stated really seems unreasonable.

Chairman Buzzutto stated well, how can you compare two businesses with the same property, when one is the Chinese restaurant and he's got a post office. How can he compare the two. Some people may cater more to the Chinese restaurant and they make more money than the income of the post office.

Rich Williams stated Mrs. Burdick was absolutely correct. There are companies out there that provide this service that, you know...For example, Patterson Crossing. They did a full market analysis of other retail areas in the area, to come up with whether it's appropriate, you know, to build that kind of a shopping center out there; whether they were going to get a reasonable return on the rental value of the property.

Board Member Burdick stated and you wouldn't necessarily...they wouldn't necessarily be...

Mr. Steger stated you're talking about a \$40million project too.

Board Member Burdick stated comparing the Chinese restaurant with a bodega.

Mr. Steger stated that's (inaudible – too many talking).

Board Member Burdick stated they would look at other bodegas and see what they're returns are.

Chairman Buzzutto stated oh, I see.

Board Member Burdick stated they wouldn't take...

Chairman Buzzutto stated they would pick similar...

Board Member Bodor stated they would compare like.

Board Member Burdick stated yeah. Like and like.

Chairman Buzzutto stated oh.

Board Member Burdick stated just like if you get your house appraised, they're looking at...

Chairman Buzzutto stated yeah, okay fine. That answers that question.

Board Member Burdick stated comparable properties. But, you know, it's clearly stated in some of this case law that we got from Counsel. It says that a lack of reasonable return must be demonstrated by "competent financial evidence". Case law holds that a lack of reasonable return must be demonstrated by dollars and cents proof. Read together, it is clear that relief may not be granted unless an applicant fully and completely demonstrates the financial basis for his claimed hardship. And that bare conclusory testimony is insufficient, which is what you are basically, you know, saying to us. And that's right in case law.

Chairman Buzzutto stated well...

Board Member Burdick stated either...

Chairman Buzzutto stated do you want to go by what figures that Tim has now and you have nothing else for us. And we can make a decision on those figures. Is that what you...

Mr. Steger stated I was at this meeting two months ago, and all of the sudden, this is all new stuff for me. Why wasn't this brought up the last time. Especially when you told me, if you go back to the minutes, I'm sure it says right there, that you were going to give me a decision this month.

Chairman Buzzutto stated well, we can probably give you a decision based on what we already have.

Mr. Steger stated well, if it wasn't sufficient, somebody should have got to me and asked me for some...

Chairman Buzzutto stated I think we should...

Carl Lodes stated again, I'm sorry. That's not the...The process is for you to prove to the Board, not for them to pick out...

Mr. Steger stated I mean, I proved it.

Carl Lodes stated look (inaudible – too distant).

Chairman Buzzutto stated alright.

Carl Lodes stated the Chairman's asking you if you want to rest on what you produced, that's fine.

Mr. Steger stated well, I'm not going to be here for two months, so you might as well table it for...until July.

Chairman Buzzutto stated no, we can't do that.

Board Member Bodor stated are you going to provide us with more information as requested tonight, in the interim. Or is this it.

Mr. Steger stated I'll provide you with information. But I can't go and get an outside financial guy to do it for next month.

Board Member Bodor stated no. We'll give you more than a month. But, you know, we want to know if you're going to bother with it.

Mr. Steger stated I'll bother with it.

Board Member Bodor stated okay. So you want to present more to us...

Mr. Steger stated I got to find out, before the effort, I mean, if they're going to...If it's going to cost me \$10,000 to something like that, it just wouldn't be worth it. You know...

Board Member Herbst stated it shouldn't if you got a real estate...Go to a compatible real estate, like Houlihan Lawrence, or one of those, that have handled property like this. They can give it to you. And they don't charge you that much.

Mr. Steger stated they won't give me any kind of financial...they'll give me an estimate of what the property is worth, but they won't give me any kind of financial analysis of what...

Board Member Herbst stated no. Well ask for it, and you may get it. Because when they go...If they think they were going to sell it, when they went to sell it, they'd have to give somebody that. Whoever was a

potential buyer, they'd have to give them that information, so they'd have to have it. Therefore...What do you have to lose. A phone call.

Mr. Steger stated well, yeah. I can do that. If that's what you want.

Chairman Buzzutto stated alright. So you're going to bring us more information.

Mr. Steger stated I'll get you more...

Chairman Buzzutto stated more figures.

Mr. Steger stated information.

Chairman Buzzutto stated it's going to be added to what Timmy already has.

Mr. Steger stated alright. I won't be able to get it in a month's time.

Board Member Bodor stated alright. When do you think we should put this back on.

Mr. Steger stated when's the April meeting.

Board Member Bodor stated the April meeting. Alright, we'll put you on the April meeting. No promises we'll make a decision, but, you know, you'll be on the docket for that evening.

Board Member Olenius stated April 15<sup>th</sup>.

Board Member Bodor stated is that okay.

Mr. Steger stated that's fine.

Board Member Olenius stated you'd have to submit by March 31<sup>st</sup>, any new information. Just so we'd have time to review it.

Board Member Herbst stated gee, isn't that Income Tax Day.

Mr. Steger stated well, today's my birthday. So you've made me a happy boy. Sorry. Thanks.

Chairman Buzzutto stated alright, so...

Board Member Bodor stated do you understand, sir, what exactly we're looking for at this point in time.

Mr. Steger stated (inaudible – too distant) yeah.

Board Member Bodor stated you're going to go out and contact who maybe. A real estate person as Jerry is recommending.

Mr. Steger stated pardon.

Board Member Bodor stated you going to contact a real estate person.

Mr. Steger stated I'll start there, and...

Board Member Bodor stated make that your first phone call. Okay. And you know what to ask them for. Okay.

Chairman Buzzutto stated well, we need figures though. Not just...

Board Member Bodor stated right.

Chairman Buzzutto stated not just a written...

Board Member Bodor stated dollars and cents.

Mr. Steger stated you know, I'm saying, a real estate person isn't going to give you figures. He's going to give you an estimate of what the value of the property is, and you'll basically have the (inaudible).

Chairman Buzzutto stated I think we need figures on what you're taking in and what you're spending, and stuff like that.

Mr. Steger stated I already gave you that. That's what you got here.

Board Member Herbst stated well just ask them, based on what they decided the property is worth, if they think you should be collecting in rent. Then you got your figures. Then you know.

Board Member Bodor stated and comparables, too. Because that helps. You know, if the comparables are coming up in pretty much in the same ballpark as you, that's good for you. If it's showing a reasonable return and everybody else is, yeah, alright. So, you know, ask about them. That's going to support your case.

Mr. Steger stated alright. Thank you.

Chairman Buzzutto stated see what else we got in here.

Board Member Bodor stated we have another one; Mezger.

Chairman Buzzutto stated Mezger. He's not here.

Board Member Bodor stated no.

Board Member Herbst stated you know what though. Based on the amount that he's got involved in that property, \$5,000 is not nearly enough of a return.

Chairman Buzzutto stated we don't have enough information on that tonight...

Board Member Bodor stated yes, he's requesting an extension.

Board Member Herbst stated figure out that's not even \$100 a month.

Board Member Bodor stated I looked at paperwork.

Chairman Buzzutto stated well, just a picture.

Board Member Olenius stated he's got to prove that to me Jerry.

Board Member Bodor stated an extension on the existing variance.

Board Member Olenius stated and he's making money and...

Board Member Burdick stated he's already got two.

Board Member Bodor stated two.

Board Member Burdick which he already had one extension. He's had five years to finish it.

Board Member Herbst stated I don't know if he's building it up and whether he'd get away with it or not.

Chairman Buzzutto stated (inaudible –too many talking).

Board Member Olenius stated it would be shown as he's making money in a very hard market right now.

Board Member Herbst stated yeah, but...

Rich Williams stated she's never going to be able to type this out [referring to the Secretary typing the minutes].

Board Member Bodor stated what. We're just...

Rich Williams stated you have four conversations going...

Board Member Burdick stated we're not discussing...We're just talking between ourselves. We haven't done anything yet.

Board Member Bodor stated alright, this Mezger case...

Board Member Olenius stated do we make a motion to table Steger till the April meeting.

Board Member Bodor stated oh yeah.

Chairman Buzzutto stated yeah.

Board Member Bodor stated yes. Do that. You can make it.

Board Member Olenius stated I make a motion to table Steger...

Board Member Herbst stated I'll second it.

Board Member Olenius stated until the April meeting.

Board Member Bodor stated April meeting. You seconding it Jerry.

Board Member Herbst stated yeah.

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

#### 4) OHER BUSINESS

##### a) Edward Mezger – Request for an extension

Board Member Bodor stated okay, onto Mezger. Do we just entertain this extension that he's requesting without any formal ado.

Board Member Herbst stated are we...

Rich Williams stated (inaudible – too distant).

Board Member Bodor stated yeah. I know he did.

Rich Williams stated based on your last decision.

Board Member Bodor stated right. It doesn't have to be out there for the public or anything else.

Chairman Buzzutto stated well, why has he been carrying this for the last four or five years.

Board Member Bodor stated this is a variance that we granted with a three year timeframe to pull a building permit, I believe. Right. And then he came back to us after those three years, and requested a two year extension, which is up February 2009. Right now. So we've given him three years plus two more years, and if I understand it correctly, the hang-up is gaining access over someone else's property to get to his parcel. My question is, why is it taking him five years to gain access. And I wish he was here to answer that.

Rich Williams stated (inaudible – too distant) in court because there is a...

Board Member Bodor stated do you want to talk into here, or is this not necessary.

Rich Williams stated sorry. He is currently in court with one of the adjacent property owners because there is a title dispute. Turns out that the title company that he was using to ensure his right to get his property, is also the title company that reviewed one of the properties that was sold by Wyndham Homes. They did not pick up that there may have been a right for him to cross that property. So, the whole thing is tied up, right now, in a court. What he...I believe with some judge to make a decision about, you know, whether he has the legal right to get back there or not. Or what his rights are.

Board Member Bodor stated for five years though.

Rich Williams stated no. Not for five years, but...

Board Member Bodor stated what's he doing for...

Rich Williams stated but it's been maybe...

Board Member Bodor stated the other four years.

Rich Williams stated it's been that way for probably, that I'm aware at, at least a year if not eighteen months, that this has been in court.

Board Member Burdick stated do we know why he requested the last extension.

Board Member Bodor stated (inaudible – too papers shuffling) I don't.

Carl Lodes stated certainly (inaudible – papers shuffling).

Board Member Burdick stated because it only says March 2009. It doesn't give a date, which I thought was a little interesting. If you know you have a trial in March, you should know the date, I'd assume.

Carl Lodes stated (inaudible – papers shuffling).

Board Member Burdick stated I don't know. We'll have to (inaudible).

Carl Lodes stated (inaudible – too distant).

Rich Williams stated it's up at the end of this month.

Chairman Buzzutto stated well, if we don't give him an extension again on that, what's the consequences to him.

Carl Lodes stated they would have to...

Chairman Buzzutto stated you'd have to re...

Carl Lodes stated you'd have to extend it and vote it. You'd have to vote on it...

Chairman Buzzutto stated yeah.

Carl Lodes stated

Board Member Bodor stated we've got to take a vote on it tonight because it's...

Carl Lodes stated by the time you get to your next meeting, it would have expired.

Board Member Bodor stated it would be already expired.

Rich Williams stated if there is some concern on part of the Board of letting this go forward, certainly, you don't have to give him a year or two.

Carl Lodes stated no, just give him...

Rich Williams stated a shorter duration and ask for additional information.

Board Member Bodor stated do we give one month.

Carl Lodes stated well, give him two or three months and ask him to come in with information. If the date is March of 2009, maybe you can give him until May, and then have him report to you what happened in March. Sometimes cases get adjourned, so by the time they get it resolved.

Chairman Buzzutto stated he say he's got something going on with the courts about this...

Board Member Burdick stated the letter says...

Carl Lodes stated the letter.

Board Member Burdick stated yeah.

Chairman Buzzutto stated yeah. And that letter came tonight, right.

Board Member Bodor stated no. It was in the packet.

Chairman Buzzutto stated it was in the packet, okay.

Board Member Burdick stated I just had it.

Board Member Bodor stated well, I wish he was here tonight to answer all the questions. It's just taking him an awful long time. Alright, yeah, the court date, but...

Chairman Buzzutto stated well...

Board Member Bodor stated a long time has passed in between.

Chairman Buzzutto stated this could go on forever.

Board Member Bodor stated exactly. Alright.

Chairman Buzzutto stated well we...Deny it...

Board Member Bodor stated I like the idea of giving him a couple of months to find out what happens in March and then requesting his presence at that meeting...the next meeting. To fill us in on what's happened the last five years. That makes sense. I'll make a motion...

Chairman Buzzutto stated you'll make it. Okay, go ahead.

Board Member Bodor stated I make a motion that we extend the existing variance...This is February. March, April, May. Give him till May. Till the end of whatever the last day of May is, 2009.

Chairman Buzzutto stated well, he'll have to be at the May meeting.

Board Member Bodor stated no, that's not right. Yeah. Because we need him in here.

Chairman Buzzutto stated yeah. So I don't know what...

Rich Williams stated you can extend it until the end of May...

Carl Lodes stated no further extensions would be granted unless he appears...

Board Member Bodor stated at the May, whatever it is, meeting.

Board Member Olenius stated it's May 20<sup>th</sup>.

Carl Lodes stated May 20<sup>th</sup> meeting.

Board Member Bodor stated that's good.

Board Member Burdick stated can we also request that he submit something as to who the judge is that he's appearing before and the date.

Rich Williams stated sure.

Board Member Burdick stated I mean, prior to that deadline. Like...

Carl Lodes stated yes. You could say you are going to extend the...I'm sorry. His approvals until May 31<sup>st</sup> on condition that, whatever the date is for submission to the May meeting, on or before such and such a date he submits information...

Rich Williams stated how about a detailed summary or detailed information as to the delays involved. Because I know there were other issues besides...

Carl Lodes stated right. And also (inaudible – papers shuffling).

Board Member Bodor stated Sarah, do you get all of that. Can you put that all together.

The Secretary stated so do you want him to appear at the May meeting or...

Board Member Bodor stated yes.

Chairman Buzzutto stated yes.

Rich Williams stated if he could appear in March or April, does it matter.

Board Member Bodor stated no, no. If he wants to appear prior to the...prior to, then that's fine.

Rich Williams stated on or before the May meeting.

Board Member Bodor stated but we want to know, you know, everything.

Board Member Olenius stated we're going to grant the variance extension until May 31<sup>st</sup>.

The Secretary stated with condition that he comes in and lets you know what's...

Board Member Olenius stated should he not come in, it will expire May 31<sup>st</sup>.

Board Member Bodor stated we want him at a meeting. We want submission regarding what's been happening prior to...

Board Member Olenius stated or June 1<sup>st</sup>.

Board Member Bodor stated a meeting. And we would like him to... We want him to present himself.

The Secretary stated otherwise it will expire May 31<sup>st</sup>.

Board Member Bodor stated that's right.

Board Member Olenius stated or June 1<sup>st</sup>.

The Secretary stated okay.

Board Member Bodor stated now if he wants to, as Rich said, he can come in on the March, April meeting, too. But he has to be here before that May 31<sup>st</sup> deadline.

The Secretary stated okay.

Chairman Buzzutto stated well, does that have to be published to be on the agenda.

Rich Williams stated it's an extension on the variance. I don't...

Chairman Buzzutto stated you don't have to.

Carl Lodes stated no.

Chairman Buzzutto stated oh, so that eliminates this. Okay, so he can come in...

Board Member Herbst stated (inaudible) too. Alright. I'll find out.

Chairman Buzzutto stated April. March. April.

Carl Lodes stated (inaudible – too distant).

Board Member Bodor stated or going to court.

Chairman Buzzutto stated so any of those days though, does he have to be in before the close off date. Or does he just have to walk in.

Rich Williams stated generally, for us, to schedule a public meeting, yeah.

Chairman Buzzutto stated so he has to get in touch with Sarah.

Rich Williams stated he has to give us a letter saying that he's coming in, but he should provide the information for the...

Board Member Burdick stated yeah.

Chairman Buzzutto stated that's right, yeah.

Rich Williams stated (inaudible – too many talking). He's probably going to be held over...

Board Member Burdick stated yeah.

Rich Williams stated and if it's in May, it gets held over to June, he's done. So...

Board Member Burdick stated he needs to...We need to have the information prior to the meeting.

Rich Williams stated yeah.

Chairman Buzzutto stated yeah.

Board Member Burdick stated so we can review it.

Chairman Buzzutto stated prior. Prior to the cutoff date of the meeting.

Board Member Burdick stated and if there's anyway, if it's not too much trouble, if you could ascertain why he applied for the last extension, unless you know that; the two years.

Rich Williams stated would you like us to go back and look at the minutes, or would you like us to ask him.

Board Member Burdick whatever...I want to know what we have on record. I won't want to know what he tells us.

Rich Williams stated okay. Alright.

Board Member Burdick stated is that going to be too much trouble for you guys to do. Thanks.

Chairman Buzzutto stated who knows what minutes that was under though.

Board Member Burdick stated well, we know when it was granted...

Board Member Bodor stated we have the reso.

Board Member Burdick stated so...Yeah, we have the reso.

Chairman Buzzutto stated yeah.

Rich Williams stated we know when it is.

Board Member Bodor stated we can find them. They can find them.

Chairman Buzzutto stated alright, any further...

Board Member Bodor stated oh, do we need to make a motion... We need to vote on that motion to extend. I made the motion to extend.

Board Member Olenius stated I'll second.

Chairman Buzzutto stated okay.

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

Board Member Bodor stated roll call, no. All ayes.

**b) Minutes**

Chairman Buzzutto stated let's see. What else was on there.

Board Member Bodor stated we have three sets of minutes. September 2008...September 27, 2008, December 11, 2008, and January 7, 2009.

Chairman Buzzutto stated where's October and November. What happened.

Board Member Olenius stated one meeting we didn't have anything. I don't think we had a meeting.

The Secretary stated December I believe you did not have the regular...

Board Member Bodor stated correct.

The Secretary stated scheduled meeting in December. I believe that those other meetings, those minutes were approved. I was out, so I don't know. I believe they were already approved. The October minutes.

Board Member Olenius stated I'm pretty sure one month we went without a meeting because we didn't have anything...

Board Member Burdick stated yeah. It was in December because it was cancelled... We were suppose to have a meeting before I left for vacation, and we didn't have it.

Board Member Olenius stated right.

Board Member Burdick stated so, it's the only reason I remember.

Chairman Buzzutto stated okay.

Board Member Bodor stated does anyone have those meeting minutes here. Do you have all your minutes with you or no.

Chairman Buzzutto stated (inaudible).

Board Member Olenius stated I do.

Board Member Bodor stated do you. One of those was a special meeting, no.

Board Member Burdick stated yes.

Board Member Bodor stated okay.

Rich Williams stated both December and January were special meetings.

Board Member Olenius stated I think they're all in there.

Board Member Bodor stated right. Okay. The January one wasn't. We just got the one with the special meeting.

The Secretary stated the 7<sup>th</sup> was.

Board Member Burdick stated 7<sup>th</sup>, yeah.

Board Member Bodor stated it was.

Board Member Burdick stated yes.

Chairman Buzzutto stated January 24<sup>th</sup>. This would have been the November meeting.

Board Member Bodor stated but we...Alright.

Rich Williams stated whether it's special or not really is not material to this.

Board Member Bodor stated no, but I was just trying to identify them. Okay. I'll make a motion to approve September 27, 2008.

Board Member Olenius stated I'll second.

Board Member Bodor stated all in favor. Motion carried by a vote of 4 to 0. [Board Member Herbst was not on the Board at the time of the September 27, 2008 meeting]

Board Member Bodor stated December 11<sup>th</sup>. That was a special meeting. That was the Patterson Crossing Meeting. Yes.

Board Member Olenius stated yes.

Board Member Bodor stated I'll make a motion to approve those minutes.

Board Member Burdick stated second.

Board Member Bodor stated all in favor. Motion carried by a vote of 4 to 0. [Board Member Herbst was not on the Board at the time of the December 11, 2008 meeting]

Board Member Bodor stated okay. January...

Chairman Buzzutto stated December...January 7<sup>th</sup>.

Board Member Bodor stated 7<sup>th</sup>, 2009. Motion to approve.

Board Member Olenius stated I'll make a motion to approve.

Board Member Bodor stated okay. That was just three cases. Steger...

Chairman Buzzutto stated oh, yeah. Okay.

Board Member Bodor stated Patterson Crossing.

Chairman Buzzutto stated I remember where we are.

Board Member Bodor stated okay, you made a motion. Second. All in favor. Motion carried by a vote of 5 to 0.

Board Member Bodor stated done. Anything else.

Chairman Buzzutto stated just so you're all aware that we're not finished with Patterson Crossing.

Board Member Bodor stated yeah, I saw a big packet of stuff. I didn't read it yet though. Have anything interesting for us.

Rich Williams stated other than Patterson Crossing, no.

Board Member Bodor stated do you have something you want to put on the record regarding Patterson Crossing.

Rich Williams stated just that we are currently working (inaudible – papers shuffling) a response to the legal challenge.

Board Member Bodor stated okay.

Rich Williams stated there's a summary in the packet.

Chairman Buzzutto stated who'd you say was handling that. Anthony.

Rich Williams stated Anthony Mangone.

Carl Lodes stated I see in the minutes, for January, Tim's comments (inaudible – too distant).

Board Member Bodor stated they're in the January minutes.

Carl Lodes stated (inaudible – too distant) 7%. 7% and then 8%.

Board Member Burdick stated yeah just quickly ran calculations and it's 5, 7, and 8%, roughly.

Carl Lodes stated yes.

Board Member Bodor stated but we all know how calculations go. But at least they agree with Tim's.

Board Member Bodor stated okay. No further business. I'll make a motion to adjourn.

Board Member Olenius stated second.

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

Meeting adjourned at 8:37 p.m.