

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS
February 20, 2008**

AGENDA & MINUTES

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1) Jirina Emerson Case #29-07	1 – 2	Application tabled at request of Applicant until the 3/19/08 meeting
2) Michael Tobin Case #01-08	2 – 10	Public hearing opened; Application tabled for a site walk
3) Other Business		
a) Minutes	10 – 12	Approved 11/26/07, 12/19/07, and 1/22/08 minutes
b) Site Walk	12 – 14	Site walk scheduled for March 8, 2008

PLANNING DEPARTMENT

P.O. Box 470
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Patterson, NY 12563

Michelle Russo
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TOWN OF PATTERSON



ZONING BOARD OF APPEALS

Howard Buzzutto, Chairman
Mary Bodor, Vice Chairwoman
Marianne Burdick
Lars Olenius
Martin Posner

PLANNING BOARD

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

PLANNING & ZONING OFFICE

**Zoning Board of Appeals
February 20, 2008 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 Burdick, Board Member Lars Olenius, Board Member Posner, and Rich Williams, Town Planner.

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

Chairman Buzzutto led the salute to the flag.

Approximately 3 members in the audience.

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

Roll Call:

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

1) JIRINA EMERSON CASE #29-07

Chairman Buzzutto stated okay. Read the... You want to read the...

The Secretary stated for Tobin.

Chairman Buzzutto stated the...I can't find it.

Board Member Bodor stated the legal notice.

Chairman Buzzutto stated the legal notice.

Board Member Bodor stated just read the legal notice.

Chairman Buzzutto stated just read the legal.

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 20, 2008 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following applications:

Jirina Emerson Case #29-07 – Special Use Permit

Applicant is requesting a Special Use Permit pursuant to §154-106 of the Patterson Town Code; Accessory buildings. Applicant wishes to convert the pre-existing, small barn on the property into an accessory structure for residential occupancy. This property is located at 550 Route 164 (R-4 Zoning District).

Board Member Bodor stated alright. Let the record show that that case, Mr. Emerson's case, has been requested by Mr. Emerson to be tabled until the March meeting.

2) MICHAEL TOBIN CASE #01-08

The Secretary read the following legal notice:

Michael Tobin Case #01-08 – Area variances

Applicant is requesting area variances pursuant to §154-7 of the Patterson Town Code; Schedule of Regulations, and §154-27(12)(b) of the Patterson Town Code; Permitted accessory uses. Applicant wishes for two existing 8' x 8' sheds to remain in their present location. The Applicant is requesting a 5' variance for each shed. The Patterson Town Code requires a 15' side yard setback; Applicant has 10' for each shed. There is also 5 ½' between the sheds; Code requires 15'; variance requested is for 9 ½'. This property is located at 79 Panorama Drive (R-1 Zoning District).

Chairman Buzzutto stated Mr. Tobin.

Mr. Michael Tobin stated yes.

Chairman Buzzutto stated come up and explain to us...Do you want to raise your right hand.

Mr. Tobin stated sure.

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

Mr. Tobin stated yes.

Chairman Buzzutto stated okay.

Board Member Bodor stated state your name for the record please, and use the microphone so that it...

Chairman Buzzutto stated yeah, you can take it right out of there if you wish [referring to taking the microphone off the microphone stand].

Mr. Tobin stated that's okay.

Chairman Buzzutto stated just pull it toward...

Mr. Tobin stated my name is Michael Tobin.

Chairman Buzzutto stated okay. And your request is to get variances on two sheds that are already in place.

Mr. Tobin stated yes.

Chairman Buzzutto stated that have been in place since...

Mr. Tobin stated first one, 1986. And the second one was 1999.

Chairman Buzzutto stated alright. And you had received no permits...Well, you wouldn't need permits because of the size.

Mr. Tobin stated correct.

Chairman Buzzutto stated but you received no variances to put them where you put them.

Mr. Tobin stated I wasn't aware that I needed a variance at the time.

Chairman Buzzutto stated wasn't aware of that.

Mr. Tobin stated my neighbor at the time, who is now deceased, had no objection. I built them...Well, if you see the pictures, where the sheds are now, there were woods there at that time. About six years ago, we had about 25 to 30 trees removed, and I had the lawn extended. And at the time, it was really the only practical place to put them. Because I don't have a basement in my house. We actually sold the house last Friday. And the new owner would like to keep the sheds. It's really for storage because we don't have a basement, and with the riding mower, I wouldn't be able to park the car in the garage. And the second one was for the patio furniture.

Chairman Buzzutto stated and the house is a colonial.

Mr. Tobin stated yes.

Chairman Buzzutto stated that's a single garage right.

Mr. Tobin stated it's a one car garage.

Chairman Buzzutto stated some have two, but...

Mr. Tobin stated some have two.

Chairman Buzzutto stated two or three.

Board Member Bodor stated is it possible to relocate these sheds so that they would be in compliance with the Code.

Mr. Tobin stated at this point, being that the lawn...that everything was re-landscaped, to get a machine big enough in there to move them would probably destroy the lawn. And we landscaped all around it once the trees were removed. I have colored pictures if that would give you a better view. But we've landscaped gardens around them, this way it sort of becomes the scenery...part of the scenery. They're on cinder blocks.

Board Member Bodor stated they're sitting on cinder blocks.

Mr. Tobin stated yes. And both neighbors...There was a letter from my neighbor.

Board Member Bodor stated yes, we do have a record...a letter here.

Mr. Tobin stated from Michael Gaesser.

Board Member Bodor stated yes. I can read this for the record. This is from Michael Gaesser. 83 Panorama Drive. And he's the property adjoining you...

Mr. Tobin stated yes.

Board Member Bodor stated on the side where the...

Mr. Tobin stated yes.

Board Member Bodor stated sheds are. He states [Board Member Bodor read the following letter]:

For the record, we have no issues with the construction, placement, or maintenance of the two sheds that exist on the property at 79 Panorama Drive in Patterson, New York. If you have any further questions please contact us.

Board Member Bodor stated and that's Michael Gaesser and Jannet Gaesser.

Chairman Buzzutto stated well, the only thing is that if a decision is for granting this, if Michael Gaesser wants to put two sheds up there, he could do the same thing; put them too close, you know. It could snowball into everybody doing the same thing.

Mr. Tobin stated yeah. I was unaware at the time.

Chairman Buzzutto stated yeah.

Mr. Tobin stated otherwise I would have applied for a variance ahead of time.

Chairman Buzzutto stated that's why we try to keep the codes in line and keep the codes enforced. But you couldn't get a forklift in there and just move them back or something.

Mr. Tobin stated it would probably tear up the lawn and...

Chairman Buzzutto stated yeah, but it's frozen this time of year, so...

Mr. Tobin stated and you can see the large trees around there. Even getting the equipment in there and being able to move it back.

Board Member Bodor stated not only are they close to the sideline, but they're too close to each other also. Because they're supposed to be 15 feet apart.

Mr. Tobin stated yeah, with trees on the far side of one of them, that's why the location. That's why we chose that location.

Board Member Bodor stated I'd like to go out and take a look at this and see what the possibility is of another location for these sheds on the property.

Board Member Olenius stated I agree. Were these stick built in place, or dropped off.

Mr. Tobin stated first one originally was an aluminum shed that I put up. And then I had another one I bought from Home Depot; put that next to it. Then I took the aluminum down, and I built a copy of the other one. They're painted to match the color of the house. As I said, we landscaped all around. I mean for sheds, I consider them attractive. And it's...

Board Member Olenius stated you bought them from Home Depot as a kit, or they're...

Mr. Tobin stated the first one. They were delivered and built on site. They had like four walls already constructed.

Board Member Olenius stated right. It wasn't fully assembled on a trailer.

Mr. Tobin stated they had a contractor come out. He assembled them.

Board Member Olenius stated okay.

Mr. Tobin stated but you see the trees are situated next to that, that's why they're so close. On the backside...

Chairman Buzzutto stated you say you sold the house Friday. Are you still living there, or...

Mr. Tobin stated no I'm not. We sold the house Friday.

Chairman Buzzutto stated oh, is it...buyers are already in there.

Mr. Tobin stated they're in the house. He wants the sheds, you know, because of the storage issue; there's no basement. The house is on a concrete slab, and there's only a one car garage. At the time that was the only, you know, practical place we could put them. And we have one picture there where you can see it

from the road. And if you come down Morningside Drive, there's trees there. You can't even see it from the road.

Board Member Bodor stated you're not the owner any longer of this property.

Mr. Tobin stated no I'm not.

Board Member Bodor stated do you...

Mr. Tobin stated they're holding \$3,000.00 in escrow from the closing, until I get this resolved.

Board Member Bodor stated oh, okay.

Mr. Tobin stated I should be closing next week.

Board Member Burdick stated can we legally act on this if he's not the owner, Rich.

Rich Williams stated if you have permission of the current owner, yes. You would need a letter.

Board Member Burdick stated yeah...

Board Member stated we don't have that in writing.

Board Member Burdick stated we need a letter from the current owner that you're acting on their behalf for this.

Mr. Tobin stated okay.

Board Member Burdick stated and if we decide to do a site walk, we would need permission from them to go onto the property to do a site walk.

Mr. Tobin stated okay.

Chairman Buzzutto stated alright, so we've got a request from the board members to site walk this.

Board Member Bodor stated yeah.

Board Member Posner stated yeah, we need to see it.

Chairman Buzzutto stated alright, we all agree on that.

Board Member Burdick stated yes.

Chairman Buzzutto stated alright, so we'll table this until next meeting. We're going to take a site walk.

Mr. Tobin stated okay.

Chairman Buzzutto stated they want to see the property. And we'll...Where can we get in touch with...Do you know where we can get in touch with the owners of the property now; the telephone numbers and stuff like that.

Mr. Tobin stated I don't have their telephone number.

Board Member Bodor stated alright. We're going to need that because what we'll do is setup a site walk at our convenience...

Mr. Tobin stated okay.

Board Member Bodor stated and contact the owner so that they're there and can show it to us, or at least tell us we're not going to be home on Saturday but you're welcome to come. But we need to know that.

Board Member Burdick stated before we go out there, we need a letter from them...

Chairman Buzzutto stated yeah.

Board Member Burdick stated saying that you can apply for this variance on their behalf. Is that accurate.

Rich Williams stated we have forms that they are going to need to file.

Board Member Burdick stated okay.

Chairman Buzzutto stated yeah. I hate to be that technical, but we have to follow the codes. Unfortunately, that's one of them. So, find out who the owner is. Do you have their names.

Mr. Tobin stated I have their names.

Chairman Buzzutto stated yeah, can you leave that with us.

Mr. Tobin stated sure.

Chairman Buzzutto stated and stuff like that. And we'll call and get this squared away.

Board Member Bodor stated but we need you to contact them regarding the permission for you to represent them, as them being the owners.

Mr. Tobin stated yeah. I have the letter...Because my attorney was Bill Shilling, he's holding the escrow.

Board Member Bodor stated okay.

Mr. Tobin stated I'll call him tomorrow.

Board Member Bodor stated alright. Or through him then for the information that we need. And there's a form that they need to fill out. It's not just a letter.

Rich Williams stated it's part of the application...

Board Member Bodor stated yes.

Rich Williams stated generally the owner has to...

Board Member Bodor stated yeah. It's right on here.

Rich Williams stated yeah.

Chairman Buzzutto stated can we get that form to Mr. Tobin tonight. Alright, do you have any of those handy, or can he get that from...

Rich Williams stated they're in the office.

Chairman Buzzutto stated oh. They're in the ZBA office, or in the Building Department.

Rich Williams stated ZBA.

Chairman Buzzutto stated okay. So...

Board Member Burdick stated there's authorization for filing.

Board Member Bodor stated right.

Board Member Burdick stated same thing for site inspection. It's all on the same page.

Board Member Bodor stated it's all here.

Board Member Burdick stated yes.

Chairman Buzzutto stated it's all there.

Rich Williams stated (inaudible – too many talking) need to file a new application.

Board Member Bodor stated need a whole new application with that in it. Written right (inaudible).

Rich Williams stated yeah. Well, you know, with him as the applicant.

Board Member Bodor stated okay.

Rich Williams stated with this gentleman as the applicant (inaudible – too distant).

Mr. Tobin stated even though when I originally applied...when I originally applied I was the owner at the time.

Rich Williams stated the circumstances have changed.

Mr. Tobin stated okay.

Rich Williams stated there is a new owner at this point. So the application you filed as owner, is no longer valid. It doesn't mean that you can't represent that. It's just you don't have the authority to act on their behalf at this point because they haven't authorized that. And that's all part of the application form.

Mr. Tobin stated basically I have to start over, you know...

Rich Williams stated we're just asking you to fill out some paperwork.

Mr. Tobin stated okay.

Rich Williams stated it's very simple.

Mr. Tobin stated that sounds fine.

Chairman Buzzutto stated yes...

Board Member Bodor stated this one whole page is... You signed up here, and that says signature of owner. Now, if that's other than applicant, then that is where he'd have to... they would have to sign.

Mr. Tobin stated oh I see. Okay.

Board Member Bodor stated and here is authorization for filing the application, right here, this section, which has to be notarized. This says that this here authorizes... So this would be filled out by the owner giving you permission and have that notarized, his signature. And then down here, property owner signature for site inspection...

Chairman Buzzutto stated yeah.

Board Member Bodor stated permission.

Chairman Buzzutto stated allowing us to go on the property.

Mr. Tobin stated alright.

Board Member Bodor stated so that's a part of the original packet.

Mr. Tobin stated okay.

Board Member Bodor stated it's nothing...

Chairman Buzzutto stated it sounds kind of...

Board Member Bodor stated nothing too important.

Chairman Buzzutto stated (inaudible – too many talking). It's got to be done legally because of incase someone gets hurt on the property, and we don't have permission to go there...

Mr. Tobin stated I understand.

Board Member Bodor stated okay then...

Chairman Buzzutto stated so will you notify Mr. Tobin when the site walk will be.

The Secretary stated yes.

Chairman Buzzutto stated we don't quite know yet, because it will probably be on the weekend because it gets dark... We don't have enough time yet. Alright, so we'll be in touch with you.

Mr. Tobin stated I'll call my attorney...

Chairman Buzzutto stated yeah.

Mr. Tobin stated and have him contact...

Chairman Buzzutto stated yeah. Sorry...

Mr. Tobin stated through the attorney.

Chairman Buzzutto stated we couldn't do anything for you tonight.

Mr. Tobin stated that's alright. Thanks anyway.

Chairman Buzzutto stated okay. Thank you.

Dan Kuchta stated are you going to take public comments on this case.

Chairman Buzzutto stated I'm sorry.

Dan Kuchta stated were you going to be taking public comments on this case.

Board Member Bodor stated I don't think we really can tonight because the authorization for this gentleman to represent the owner is not in place. This hearing will be continued to our next meeting. And that's where I think it will be appropriate if there's any public input.

Board Member Burdick stated at this point it's not really even a valid application because he's representing somebody that we don't know he has the right to represent.

3) OTHER BUSINESS

Board Member Bodor stated any other business we have.

Chairman Buzzutto stated is there any other...well.

Board Member Bodor stated that's next on here.

Chairman Buzzutto stated yeah. Just other business.

Board Member Bodor stated was there anything else.

The Secretary stated no.

Board Member Bodor stated no.

Board Member Bodor stated then we have some minutes to approve. A few. We have some from way back in November 26th.

The Secretary stated that was the first cell tower meeting.

Board Member Bodor stated oh is that what it was. Okay.

Chairman Buzzutto stated short meeting tonight Dan.

Dan Kuchta stated it's very short.

Chairman Buzzutto stated yeah. Well, we had one cancellation, and this time of year it just gets slow. Okay, so we'll...

Board Member Bodor stated we have other things to deal with next week.

Chairman Buzzutto stated yeah.

Board Member Bodor stated okay. The November 26, 2007, that was the first cell tower meeting. Did everyone have an opportunity to look those over. And how did they look. I'll make a motion to approve them.

Board Member Olenius stated I'll second it.

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

Board Member Bodor stated December 19th. That was a regular scheduled meeting, yes. I'll make a motion to approve those.

Board Member Burdick stated second.

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

Board Member Bodor stated January 22nd. That wasn't cell tower...or was it. No, this wasn't the cell tower. It was a regular meeting.

Board Member Olenius stated that was Mr. Emerson and the building on [Route] 22 there.

Board Member Bodor stated oh, okay.

Chairman Buzzutto stated oh yeah.

Board Member Bodor stated sorry. I didn't bring them with me, that's why I'm not...

Board Member Olenius stated no. I did read those.

Board Member Bodor stated you didn't read those.

Board Member Olenius stated I did.

Board Member Bodor stated you did. Okay. Did everybody read them.

Chairman Buzzutto stated I browsed through them.

Board Member Bodor stated you browsed them, okay. I make a motion to approve them.

Board Member Olenius stated I'll second it.

Board Member Bodor stated okay, all in favor. Motion carried by a vote of 3 to 0.

Board Member Posner stated I'll have to abstain because I wasn't there.

Board Member Burdick stated same with me. Abstain because I wasn't there.

Board Member Bodor stated okay. So three approvals.

Chairman Buzzutto stated alright, so we have to approve...

Board Member Bodor stated January 29th was the other cell tower, and I'd like to hold off on that one.

Board Member Posner stated yeah.

Board Member Olenius stated I just read it today to catch myself up to speed.

Board Member Bodor stated right.

Board Member Posner stated I just got it within (inaudible).

Chairman Buzzutto stated yeah. I just got this...

Board Member Bodor stated so we'll hold off on that one okay. Alright, when are we going to do the site visit.

b) Site walk

Chairman Buzzutto stated the site walk...

Board Member Posner stated assuming he gets us the permission.

Board Member Bodor stated yeah, we need the information first. So let's push it out a bit. Our next meeting is the 19th.

Chairman Buzzutto stated our next regular meeting, right.

Board Member Bodor stated yeah, well that's when we'd entertain that.

Chairman Buzzutto stated yeah.

Board Member Bodor stated I will not be here that Saturday prior to that, the 15th. So maybe can we schedule it for the 8th, or no.

Chairman Buzzutto stated the meeting.

Board Member Bodor stated the site walk, on the 8th.

Chairman Buzzutto stated the site walk, yeah. On the 8th of...

Board Member Bodor stated Saturday.

Chairman Buzzutto stated March.

Board Member Bodor stated the 8th of March. Does that work.

Board Member Olenius stated that sounds fine by me.

Chairman Buzzutto stated yeah, Saturday...

Board Member Posner stated I don't think I have anything that day. March 8th.

Board Member Bodor stated March 8th. Okay. That's assuming that all the information is available to us that we need from him. And I think it will be.

Chairman Buzzutto stated yeah, because today's the 20th.

Board Member Olenius stated that would be... We're doing 9:00 a.m. still on Saturdays.

Board Member Bodor stated yeah. Nine o'clock at the residence. How's that.

Board Member Olenius stated okay. Are we still doing alternate dates.

Chairman Buzzutto stated it would be good because it is hard to get in touch with everybody.

Board Member Bodor stated well how about the next day, the 9th.

Board Member Posner stated yeah.

Board Member Bodor stated as an alternative. Okay. That's a Sunday.

Board Member Posner stated are we doing anything...

Board Member Olenius stated same time.

Board Member Bodor stated same time. Yeah, unless that interferes with somebody's obligations.

Chairman Buzzutto stated no.

Board Member Bodor stated no.

Board Member Posner stated it's our 40th anniversary. Not wedding anniversary, 40th anniversary of knowing each other.

Board Member Bodor stated aw, congratulations.

Board Member Olenius stated it sounds like you should take the ride that day too, and get a free breakfast out of it [referring to Mrs. Posner].

Board Member Posner stated she gets a lot of free breakfasts.

Board Member Bodor stated okay. So we're set for the 8th, if not then, the 9th. Anything else we need to do.

Chairman Buzzutto stated not that I know of.

Board Member Olenius stated rest up for next Tuesday.

Board Member Bodor stated next Tuesday, yes. The next cell tower meeting.

Chairman Buzzutto stated I think we set that for 7:30 p.m., didn't we.

Board Member Bodor stated yes.

Chairman Buzzutto stated at the Rec Center. We're going to follow the same procedure that we did with the first one.

Board Member Bodor stated the last one. I think that worked well. Marianne with the stopwatch, telling everybody when it was time. I'm sorry.

Board Member Burdick stated I said even though they didn't listen. Did the tape come out, because a couple of times I think that it seemed to screw up. Did it work.

The Secretary stated yeah. Thank you.

Board Member Burdick stated oh okay.

The Secretary stated it helped a lot.

Board Member Bodor stated good. The second tape does help. I guess we're set then. 7:30 p.m.

Board Member Posner stated sounds good to me.

Board Member Bodor stated Marty, you don't think it's going to be a problem getting up in that time, because it's later.

Board Member Posner stated no, I'll be there.

Board Member Bodor stated I know.

Board Member Posner stated I maybe a drop late.

Board Member Bodor stated okay.

Board Member Posner stated okay. Only because it's the one day that, all of the sudden, they said that we've got to work late.

Board Member Bodor stated right.

Board Member Posner stated but I'm going to tell them that I got to leave at 6:30 p.m.

Board Member Bodor stated okay.

Board Member Posner stated if at leave at 6:30 p.m., I'll definitely be there by 7:30 p.m.

Board Member Bodor stated good deal.

Board Member Burdick stated and it's at...

Chairman Buzzutto stated Rich, you have anything you want...

Board Member Bodor stated 7:30 p.m., yeah.

Chairman Buzzutto stated address with this.

Rich Williams stated not anymore.

Chairman Buzzutto stated you've got to have something.

Board Member Posner stated not anymore.

Chairman Buzzutto stated not anymore.

Board Member Bodor stated do we have any other business that we need assessed. Okay.

Board Member Posner stated that's it.

Board Member Bodor stated right. I make a motion to adjourn this meeting.

Board Member Olenius stated second.

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

Meeting was adjourned at 7:28 p.m.