

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS
May 21, 2008**

AGENDA & MINUTES

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PLANNING DEPARTMENT

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Patterson, NY 12563

Michelle Russo
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TOWN OF PATTERSON



ZONING BOARD OF APPEALS

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PLANNING & ZONING OFFICE

**Zoning Board of Appeals
May 21, 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, Jennifer Herodes, Attorney with Town Attorney's Office Curtiss, Leibell, Herodes & Molé and Rich Williams, Town Planner.

Chairman Buzzutto called the meeting to order at 7:01 p.m.

Chairman Buzzutto led the salute to the flag.

Approximately 5 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) MAURI ASSOCIATES ARCHITECTS CASE #04-08

Mr. Spencer Terwilliger and Mr. Dennis Suraci were both present.

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, May 21, 2008 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following application:

Mauri Associates Architects Case #04-08 – Area Variance

Applicant, who is acting on behalf of Putnam ARC, is requesting an area variance pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings. Applicant is requesting area variance in order to enlarge a pre-existing, nonconforming structure to accommodate additional bedrooms and make modifications to the existing structure. This property is located at 393 Cornwall Hill Road (R-4 Zoning District).

Chairman Buzzutto stated okay. Will the...Was it Mauri Associates Architects.

Mr. Dennis Suraci stated good evening.

Board Member Olenius stated good evening.

Mr. Suraci stated my name is Dennis Suraci. I am the architect in charge of this project. I'm here with Spence Terwilliger from PARC. If I can, I have some 11" x 17" handouts...

Chairman Buzzutto stated fine.

Mr. Suraci stated to make it a little easier to look at them.

Chairman Buzzutto stated this is in addition to what we already have.

Mr. Suraci stated yeah...well, it kind of is part of what you have. What we're here for is, as this young lady said, is we're asking for an area variance in the R-4 district; the enlargement of a nonconforming building...structure. The side yard that's required is 40 feet. The existing setback, presently to the existing structure, is 11'7". And we're proposing to the (inaudible) which is the entrance to the basement from outside, 16'4". We were asked to put a dimension on that and to the structure itself, 23'6" is the setback from that north property. The increase in coverage is okay. (Inaudible). The first page that you have in front of you is the existing site as it is; which is just the house and the driveway shown on that (inaudible). The next one is the interior layout of the house that is there. It is presently a four bedroom structure, with a kitchen, living room, dining room and a garage. We will convert the garage into a living space and the addition as well, and you will see that on the next two sheets. The first one you come to is a site plan with their application is what you have. (Inaudible) size in terms of the parking, the setbacks, the addition, the deck, and the ramps that are proposed for this house. The house was going to be made fully accessible for the consumers that are going to live here, most are in a wheelchair. And the interior, as well, will be accessible. There's a handicapped bathroom and hallways and things of that nature and size. The last sheet shows you the interior layout, and it shows you that addition in the back.

Board Member Bodor stated how many total bedrooms are you proposing.

Mr. Suraci stated there will be eight, I believe. 4, 5, 6, 7, 8. Eight. And two of them are doubles. There will be two consumers in two of the bedrooms; the larger rooms.

Board Member Bodor stated if I'm not mistaken, you just put a whole new septic system in the front yard up there.

Mr. Suraci stated yeah. In the backyard. The tank is in the front where the pump...It pumps to the field in the back area.

Board Member Bodor stated oh, okay.

Mr. Suraci stated that took two years to get in through the Health Department for that.

Board Member Bodor stated I know the front yard's been torn up, that's why...

Mr. Suraci stated right. Because of the tank and it's a pressurized system. So they actually pumped it from the front where the old tank was, and put a new tank in, and the pump's in that location. And it pumps it right around to the back. I have a copy of the Health Department plan if you want to see it.

Board Member Bodor stated where is the existing well.

Mr. Suraci stated the existing well is in the back corner.

Board Member Bodor stated way back.

Mr. Suraci stated that's one of the reasons why we came in off of that corner, so we were (inaudible) northwest side of the old house.

Board Member Bodor stated and I assume that the bedroom count is consistent with the capacity of the septic.

Mr. Suraci stated yes. Yes.

Board Member Bodor stated new septic.

Mr. Suraci stated right.

Board Member Bodor stated right.

Mr. Suraci stated Putnam Engineering designed that, and they just...It took them awhile to get through the Health Department. And they hired a contractor separate from this contractor, for the bidding of the addition.

Board Member Bodor stated are you the same company that worked on the group home on [Route] 311.

Mr. Suraci stated yes.

Board Member Bodor stated okay. The one by Cornwall Hill Road.

Mr. Suraci stated yes.

Board Member Bodor stated okay. You did a good job up there.

Mr. Suraci stated thank you. We like to hear that.

Board Member Bodor stated I've heard a lot of praise. I haven't been in it, but I've heard a lot of praise. I happen to be a neighbor there.

Mr. Suraci stated nice.

Board Member Bodor stated and all of the interior doorways will be handicapped accessible.

Mr. Suraci stated yes. They all have to be. Well, we go to 36", it can be (inaudible – too distant) but the stock doors at 36" which (inaudible – too distant) to get.

Board Member Bodor stated okay.

Mr. Suraci stated so they'll be all 36" wide. All the bathrooms will be accessible. The new bathroom that we're adding in the garage area as well as the one in the addition, and as well as the existing one which we gutted, it will be accessible. Some are designed for wheelchairs, some are designed for people with walkers.

Board Member Bodor stated I see.

Board Member Olenius stated yeah. You're in the R-4 Zone, and how large is this lot.

Mr. Suraci stated 7.9 acres.

Board Member Posner stated yeah. 7.9 [acres] it says.

Board Member Bodor stated what about the lighting that's proposed on the outside. That's not going to interfere with the neighbors in any way, is it.

Mr. Suraci stated no. We used residential lighting in kind of a...I think it's on your sheet. I'm not sure.

Board Member Bodor stated it is. I'm just...

Mr. Suraci stated some pole lighting, but...It's tough to get a footprint of foot candles when you get into a residential type light, so what we did was we showed where the lights go. These are 100 foot...watt maximum bulb on the outside. There are floodlights on the outside of the building...

Board Member Bodor stated yes.

Mr. Suraci stated with motion sensors on and photocells. So they'll only go on at night when there's motion and somebody pulls into the driveway or someone is walking around the outside of the building. And they'll go off; they're set on a timer.

Board Member Bodor stated I see. My concern is you're pretty close to the sideline. You face...

Mr. Suraci stated there are no lights here. There're...

Board Member Bodor stated okay. That's the side where you're closest to another residence.

Mr. Suraci stated yes.

Board Member Bodor stated yeah.

Mr. Suraci stated the lights are in the parking area on this side. And there's two full lights in here [referring to plans of the property]...

Board Member Bodor stated yes.

Mr. Suraci stated for the front walkway.

Board Member Bodor stated okay.

Mr. Suraci stated but we kept all of the lights on that side.

Board Member Bodor stated alright.

Chairman Buzzutto stated this is way down by Kessman's.

Board Member Bodor stated this is the property that we walked with one of the deer fence going back. Remember.

Chairman Buzzutto stated oh yeah.

Board Member Bodor stated next to the Decatur's.

Chairman Buzzutto stated yeah, okay. It's on the right side coming down.

Board Member Bodor stated it's right...Decatur's and then...

Chairman Buzzutto stated yeah. Okay.

Board Member Bodor stated this house.

Chairman Buzzutto stated now I know where he is.

Board Member Bodor stated yeah. We walked all the way out in the back.

Chairman Buzzutto stated and this is pre-existing, nonconforming structure.

Board Member Bodor stated yes.

Chairman Buzzutto stated with an addition. What was the purpose for the additional bedrooms.

Mr. Suraci stated to increase the bedroom count.

Chairman Buzzutto stated to increase it.

Mr. Suraci stated yes.

Chairman Buzzutto stated for what reason.

Mr. Suraci stated oh, they're moving out of a house...What, is it on [Route] 22.

Mr. Spencer Terwilliger stated yeah.

Mr. Suraci stated on Route 22. As the people get older, it's a little tougher for them to get around. It's a two-story structure there. And as they age, you need more handicapped accessible homes. So right now, they're kind of downsizing and putting fewer in this home, but also making it totally accessible, rather than renovating an older home that they own.

Chairman Buzzutto stated the place that they're moving out of on [Route] 22, that's...

Board Member Bodor stated Honeysuckle Hills.

Chairman Buzzutto stated is that Honeysuckle...

Mr. Terwilliger stated yes. Through the (inaudible – too distant).

Board Member Bodor stated right. Yeah.

Chairman Buzzutto stated that's the house next to mine.

Board Member Bodor stated your neighbor. Yes.

Chairman Buzzutto stated okay. Too bad. They were good neighbors. They didn't bother nobody. Okay.

Board Member Bodor stated are you still going to use it as a side...

Mr. Terwilliger stated no.

Board Member Bodor stated you're not going to use that for a residence at all.

Mr. Terwilliger stated no, not at all. I've just gotten old, and the bottom line is that the State is giving us guidelines where individuals are now more individualized and everybody kind of gets their own bedroom now; especially when you're in wheelchairs. Most of them...That's more or less our oldest population in that house now.

Board Member Bodor stated yeah.

Mr. Terwilliger stated so we have to build something that's all on one level, or handicapped accessible.

Chairman Buzzutto stated yeah. Would you mind giving your name sir.

Mr. Terwilliger stated absolutely. Spence Terwilliger, Chief of Facilities at PARC.

Chairman Buzzutto stated and when you want to speak, will you come up to the mic so it goes into the...

Board Member Bodor stated thank you.

Chairman Buzzutto stated thank you. Okay. That's been there for a long time now. Well, the Honeysuckle house was there years ago. Okay. Do I have any input from the audience on that. No. Is there anything more that you want to know about it.

Board Member Bodor stated no.

Chairman Buzzutto stated you know the house. You've seen it. Okay, yeah.

Board Member Bodor stated if you want to go out and take a look at it, you know, that's up to you. I'm very familiar with it though.

Chairman Buzzutto stated I don't think you've ever seen it.

Board Member Olenius stated no, I don't think I need to. I think everything...If you like to, I will. But...

Chairman Buzzutto stated well, what benefit would be to see it then.

Board Member Olenius stated I don't...I think the file is very accurate and detailed, and I feel comfortable without going out to physically see it. But if...

Chairman Buzzutto stated alright.

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

Board Member Bodor stated you're familiar with it, aren't you.

Board Member Posner stated yes I am. And I agree.

Board Member Bodor stated and Marianne.

Board Member Burdick stated yes.

Board Member Olenius stated I know we did a resolution about 16 months ago on the house right next door to it.

Chairman Buzzutto stated yeah, I remember that.

Board Member Olenius stated a swimming pool or something.

Board Member Posner stated a pool, yeah.

Board Member Bodor stated right.

Chairman Buzzutto stated alright. No input from the audience.

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

Chairman Buzzutto stated close the public hearing.

Board Member Olenius stated second.

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

Board Member Bodor stated does someone have a reso.

Board Member Olenius stated I can.

Board Member Bodor stated do you.

Board Member Olenius stated yes.

Board Member Bodor stated thank you.

Board Member Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Mauri Associates Architects, Case #04-08
*Enlargement of a Nonconforming Building***

WHEREAS, *Putnam ARC* is the owner of real property located at 393 Cornwall Hill Road (R-4 Zoning District), also identified as **Tax Map Parcel # 13.-3-52**, and

WHEREAS, *Mauri Associates Architects* 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 additional bedrooms and to make modifications to the existing structure, 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 40' side yard setback; Pre-existing structure is 11'7" from the sideline; the new addition will be 16'4" from the sideline, 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 May 21, 2008 to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***because the proposed addition is in the rear of the home, and out of view of most adjacent neighbors, and is also inside the existing footprint of the current home.***

2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because an addition to the front of the home would be too close to frontage and over driveway areas, and the rear is a very large, undeveloped parcel.*
3. the variance requested *is* substantial *however not so much 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 the lot is almost twice the size for the zoning in that district, and impervious surfaces will not be affected.*
5. the alleged difficulty necessitating the variance *was self-created* but *is not sufficient* so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *grants* the application of *Mauri Associates Architects* for an *area variance* pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings, in order to construct additional bedrooms and make modifications to the existing structure.

Board Member Bodor stated I'll second it.

UPON ROLL CALL:

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

Resolution carried by a vote of 5 to 0.

Chairman Buzzutto stated okay.

Mr. Suraci stated thank you very much.

Board Member Posner stated you're welcome.

Board Member Olenius stated good luck.

Board Member Bodor stated good luck.

Mr. Suraci stated thank you.

2) VITO ANDRIANO CASE #05-08

Mr. Vito Andriano was present.

Mr. Vito Andriano stated I also have some boards.

Board Member Olenius stated wait a second. She has to read the legal first.

The Secretary read the following legal notice:

Vito Andriano Case #05-08 – Area Variances

Applicant, who is acting on behalf of NRA Realty & Development Co., is requesting area variances pursuant to §154-4 of the Patterson Town Code; Definitions (Cabin). A 25' x 31' addition with a hip roof was constructed to a pre-existing 600 square foot cabin, bringing the new total square footage to 1375 square feet. The Code requires a cabin to be no more than 650 square feet in size; variance requested is for 725 square feet. The new addition is a two-story great room with two bedrooms. The height of the addition is 24'. The Code requires a cabin to be no more than 16' in height; variance requested is for 8'. Applicant is also requesting an area variance pursuant to §154-27 A(9)(b) of the Patterson Town Code; Permitted accessory uses. There is a 9' separation between a portion of the pre-existing cabin and a shed; the Code requires a 15' separation; variance requested is for 6'. This property is located at 180 Birch Hill Road (R-4 Zoning District).

Chairman Buzzutto stated do you want to state your name.

Mr. Andriano stated yes. My name is Vito Andriano.

Chairman Buzzutto stated do you swear the testimony you provide tonight will be the truth, the whole truth.

Mr. Andriano stated I do.

Chairman Buzzutto stated okay, you want to give us...

Mr. Andriano stated yes. First I would just like to give you some other photos just to show different perspectives and things like that.

Chairman Buzzutto stated okay.

Board Member Bodor stated are these all the same. No.

Mr. Andriano stated so I'm here to gather the three variances. But I have a question on one variance. The one on the separation between the existing cabin and the shed. Talking to Anthony, I thought the variance was obtained when Anthony had purchased the property because the shed was always existing, prior to us starting this additional work. So that condition was always existing. So I don't know if that variance is required.

David Raines stated I'm David Raines, Building Inspector. There is no variances on file currently. The cabin was approved through a change of zoning specifically through this. The change of zoning was legislated just for this particular location. There's nothing going back to when that was approved indicating that there was any other variances or stipulations allowing the shed. So the shed is currently less than 15' from the primary structure.

Board Member Bodor stated and it's in violation as a result.

David Raines stated yes.

Board Member Bodor stated you mentioned change of zoning. Could you explain what happened here.

David Raines stated can you explain it better.

Rich Williams stated sure.

David Raines stated well, I'm going to give it to you third hand.

Board Member Bodor stated I don't know anything about it.

David Raines stated Richie had it first hand. He gave it to me, so I would rather that Rich Williams explain it, then me giving it to you third hand.

Board Member Bodor stated alright. Someone would tell us.

Rich Williams stated okay. This occurred about 5 or 6 years ago.

Chairman Buzzutto stated Rich, would you tell us where this piece of...Is it on Birch Hill Road.

Rich Williams stated it is on Birch Hill Road.

Chairman Buzzutto stated passed Lundelius' house.

Rich Williams stated just passed.

Chairman Buzzutto stated just passed that on the right hand side.

Rich Williams stated on the same side. On the south side of Birch Hill Road.

Chairman Buzzutto stated okay, so now I know where it is.

Rich Williams stated it used to be owned by Robert Bauer, if you remember Bauer. A building permit was issued for a shed when the Building Inspector...this occurred about 5 years ago. When the Building Inspector went up there, they found that not...the shed had not been constructed, but a small cabin had been constructed. This is when Paul Piazza was the Building Inspector. There was an internal discussion that the Town, that we would...among municipal officials of the Town at that point, we were looking to do some other zoning changes. And we talked about property owners who had large tracks of land such as this one, 50 acres or better, and, you know, giving them some ability to have use of that property that was reasonable, that, you know, wasn't a single-family home. So, specific to our discovering that there was a cabin up on this property, we rewrote the zoning to make the cabin legal. At that time, the cabin was about six...

Mr. Andriano stated 650 [square feet].

Rich Williams stated well, it was about 600 [square feet] at that point I think...600 square feet. We did that. We put some provisions in there about parking and not needing a paved surface for parking, if you're going to use a piece of property as open space.

Chairman Buzzutto stated this is what exists on there today.

Mr. Andriano stated that's what existed before we started construction, correct.

Chairman Buzzutto stated before.

Mr. Andriano stated yes. And you can see that the cabin...Well, you see the building to the left.

Chairman Buzzutto stated yeah.

Mr. Andriano stated that's the shed that was there when Anthony had purchased the property. So we didn't add that to the site. So...

Board Member Bodor stated there was a cabin and a shed there...

Mr. Andriano stated yes.

Board Member Bodor stated when this Anthony purchased the property.

Rich Williams stated when the zoning went in, there was only a cabin.

Board Member Bodor stated okay. So when that zoning consideration was made, there was a cabin, and that was involved with the consideration. That cabin was legal.

Rich Williams stated we legalized that through zoning change.

Board Member Bodor stated okay. But that was it.

David Raines stated right. May of 2004, the cabin with a wood stove...

Board Member Bodor stated as it existed at that time.

David Raines stated as it existed. Between 2004 and 2006, there's no documentation indicating when, but the photo indicates that by 2006, there was a shed there.

Board Member Bodor stated okay.

David Raines stated initially, the CO was issued May of 2004, after the zoning change for a cabin and a cabin only. A 20' x 30' cabin loft and wood burning stove.

Board Member Bodor stated okay.

David Raines stated and that cabin's the cabin that you see there in that photo dated 2006.

Board Member Olenius stated is the shed over 144 square feet, where it would have required a building permit.

David Raines stated it would have required a building permit.

Board Member Olenius stated alright.

Chairman Buzzutto stated since that time that you had the CO for the cabin...

Mr. Andriano stated yes.

Chairman Buzzutto stated what has happened since then.

Mr. Andriano stated so this winter, we built the addition to the cabin.

Board Member Bodor stated with the building permit.

Mr. Andriano stated no. Well, we started without a building permit.

Board Member Bodor stated yes.

Mr. Andriano stated and then during the course of construction, went to obtain a building permit. And then realized that there was an issue with the size of the cabin; not thinking that that could ever be an issue since we're on top of this mountain. We have no interaction with anyone below. It's probably...I don't know. It's probably 200 and something acres collectively that Anthony has there. So we really didn't, you know, we weren't moving along thinking we were, you know, violating any laws except for starting without a building permit. Now we didn't know that there were other...that this cabin, size of the cabin regulation even existed. So once we went for the building permit, that's when the Building Inspector said listen, we may have a problem with the size of the structure. And so we've discussed conforming to residential status, okay, and get away from a cabin status. The problem with that is there's no electricity there. There's no running water there. We have no bathrooms. We just go up there for recreational purposes only. Anthony, I, and another friend of mine grew up together. We bring our kids up there for the weekend. We've spent one weekend up there in 3 years, which is the weekend of opening day gun season. And that's it. So we go up there with the kids. And so we have no, like I said, bathroom, running water, or electricity. We just use the generator. So I don't even know if I can get residential status because we don't have a septic system. So, that's why we need...we're coming in front of you to get the variance for the enlargement of the cabin.

Board Member Bodor stated there is no septic...

Mr. Andriano stated no.

Board Member Bodor stated on the grounds.

Mr. Andriano stated no.

Board Member Bodor stated and no well.

Mr. Andriano stated no well. And no wives.

Board Member Bodor stated this picture shows a cabin...

Jennifer Herodes stated hey.

Board Member Burdick stated I'm glad you said that.

Board Member Bodor stated that's the cabin.

Mr. Andriano stated that's the cabin.

Board Member Bodor stated that's what.

Mr. Andriano stated that's the shed.

Board Member Bodor stated and what's this structure over here.

Mr. Andriano stated that's another shed.

Board Member Bodor stated that's another shed.

Mr. Andriano stated yeah.

Board Member Bodor stated so we have two sheds and a cabin which has been enlarged to...

Mr. Andriano stated about sixteen...1,300 square feet. Yeah.

Board Member Bodor stated is it insulated.

Mr. Andriano stated yes. It could be converted over to a residence.

Board Member Bodor stated very quickly and easily.

Mr. Andriano stated yeah. Yeah.

Board Member Bodor stated you need the well and...

Mr. Andriano stated absolutely.

Board Member Bodor stated then the septic.

Mr. Andriano stated absolutely.

Chairman Buzzutto stated so the only thing that would be legal on the property would be the small cabin.

Mr. Andriano stated right.

Chairman Buzzutto stated the only part that would be legal.

Jennifer Herodes stated not any more.

Chairman Buzzutto stated sorry.

Jennifer Herodes stated I was just saying not any more because the addition is already on.

Board Member Bodor stated it's not (inaudible) anymore.

Jennifer Herodes stated really, none of it's conforming anymore.

Chairman Buzzutto stated since you went for the building permit, what took place after that. It was denied.

Mr. Andriano stated we finished the construction and now we have...

Chairman Buzzutto stated yeah, what...

Board Member Bodor stated wait a minute. We went for the...

Chairman Buzzutto stated oh, go ahead.

Board Member Bodor stated you went for the building permit.

Mr. Andriano stated right.

Board Member Bodor stated did you get it.

Mr. Andriano stated yes.

Board Member Bodor stated how...

Rich Williams stated if I could just interject one thing here.

Mr. Andriano stated sure.

Rich Williams stated they didn't go for a building permit. They were...the neighbors called and complained to the office, and between myself and Dave Raines, we both went up there and saw that there was a cabin under construction.

Chairman Buzzutto stated the cabin...

Rich Williams stated well, there was an addition.

Board Member Bodor stated under construction.

Chairman Buzzutto stated oh, okay.

Board Member Bodor stated and worked continued on this even though...

Mr. Andriano stated well, we stopped for a week, and then we obtained all the paperwork necessary.

Dave Raines stated the only work that was completed under my go ahead was the fact that the generator and the electricity tied to it had to be brought...I was...my concern was life safety from the standpoint that they had a partially wired, not inspected, not improved, generator system. And I was concerned that...Well let's take a step back. This property is under review by the Planning Board for a subdivision. And this

structure was shown on the plot plan for...not plot plan, the proposed site plan as a single-family residence. Okay, so we had two things going on. So I went to Town counsel and said what do we do here. They need variances to enlarge this cabin or they need to change this into a single-family residence. Anthony's direction was to send it to Zoning for a variance as it stands as a cabin on whatever number of acres it is, 200 and something acres, and let the Planning Board deal with the Planning Board side of it because it gets way too muddy, and we'll never be able to figure it out. So what I allowed to happen is them to finish the electrical so we could get an electrical and gas inspection because we had a, what I thought, was an unsafe condition. So I made the decision that life safety was going to have to take precedence here...Anything else that was going on. So I allowed them to finish the generator, get that inspected, find a Putnam County gas inspector and the underwriters.

Chairman Buzzutto stated so...go ahead.

David Raines stated they're still working on it. They're still working on the cabin. There's no C of O. I can't issue a C of O until we determine that there's going to be variances issued or not issued. And I don't know where we're going to proceed if there's no variance issued. So it may have to go back to the Planning Board. This may have to become a structure within the site plans. So...

Chairman Buzzutto stated well, the only thing you had authorized at that time was to secure the building, close it so it...

David Raines stated finish the electric. Subsequently, they've done other work. But I'm dealing with that, you know, through my office. So they don't have any...there's no C of O's.

Board Member Posner stated there's a building permit (inaudible).

David Raines stated there's no building permit. The building permit's right here. The permit's right here. It hasn't been issued and...

Board Member Posner stated okay.

Board Member Bodor stated what's the status of the construction to date.

David Raines stated it's what you see in the photos.

Mr. Andriano stated it's completed.

Board Member Bodor stated well...it's complete.

Mr. Andriano stated yeah, it's completed.

Jennifer Herodes stated the application is still before Planning Board for subdivision, right.

David Raines stated right.

Jennifer Herodes stated that hasn't changed.

Mr. Andriano stated correct.

David Raines stated correct.

Chairman Buzzutto stated but you never got no okays to go ahead with any of this type of construction. Any of that there. What was added onto that, right.

David Raines stated correct.

Chairman Buzzutto stated that was not authorized.

David Raines stated correct. We found...The photo I gave you is the condition I found the house in when I got the complaint. And that's February.

Board Member Bodor stated and that's this one [referring to the photograph]. So it's a plywood enclosed addition.

David Raines stated right.

Board Member Bodor stated that's where it's at.

David Raines stated it's now exactly what he's showing you. That's what...

Board Member Bodor stated it's all shingled...

David Raines stated there's a chimney...

Board Member Bodor stated the exterior...

David Raines stated and the chimney's finished.

Board Member Bodor stated the exterior's done. Do we have a photograph of today's status.

David Raines stated I don't think so.

Board Member Bodor stated that's alright. I want to go up and take a look at it anyway. I want to go see it.

David Raines stated the problem is, I guess, if we don't...if Zoning doesn't approve it, which you know is neither here nor there, it's going to end up being a Planning Board issue and we're going to have to work this structure into a single-family dwelling and change their site plan to make the setbacks work. I mean, it's not truly so...Finishing wasn't the issue; they were going to finish it one way or another because the structure was already up and...

Chairman Buzzutto stated yeah but he had a stop work order.

David Raines stated correct. Correct, but...

Chairman Buzzutto stated he shouldn't have done anything really.

David Raines stated no, but...I know it's a little complicated, but initially we weren't coming to Zoning. We were going to Planning and this was becoming a single-family residence within this subdivision. And then Anthony, the attorney, looked at it and said it's going to be a cabin in front of Zoning. So that's why we're here. So if the variances ended up...a negative referral from the ZBA, this is going to have to be

changed into a single-family residence. There's going to be no C of O on it. It's going to sit until they approve the subdivision and get a well and septic and everything else.

Jennifer Herodes stated but that's going to happen anyway. Because when Planning Board...if Planning Board approves the subdivision, now you've got a single-family parcel that is not 50 acres I presume. You're not making 50 acres.

David Raines stated no. Not this lot.

Mr. Andriano stated no.

Jennifer Herodes stated right.

David Raines stated right.

Jennifer Herodes stated so now...

David Raines stated so...

Jennifer Herodes stated it can't be a cabin, and Planning Board will have to condition their subdivision approval on that being converted to the single-family requirements.

David Raines stated yes.

Jennifer Herodes stated so I think that was Anthony's point from the directive; let's try to make him legal as a cabin...

David Raines stated right.

Jennifer Herodes stated knowing that Planning Board is going to have to reverse that and do...

David Raines stated exactly. When and if the subdivision gets approved...

Jennifer Herodes stated right.

David Raines stated one of two things happen. It gets bulldozed because it won't meet Planning Board's requirements...

Jennifer Herodes stated right.

David Raines stated or it gets converted into a single-family residence. And that's (inaudible) discussion.

Mr. Andriano stated yeah.

David Raines stated so I went with the direction that the counsel said; send it to Zoning and see if they're willing to grant their variances because they may not build this subdivision for 10 years or ever. Just because it's an approved subdivision, so how do we handle it from tomorrow on. You know, that's really...And I know this is very convoluted but that's kind of where we're at.

Chairman Buzzutto stated I think we'll go up and take a look at it and see what it is. But then I think we want more advice from an attorney...

Mr. Andriano stated sure.

Chairman Buzzutto stated to handle this, you know, without...The easiest way possible. See what happens. You want to take a look at that.

Board Member Bodor stated I do. I want to go up and see what's there.

Board Member Posner stated sure.

Board Member Bodor stated I'm not familiar with exactly where it is.

Mr. Andriano stated when you go up Birch Hill...

Board Member Bodor stated we'll find it. Is somebody going to be there to show us around.

Mr. Andriano stated I'll be there.

Board Member Bodor stated okay.

Jennifer Herodes stated his wife will not be there. But he will be there.

Mr. Andriano stated there's no running water. That was the joke.

David Raines stated it's quite a hike.

Board Member Bodor stated we're part of this Board, okay. There's females here. So we're going to be there.

Mr. Andriano stated I've invited my wife a million times, believe me.

David Raines stated it is a significant hike into the woods just so you know.

Board Member Bodor stated that's alright.

David Raines stated I'm just...

Board Member Bodor stated we have hiking boots, Marianne and I.

Mr. Andriano stated you can drive to the top.

David Raines stated I'm just saying that...

Board Member Bodor stated in 4-wheel drive.

David Raines stated yes.

Mr. Andriano stated yeah, you can drive up to the top. But one thing. We, you know...I feel like I'm being penalized. We didn't act maliciously.

David Raines stated why were you being penalized.

Mr. Andriano stated no. But we didn't act maliciously as part...Once you came up there and asked us to stop, we had stopped. Then I...

David Raines stated but we didn't say you didn't stop.

Mr. Andriano stated okay. I thought we had everything ironed out. We did the drawings...

David Raines stated the ironing out...

Mr. Andriano stated we paid the fines.

David Raines stated was because the person you're working for was before the Planning Board for a subdivision.

Mr. Andriano stated right.

David Raines stated the initial direction was that this was going to be lot 5...6, whatever that lot was, and this was that single-family residence. So we made sure that everything that you did forward meet the 2008 code.

Mr. Andriano stated okay.

David Raines stated then you came back to say well wait minute, time out. We got to go and get this approved as an enlarged cabin. And so that's how we're back here. So there is no...

Jennifer Herodes stated nonmalice is newly (inaudible) in the law right.

David Raines stated and even when I walked up there, for record, you said to me I knew you were going to show up eventually. So, I mean...

Mr. Andriano stated yeah.

David Raines stated but I let you finish because I didn't want an unsafe condition. These guys were actively using this. So...

Mr. Andriano stated the history of this was...

Chairman Buzzutto stated but when you say let him finish, you didn't mean...

David Raines stated well, no. They took it a step (inaudible – too many talking) like we're trying to make it safe.

Mr. Andriano stated but the history was, you know, Anthony and myself, we've known each other for 40 years. He asked me on a Thursday...He was over at my house and we talked about enlarging the cabin to house these two elephant's heads that he had.

David Raines stated which are there. You'll see them.

Mr. Andriano stated yeah. Two elephant heads that he had. So I said to him, Anthony, I'm supposed to start a big house in Mt. Kisco, which got put off. I said I have nothing to do for the next three months. I said if you want, I'll go up there and build your cabin. We'll start it, I'll generate the drawings, and we'll just get the permit. I took photographs of everything that I had done, which I submitted.

David Raines stated which I...

Mr. Andriano stated photographs of everything, every step of the way.

David Raines stated did everything right to code.

Mr. Andriano stated right.

David Raines stated it was excellent.

Mr. Andriano stated so, you know, I got my licensing and everything in order, and so it wasn't like...there was no intention...I mean it was like, talk about it Thursday, start it on Monday. And then I came in front of you...Well, you came up two weeks after we started.

David Raines stated a little bit longer after then that.

Mr. Andriano stated so it wasn't like a malicious intent. It was preplanned, it just happened to fall in...I had nothing to do at the time that when we had the discussion to build the addition.

Board Member Bodor stated are you a builder by trade.

Mr. Andriano stated yes I am.

Board Member Bodor stated you've built in other towns without permits.

Mr. Andriano stated no. I knew...

Board Member Posner stated that was the thought that I had just now. You're a builder, you know, the first thing you should have thought of were the permits.

Mr. Andriano stated when you come to the site, and you see where we are, I never even thought we'd have an issue as far as...I knew we would pay a fine for starting, but I didn't think it would be...it would blow up into a big deal, you know. You'll see why when you get there.

Board Member Bodor stated the rules are made for everyone.

Mr. Andriano stated yeah, I know. You know, we didn't do anything wrong as far as building wise; everything is in the up and up, and beyond.

Board Member Bodor stated good.

David Raines stated building code wise, he meet the Code. With the intent, the initial intent back in February, was to continue the construction as a single-family residence...

Board Member Posner stated right. As opposed to a cabin.

David Raines stated within the subdivision. And then as we went through the second Planning Board meeting, it was determined that this house with its existing footprint, or cabin, wasn't meeting the requirements of the lot that it was drawn on. So then it was a whole reworking of the site plan, and they said well, take a step back. And that's when I went to counsel and said what are we doing here. Is this a house or is this a cabin. And I was directed this way. So, again, you know, if we don't go this way it will go the other way. And then they won't be able to occupy it until they get Planning Board approval. So...

Chairman Buzzutto stated well, it's going to take a lot of thought and input from the attorney, so...

David Raines stated so what are we...

Chairman Buzzutto stated but the thing is, you say your willing to pay the fine. A lot of builders will violate the building codes and say, what the hell. I'll pay the fine and get away with it.

Mr. Andriano stated yeah.

Board Member Bodor stated but you need to know this Board has determined that a person move a house in the past...

Mr. Andriano stated right.

Board Member Bodor stated because it was not where it belonged.

Mr. Andriano stated well, in the site where it is, we really weren't affecting anyone.

David Raines stated that's not the point.

Board Member Bodor stated what.

Mr. Andriano stated no, I understand. But it's not like we were building on a swamp or, you know, we needed to get a variance for...

Chairman Buzzutto stated Rich, you have...Do we have any input on the audience on this. Dan...alright, come on Dan.

Dan Kuchta stated (inaudible – too distant). Dan Kuchta. 63 Sunset Drive. I have some issues with what (inaudible) tonight. First of all, I hear that it's 200 acres, but Rob Bauer only owned, I think, 103 [acres]. He may have owned 200 acres, but...What's the lot size. He may have owned more than one parcel.

Mr. Andriano stated he had purchased another 3 parcels.

Dan Kuchta stated yeah. But I think the lot that we're talking about is 100 acres. 103 acres.

Jennifer Herodes stated yeah. You're right. I think it was 103 [acres] I saw.

Dan Kuchta stated yeah, so there was some exaggeration going on.

Jennifer Herodes stated this particular lot.

Dan Kuchta stated the other thing is, I was at the first Planning Board meeting when NRA Realty came before us with the subdivision plans. And I noticed on the plans that they created for lot 5, they showed the cabin, the 650 foot cabin that had ceased to exist at that size, was like more than 2 years ago...or maybe more than a year ago. Anyway, they created plans where they deliberately put on the plans a dwelling size that was no longer what it was. It was kind of disingenuous. Is that the right word. And then they talked to the Planning Board about how that lot would remain a cabin lot; would have a small septic. You know, the Planning Board had lots of concerns. And later it was found out that that little cabin was twice the size. It's now the size of a home. So I felt that that was a bit of a disingenuous...if that's a word. I really don't like when a builder comes before you and says, yeah I built it without a permit and paid the fine. I think that's just a slap in the face to our laws. I think you feel that too. The shed variance, if he's got 200 acres, make him move the shed. There's no reason for granting that. That seems out of line especially considering what he's done and what he's told you he's done. I disagree with the not affecting anyone, not affecting the neighbors. His location on Birch Hill, all the construction sound carries all up and down the (inaudible). We hear it all weekend long. I hear it in the morning, I hear it during the week. He's not not affecting anyone with this. I've also noticed in the road they put in up the hill, a lot of dirt comes off that (inaudible – coughing) when it rains. It goes right into Steven's Brook. So the notion that he's not affecting anyone, in my opinion, invalid. I do understand the situation before you because I've attended both Planning Board meetings. I've discussed this as well with others, and I understand that the...maybe at this stage, more than you, the situation your facing. I guess in this case, I would encourage you to not grant these variances. And if you decide to make him not tear down the addition, I guess go the single-family home route; which requires him to bring it up to code for a single-family home.

Chairman Buzzutto stated thank you. Rich, did you have...

Rich Williams stated (inaudible – too distant).

Chairman Buzzutto stated oh, did you...I thought that...

Lynn Andretta stated Lynn Andretta. 213 Birch Hill Road. My driveway is not quite directly across from his driveway, and...yeah. There's been a lot of construction going on there for a very long time. And there have been many, many, many trucks that have gone up that driveway with gravel or dirt, or whatever. I don't know. And it does go on all the time, and it is loud. And we do hear it. And I'm not hear to say that he shouldn't do anything with his 100 or 200 acres. It will certainly affect my view shed if they get the development, but it is what it is. It's property across the street from me. It's been vacant for a long time. If you drive up Birch Hill Road, you know, it's that big hill on the right after you pass Lundelius' house. And I would just like to see things proceed properly, not just let's sneak up there and do what we want to do and wait for somebody to complain about it. I just think they should do things the right way. And if, you know, every other building he does is to code and with permits, I don't see why this property shouldn't be the same way.

Chairman Buzzutto stated thank you.

Board Member Posner stated thank you.

Chairman Buzzutto stated thank you.

Mr. Andriano stated when we had first obtained the property and I had looked at it, walked the property with him, it was this short of criminal. The property was a disgrace. The cabin that was there was filled with beer bottles, liquor bottles, cars abandoned everywhere. Everywhere. When you come up to the site and see what we've constructed, I mean, you'll be very pleased by the cleanliness of the site. And the reason why they've seen so many trucks is because we've removed all that silt and road that was washing down the road, and we fixed it. We put paper underneath the road, we graveled everything. So now whenever we have a 2" storm, the silt doesn't rundown the driveway into the stream. And you'll see that. You'll see all the work and money that he put into the site. In the entrance way and the roadbed going all the way up to the top. When we took it over, there was no gravel anywhere. So when it come that you had a hard rain, everything washed down to that stream. So it took a lot of effort, and that's why you saw it. Now, we started that January 7th, finished six weeks ago. So we were there everyday throughout the winter for two and a half months. That was it. There's been no construction since then. I don't know if Anthony, or maybe his father-in-law, or something go up there and hunt, but that's it. There's no more construction going on. It ceased probably a month and a half ago. So as far as construction, there was a lot of construction. But it only happened from the first week of January to about the end of April. That's it; we're done. It's over, it's done. And you'll see. So whenever anyone would like to go up, I'm, you know...Saturday or Sunday, just let me know.

Chairman Buzzutto stated I think the whole thing here is most of the stuff has been done without permits, without CO stuff. That's the whole thing in a nutshell.

Mr. Andriano stated I understand.

Chairman Buzzutto stated and that's what it basically boils down to.

Mr. Andriano stated yes.

Chairman Buzzutto stated I mean, if you would have got necessary permits from the Building Department, I'm sure there would have been stipulations on size and stuff like that, that we could have mulled over here...

Mr. Andriano stated right.

Chairman Buzzutto stated now. But it hasn't been done. Yes Dave. You've got...

David Raines stated when you're done.

Mr. Andriano stated I'm done.

David Raines stated you have to understand now, Zoning Board, they were already maxed out. This particular section of the zoning code was written for this structure for the size that it was. If they wanted to put a 4' x 4' enclosure on it, that would have put it over, requiring a variance. We wrote, for this specific cabin, we wrote this section of code for the cabin. It's not to be more than 16' in height, not occupied more than 21 consecutive days, and on and on and on. So, if you read the Planning Board minutes, it shows that this structure being on lot 5 was incorporated into the site plan, or the (inaudible). Again, I know it doesn't seem like we followed the right path here, but we weren't looking for this to be a ZBA issue. This was supposed to be a Planning Board issue on how to realign the lot lines for this subdivision to fit this structure, which would then have a septic and plumbing. And the shed would have still been an issue. They would have had to, you know, relocate the shed or come back for a variance once the subdivision was approved, which wouldn't make any sense. I can't believe the Planning Board would do that, but...So I'm

going to look for direction from now counsel and from the ZBA once you guys have looked at this. And if it is denied, then we'll go back and I will address this under the Planning Board. And the only option...the two options would be the same options that I brought to the owner of the property, not this gentleman. But we bulldoze the structure or we bring it up to a single-family. But again, there is no septic approval yet from the Health Department, there's no wells, there's no...So I'm still in that catch 22. So I'm not sure...

Jennifer Herodes stated well I think that's where the advice from Anthony came in. The idea was that because subdivision approval can be so far off, we have right now, a structure that's not in compliance. And the only way that that existing structure can be in compliance as a cabin, which is what it is because it doesn't have a septic and a well, is to grant a variance because it's more than 650 square feet, which is what that code was written too. Otherwise, it is leaving a structure there that's not in compliance all the way through seeing what Planning Board does, or requiring it to be taken down. So this is where the directive from Anthony came in, although it's kind of begging the question and maybe, you know, making something legal as a cabin by granting variances that ultimately is going to be undone as a single-family, is a way to keep it in code compliance right now. And if the Planning Board approves the subdivision, it will have to be converted to a single-family. If they deny it, well that's the only catch. If they deny it, you've approved it, you know, you've given the variances and it can stay that way as a cabin, with the size that it is, indefinitely.

David Raines stated on the single lot.

Jennifer Herodes stated yeah. On the whole 100 acre parcel that that's...

Mr. Andriano stated (inaudible – too many talking) obtain the septic. We would just get a septic system designed for the structure as it is.

David Raines stated that would still have to go through Planning Board approval, whether you're a one lot subdivision or...

Jennifer Herodes stated right. That's the third option. You don't do the subdivision, you convert it anyway.

Mr. Andriano stated right. Because he has no intention...he's subdividing this just so that...we know that we have friends who own property forever and said one day I'm going to subdivide, one day I'm going to subdivide. Laws change, and 20 years later, where he thought he was going to get 8 lots, he ended up getting one. So Anthony doesn't want to be caught in that predicament either. So I think that's the only reason why he's undergoing a subdivision. He has no intentions of putting a road in and subdividing a property. Maybe his kids do, so he wants all the groundwork laid out so that one day, if he wants to put a road in, it's done for him. But in the mean time, we could pursue having the septic system designed, bring the well in, and have the electricity go up there, and then have this building addressed as a single-family residence. And then do a subdivision incorporating the single-family residence in the subdivision, which we do all the time. So we can go the route also. We just thought this...I guess from the direction of the Building Inspector, that this was the right way to go; to go in front of the ZBA. We don't have to, if everyone wants to wash there hands here.

Chairman Buzzutto stated Rich, did you have some input on this.

Rich Williams stated well, I just had a question about procedure. I just wanted to clarify something. You know, we're talking about waiting on the planning process, with the Planning Board, what happens if this does take two or three years. What happens if ultimately you don't grant the variance, and then the

Planning Board doesn't grant the subdivision. Now we're sitting here with a structure that's not in compliance. So I would think that, ultimately, the choice here is, you know, you're going to approve it as a cabin, which the Planning Board is going to ultimately is going to undo, or you're going to deny it, in which case he needs to bring it up to single-family status now.

Jennifer Herodes stated right.

Rich Williams stated true.

Board Member Bodor stated yes.

Chairman Buzzutto stated yeah, but we're not going to be forced into a decision...

Rich Williams stated no, no. I'm just clarifying procedure. That's just a way out. We keep talking about the Planning Board, and letting this go through the planning process and waiting until the Planning Board makes a decision, which could be...He's crossing Steven's Brook with a bridge. He's going to need Army Corp. That could take 3, 4 years.

Jennifer Herodes stated which is why, again, I think that Anthony said go through Zoning...

Rich Williams stated right.

Jennifer Herodes stated so that we can get it legalized in the time being. But, you know, the option like Rich said, there is the option to deny and require a single-family status now regardless of the subdivision.

Chairman Buzzutto stated well, what determines the size of a building to be called a cabin.

Jennifer Herodes stated well our code says no more than 650 square feet.

Chairman Buzzutto stated no more than 650 feet.

Jennifer Herodes stated right. So it was maxed because, as Dave was explaining, it was actually tailored to this parcel and this property.

Chairman Buzzutto stated this particular cabin now.

Jennifer Herodes stated yes. It was 600 [square feet], or just a little shy of it, and it was written for that.

Dave Raines stated I highlighted two sentences up top over this specific...

Chairman Buzzutto stated well if it's into a permanent residence, then the 26 weekends per year...

Jennifer Herodes stated well that all changes. That's all just cabin requirements.

Board Member Bodor stated that's just for a cabin.

Chairman Buzzutto stated that's what I'm saying.

Jennifer Herodes stated right. As we go to single-family, all that's out, and you go...

Board Member Burdick stated it's not a cabin any longer.

Jennifer Herodes stated right.

Board Member Burdick stated it's a single-family home.

Chairman Buzzutto stated okay, we'll take a site walk on this.

Board Member Bodor stated okay.

Chairman Buzzutto stated yes, Dan.

Dan Kuchta stated sorry Buzzy, and the rest of the Board, I have another comment which I had forgotten to make. In thinking about the variance, the 725 square foot addition is considered, in my opinion, is considered substantial because it's more than 100% the size...the maximum size allowed under the Code, which was specifically written for this place. It's almost as if this place has a history of violation and relief. And I hope that it stops. I do think that the variance requested is almost too substantial to grant.

Chairman Buzzutto stated thank you Dan.

Dan Kuchta stated thank you.

Chairman Buzzutto stated thank you. Alright...

Board Member Bodor stated keep the public hearing open.

Chairman Buzzutto stated keep the public hearing open. We're going to take a site walk on it. We don't know what the exact date...It will probably be in the afternoon, the site walk, right. Because we've got plenty of daylight.

Board Member Bodor stated are afternoons okay for you, late in the...

Mr. Andriano stated anytime.

Board Member Bodor stated okay.

Mr. Andriano stated anytime. I live right in Katonah.

Board Member Bodor stated we'll...okay. We'll contact you.

Mr. Andriano stated okay.

Chairman Buzzutto stated yeah.

Mr. Andriano stated no problem.

Board Member Bodor stated Sarah will let you know when we decide because we've got to figure out where our schedules come together.

Mr. Andriano stated no problem.

Board Member Bodor stated okay.

Chairman Buzzutto stated thank you.

Board Member Bodor stated thank you.

Mr. Andriano stated do you want to keep the photos, or...Here. Just keep the envelope. You can keep them.

Board Member Bodor stated oh, okay. I'll hold onto them.

Chairman Buzzutto stated thank you.

Board Member Bodor stated are there more down there.

Mr. Andriano stated thank you very much.

Chairman Buzzutto stated thank you.

Board Member Bodor stated there are only three here, I think there are more. No, they go in here.

Chairman Buzzutto stated okay. So what's on...other business.

3) DENNIS MCHPHILLIPS INTERPRETATION

Board Member Bodor stated interpretation.

Chairman Buzzutto stated interpretation. Whose (inaudible – papers shuffling) the interpretation. Dennis McPhillips.

Board Member Bodor stated this is a request from the Code Enforcement Officer, David Raines. For the record I'll read the request, I guess.

Board Member Posner stated you're done [referring to Mr. Andriano]. Thank you very much.

Mr. Andriano stated thank you.

Board Member Posner stated sure.

Board Member Bodor read the following request:

I am requesting an interpretation from you regarding the conditions set forth by the Zoning Board which states "the second floor shall never be used for any living space". I have received several complaints and I have completed a site visit and found that the area above the garage has been separated into several areas. There has been no plumbing installed, however Mr. McPhillips has submitted an application for a building

permit for the installation of a wood burning stove. Does this use and the addition of a wood burning stove violate the conditions of the determination made by your Board?

Board Member Bodor stated and this was regarding a new construction garage in which we said the upstairs would always ever be used as storage, and never for residential. Dave, he has divided the upstairs into like little rooms.

David Raines stated office, workout room, some kind of little room. And there's like a daybed in one room. He's putting up...The stoves already there. I found the stove during a site visit to close out the permit for a garage with storage above. And all this happened...and then he came in a week after that and he submitted...Because he hadn't met the landscaping requirements; I had him wait until spring, obviously because you guys enforced some landscaping requirements.

Board Member Bodor stated yes.

David Raines stated and we had an issue with him using...bringing home the Protel...He owns the Protel, which is a telephone installation company. He had multiple commercial vehicles; I received complaints on that, aside from this issue. And so I had to deal with that. He had to remove all the commercial vehicles but one. The appearance was...perception to me was that he was running his business out of there, and everyone else who complained. Pick-up trucks and vans that are all marked, you know, they're all permanently marked and all have commercial plates. So, in fact he called again today asking for a permit for a wood stove, and I told him that, you know, that I'm not sure that he's going to be able to do that, nor maintain all those rooms upstairs.

Chairman Buzzutto stated which building is this.

Board Member Bodor stated this is the one on the corner over in Put. Lake [Putnam Lake]. He wanted a garage on this piece of property that is a good sized piece of property. Didn't we make him join the two properties. Was that...

Board Member Olenius stated yes.

Board Member Burdick stated yes.

Chairman Buzzutto stated oh, that was the big building that they...

Board Member Bodor stated yeah. A big garage...

Chairman Buzzutto stated a big garage. Yeah, yeah.

Board Member Bodor stated so that his yard could be cleaned up of all the stuff that he had sitting in the yard.

Chairman Buzzutto stated right. Okay.

Board Member Bodor stated that was the reason for it.

Chairman Buzzutto stated right.

Board Member Bodor state to get his boat, or whatever he had, under cover.

David Raines stated that's what I understood from the minutes. I went back and reread the minutes before I made this request.

Board Member Bodor stated yeah. He wanted it for storage.

David Raines stated right.

Chairman Buzzutto stated strictly storage.

Board Member Bodor stated strictly storage. And we were concerned, as we are with any of these large garage type structures, that the upstairs could potentially end up being a residential...a rental probably. And that's why we put that in there. And I don't like little rooms up there because I...with a wood stove. The potential for renting out just a room, to my way of thinking, is very high.

Board Member Posner stated I didn't get a reso. (Inaudible) storage. It says it is not to be used for living space.

Board Member Olenius stated it was supposed to be used for storage only.

Board Member Posner stated (inaudible – too many talking) resolution.

Board Member Bodor stated we never intended for him to put heat in there. I don't think that was ever addressed; it was never asked.

David Raines stated (inaudible – too distant).

Board Member Posner stated it specifically says it should not be converted into living space. It doesn't say specifically storage. (Inaudible – too many talking).

David Raines stated there was no...an open...

Board Member Bodor stated an open space.

David Raines stated (inaudible – too many talking) set of stairs to an open space. And many months had passed to the next inspection. And then it was subdivided and I said hang on, we have to look at this. And I asked him to go further, and then we had the issues with the trucks and the other equipment and the deliveries, and the other FedEx trucks delivering the parts (inaudible). And so my perception was that aside from the space being divided, he was running his business out of there. And that was my first course of action. I said you can't run your business out of here. I said this isn't going to work. And that went for many, many months, and then he proved to me they're not having these deliveries and whatnot, that he wasn't running his business there. But then the trucks came back, and then he asked for the wood stove. I went to find out what he's doing with a wood stove, and I saw that the rooms were divided. So, that's kind of where we're at now.

Jennifer Herodes stated Dave, why does he say he needs a wood stove up there. Just out of curiosity.

David Raines stated to heat the...

Jennifer Herodes stated to heat his storage.

David Raines stated well, to heat the rooms. I mean, to do what...to occupy the space...

Jennifer Herodes stated no. I was just curious what he was saying. Why he would need it.

David Raines stated he needs it to occupy the space. You know, he doesn't have gas out there. He doesn't have... You know, he'd have to get that inspected which would require a permit which he knows he would get denied, and...

Board Member Posner stated but if he's only using it for storage...

David Raines stated right.

Board Member Posner stated he doesn't need a wood stove.

David Raines stated right.

Board Member Posner stated except I'm looking at the reso, and the reso says that the condition is that the second floor shall never be converted into any living space.

David Raines stated right.

Board Member Posner stated it doesn't say anything else. It doesn't say storage. It specifically says that it shall never be converted into living space.

David Raines stated that's why I was looking for your interpretation.

Board Member Bodor stated activities of living are running a treadmill...

David Raines stated yes.

Board Member Bodor stated resting on a daybed...

David Raines stated an office, right. It's right...

Board Member Bodor stated and running an office...having a desk and an office setup. Those are activities of living, and he's in violation.

Jennifer Herodes stated and needing to keep warm.

Board Member Bodor stated and needing heat; keeping warm.

Board Member Posner stated I was going to say, and keeping warm.

Board Member Bodor stated he's in violation.

David Raines stated okay.

Board Member Bodor stated that's my...I'm sorry. That's what I think.

TAPE ENDED

Board Member Bodor stated do we know what his livelihood is...what his business is.

David Raines stated Protel Telephone Communications.

Board Member Bodor stated and that's what was being seen...

David Raines stated right.

Board Member Bodor stated in his yard. Alright. Okay. So he definitely was doing some of his business out of his space.

David Raines stated oh, absolutely. I mean, I observed it like actually...because there were so many complaints, I actually sat there and watched the FedEx trucks and the UPS trucks come and, you know...

Board Member Bodor stated alright.

Chairman Buzzutto stated I would say no.

Board Member Bodor stated I'd like to make a resolution that based upon the resolution we created back in two thousand...What was the date.

Board Member Posner stated it was two thousand...

Board Member Burdick stated 2005.

Board Member Posner stated oh, here it is.

Board Member Bodor stated 2005.

Board Member Posner stated yes.

Board Member Burdick stated June 16th.

Board Member Bodor stated June 16th, 2005. Our intent, and we believed at that time Mr. McPhillips understanding was, the upstairs of his newly created garage was to be used solely for storage, and no activities of day-to-day living were to take place up there. That means no partitions, because you don't need partitions for storing things. No heat is necessary. Just...articles don't need to be kept warm. The office space is not appropriate, a resting area is not appropriate, a treadmill, an exercise...these things were not the intent. That's not storage, and that's what we planned on.

Chairman Buzzutto stated is that in the form of a resolution.

Board Member Bodor stated that's my reso.

Board Member Burdick stated second.

Chairman Buzzutto stated all in favor. You want to call roll call.

The Secretary called roll:

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

Resolution carried by a vote of 5 to 0.

Board Member Bodor stated you can make that sound a little bit smoother. Is that okay Rich. Did I say that the right way.

Rich Williams stated it's fine.

Board Member Bodor stated okay. I was searching.

4) OTHER BUSINESS

a) Minutes

Board Member Bodor stated okay, next business.

Board Member Posner stated minutes.

Board Member Bodor stated minutes. I'll make a motion to accept the minutes from April 22.

Board Member Olenius stated second.

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

b) Cell Tower

Board Member Bodor stated another piece of business, have we heard anything from the telephone company.

The Secretary stated no.

Board Member Bodor stated because

Chairman Buzzutto stated yeah, I just wanted to find out...

Board Member Bodor stated that we can let that just sit there.

Chairman Buzzutto stated we can let it ride.

Board Member Bodor stated okay.

Rich Williams stated you know, if at some point that you feel that it's appropriate that they're back in, or you want to make some action towards the public hearing, we certainly can notify them that we're bringing them back in for a meeting. But I don't think...

Chairman Buzzutto stated no. I think we'll...

Rich Williams stated that it's a requirement to close the public hearing.

Jennifer Herodes stated no.

Chairman Buzzutto stated no. I think we'll let them make the move on that. Maybe they'll pull the application out, hopefully.

Dan Kuchta stated is there a date set for the next meeting.

Board Member Burdick stated no.

Board Member Posner stated no.

Board Member Bodor stated we're waiting for them to tell us they're ready.

Chairman Buzzutto stated yeah. It might be better to give them the opportunity to make that fist play. I mean, we can't keep putting it off indefinitely. Okay. Well we'll close the public hearing on that one then.

Board Member Bodor stated no. That still remains open.

Chairman Buzzutto stated okay. Anything else.

c) Site Walk

Board Member Bodor stated yeah, we have to set a site visit.

Chairman Buzzutto stated okay.

Board Member Bodor stated are afternoons better for people during the week sometime, generally.

Board Member Posner stated yeah, except on a Tuesday. Tuesdays are not good for me because I have to work late.

Board Member Bodor stated okay. Someone have some preferences.

Board Member Olenius stated I can't do next week.

Board Member Bodor stated okay. Next week is out then; that's Memorial Day week.

Board Member Olenius stated right.

Board Member Bodor stated we have the first, second week in June. A Monday; is a Monday good.

Board Member Posner stated Mondays are usually good for me.

Board Member Olenius stated that's fine by me.

Board Member Burdick stated fine with me.

Board Member Bodor stated Monday, June 2nd.

Chairman Buzzutto stated that's okay with me.

Board Member Posner stated what time.

Board Member Bodor stated time Marianne.

Board Member Burdick stated I can be there by 5:15 p.m.

Board Member Posner stated yeah, I can too.

Board Member Bodor stated 5:15 good for everyone.

Board Member Posner stated sure.

Board Member Bodor stated at the site.

Board Member Olenius stated fine.

Board Member Bodor stated on Birch Hill. Okay.

Board Member Olenius stated do we have a backup, in case it rains.

Board Member Bodor stated yeah. The following week.

Board Member Olenius stated same day, Monday.

Chairman Buzzutto stated what time was that. Five...

Board Member Bodor stated 5:15.

Board Member Posner stated 6/9.

Board Member Bodor stated go to the 9th as a backup.

Board Member Burdick stated that's fine with me.

Rich Williams stated can I just ask you a question on that.

Board Member Bodor stated yeah.

Rich Williams stated are you planning on driving up the road. Do you have...I know Lars has his truck.

Board Member Burdick stated I have an SUV, so...

Board Member Posner stated I've got an SUV.

Rich Williams stated okay, that's fine.

Board Member Bodor stated we really need to drive in, huh...

Rich Williams stated yeah.

Board Member Bodor stated so far.

Rich Williams stated oh yeah.

Board Member Bodor stated okay.

Rich Williams stated well, Plan B is I talked to Roman Zimko, there's a shorter way to walk straight up the hill if you're going to walk. But if, you know, the SUV's will be fine.

Board Member Bodor stated okay.

Board Member Olenius stated does a vehicle need to be in 4-wheel drive.

Rich Williams stated (inaudible – too distant).

Lynn Andretta stated big trucks make it up there all the time, so...Big dump trucks.

Rich Williams stated (inaudible – too distant) my truck with no...

Board Member Bodor stated I'll ride with somebody.

Board Member Olenius stated I haven't repaired mine yet, that's why I asked.

Board Member Burdick stated you can ride with me.

Board Member Bodor stated I'm low.

Board Member Olenius stated sometimes it goes in.

Board Member Bodor stated we'll meet outside his driveway...at the entrance, no. Is there a place to pull over there.

Lynn Andretta stated yeah there is.

Board Member Bodor stated okay.

Board Member Burdick stated it's probably no worse than my driveway. Right Rich.

David Raines stated it's much better than your driveway.

Board Member Burdick stated oh, it's much better than my driveway.

David Raines stated no, I mean it's (inaudible – too many talking).

Board Member Burdick stated oh, okay. Cause then it will be no problem.

David Raines stated no. Your driveway's fine. I was (inaudible – too distant) your driveway about 20 times this last couple of weeks.

Board Member Burdick stated all the way down.

David Raines stated all the way down.

Board Member Burdick stated you did. You were trespassing.

David Raines stated I was.

Board Member Bodor stated you're allowed Dave.

Board Member Bodor stated do we have any more business. Anybody.

Board Member Posner stated no. We're done.

Board Member Bodor stated I make a motion to adjourn.

Board Member Posner stated second.

Chairman Buzzutto stated all in favor. Motion carried by a vote of 5 to 0.

Meeting was adjourned at 8:06 p.m.