

**TOWN OF PATTERSON  
ZONING BOARD OF APPEALS  
June 15, 2011**

**AGENDA & MINUTES**

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<b>b) Minutes</b>	51	April 25, 2011 minutes approved

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**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF  
APPEALS**

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

**PLANNING BOARD**

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

**Zoning Board of Appeals  
June 15, 2011 Meeting Minutes**

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

Present were: Chairman Lars Olenius, Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Howard Buzzutto, Board Member Gerald Herbst, Melissa Klepack, Attorney with Town Attorney's Office, Rich Williams, Town Planner, and Nick Lamberti, Code Enforcement Officer.

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

There were approximately 5 members of the audience.

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

Chairman Olenius led the salute to the flag.

Roll Call:

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

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

Ms. Kathleen Pettey and Mrs. Jennifer Herodes, Herodes and Molé, were both present.

Chairman Olenius stated alright. Start with our first hold over, Kathy Pettey Case 01-11. Come on up.

Mrs. Jennifer Herodes stated where we last left a month ago, we were holding over for the DCE to issue a letter. It was my understanding from the Secretary that he did not issue a letter but was attending tonight to give his opinion on the topic that we discussed. So, we'll obviously need to get to that. Also, as I'm sure you're all finding out as I did at 3 o'clock, there was an opinion issued from the Town Attorney's office. I'm not quite happy with the late hour of receiving it only because, obviously, I didn't have a chance to

respond to it in writing and I'm not sure how much the Board has had a chance to review it yet, but, you know, I thought it better to come and respond to it as best as I can having read it at 3 o'clock. So that in the future when the Board is reviewing it, you know, I can send my comments back regarding it. So, starting with one item that you asked for at the last meeting which could she find any photos, these are photos of her maternal grandparents, the grandparents that she's contended moved from the Bronx to the third apartment that was created. This is her grandfather sitting outside the entrance to the outside of the addition [referring to the picture]. Written on the back, in someone's handwriting, is nineteen... "Pop, 1963". The grandmother inside the addition in the living room area [referring to another photo]. You can see the bedroom and the kitchen is behind it. Again, some things you can only see really from a site walk of the premises. And again, both grandparents in the living room. So, you know, for what it's worth, these are pictures that she found of the addition and of the grandparents that she's stating lived in the house; Mr. and Mrs....is it Fryburg.

Ms. Kathleen Pettey stated Freygang.

Mrs. Herodes stated Freygang. They're not quite what you asked for, but the best she could find, and at least something of value to show you; the house as it stood in 1963 with the addition on there. I think that it's even more relevant given, and I don't want to go into the attorney's opinion just yet given some of the language in the attorney's opinion that seems to suggest that the addition was built after 1964. I'm not sure where that is coming from, so we'll get to that. But, what I wanted to do was just start with when I left here, some of the questions that came up and the things that I think maybe...the points that we didn't get clear or that I want to make clear one more time. The first issue that I keep hearing over and over again that I want to be clear on, is this issue of permission for a three-family. I kept repeatedly hearing things like, you know, they didn't ask to build a three-family or they didn't say to build a three-family. We got wrapped up in a lot of legalities. So I think what we clearly established was the M-1 District did permit three-family residences under the 1960 Code. I think that's not disputed anymore. But again, even though it did permit, I kept hearing this kind of recurring notion that they had to get permission to build a three-family, even though they were permitted, because in one of the prior letters it said three-families were permitted if you had approval. You know, it was combining two sections of the Code. So, I just want to be clear, and this is unequivocally the facts, that under the 1960 Code, you could have a three-family and you did not need permission to become a three-family. Where the permission, or the approval, of any board comes in is if you didn't meet the requirements for the sizing of a three-family. But if you were in the size requirements, if you were in a house that was 40,000, you know, square...In a lot that was 40,000 square [feet] which would meet two-dwellings and you only had one and you decided to make a little apartment in there you could have done that without any Zoning Board approval because you met the requirements and two-families were permitted under that Code. So, did I make that clear because I don't know if I'm saying that clearly to you. So, that's what I was trying to get at, that there was no permission aspect. The reason the permission came in, the reason he had to go to the Zoning Board was because he needed variances. So, in the letter from the DCE and in the attorney's opinion letter, it discusses, well, and we discussed at great length, well, what variance did he come to get. And this is, of course, where we run into the problem there are not accurate records. The minutes and the summary contradict themselves. I know that you mentioned, well, they call it a two-room extension. But in the same paragraph they refer to it as an addition. You know, had there been a third writing, maybe they would have called it an apartment. So getting hung up on the word that they call it I think isn't relevant at this point. It's what variances did they get, and obviously we don't know. Now, in the Town Attorney's opinion letter, the conclusion is reached that he only got a side yard variance because she states [referring to the Melissa Klepack, Town Attorney], and I don't want to...I'll let her speak for herself. I don't know if you read this yet, that she couldn't have gotten a three-family...he couldn't have been a three-family because he would have needed two variances and because the minutes only refer to him getting a variance, and because we all know he needed a side yard variance,

the conclusion was reached that, well, then he couldn't have gotten approval to be more than on-family. The point that's being greatly missed is that whether...Here's the Assessor's card. Whether Mr. Bubenicek was just building an addition or was building an addition to be an apartment, he needed two variances. That's...There's no question about that. The opinion letter is completely incorrect. He needed two variances. He needed the side yard variance, because he was only 4.7 [feet]. He needed a variance there and he needed the size variance because as stated in the attorney opinion letter, he only...she only had 10,000 square feet. You need twenty [thousand] just to be a single-family residence. So if you were building an addition, you needed the area variance as well. So you needed two variances no matter what. Whether it was an addition or whether it was an apartment. So to say, well you couldn't have gotten approval to be building an apartment because you didn't get two variances, it's just not supported by the facts because he needed two variances. So the fact that the language is loose and sloppy and maybe just says he applied for a variance. I mean, what's the assumption to be made. The Zoning Board missed the fact that she...he needed, he meaning Mr. Bubenicek, needed a variance on the issue. That he was only 10,000 square feet. And at that time, everyone seems to feel that he was a two-family. Everyone seems to be saying he was a two-family at that time, which means he needed 40,000 [square feet]. So, again, needed even a bigger variances. But again, if we had minutes like we do today it would tell us what the variance they were seeking and we would know exactly what happened, but we don't. Again, any ambiguity in the minutes is to be read in favor of the Applicant. That's standard zoning procedure and standard conclusions in the case law in zoning. We just don't know what happened, but the conclusion that he...she wasn't building an apartment because he only got one variance, again, isn't supported. He would have needed two variances for either way that you were going. There was also some talk about the fact that we don't have a building permit or we don't have a CO. So I just want to, again, point out that although Mr. Bubenicek happens to be the Applicant's father, he could have very easily been a stranger and these things don't transfer, typically, from person to person. The only way they transfer in a real estate deal is through the Building Department records and whatever you're fortunate enough to have in the records and the search when you do your search. But most people...Once in awhile, you know, you'll be at a closing and you have an older gentleman who's been keeping great records and gives everything to the people, but for the most part, you don't get it. So the fact that she doesn't have that, again, shouldn't be held against her. Because the person who's suppose to have it, the entity that's suppose to have it, is the Town. So, again, what I'm getting confused at with the position is we all seem to be saying the addition was built. So are we saying...And then in the attorney opinion letter it says, well no building permit and CO was issued, and even under the Code, you would have had to get a building permit and a CO. Well, obviously one was issued and it's not in the file because if you're saying that one wasn't issued, then he should have been violated. You're saying that...A lot of references made to the fact that in 1964 there was reassessment. So, most of the opinion is hanging on this card from 1964, which, you know, has a lot of cross outs, no dates to things. We don't really know when anything was written on here. We're crossing out two-family and writing three-family. Right here, it says addition, 1960. In the attorney's letter it says the addition must have been built, or the apartment was added after 1964. Where is the support for that. I don't understand where the support for that is. It says 1960 right on this. You have minutes from the Zoning Board meeting that are dated 1961. We have pictures here showing the addition. The voter registration cards for Mr. and Mrs...I can't say that. Freygang, when they moved from the Bronx and registered here. The registration date is 10/13/1962. Two years before the date in the attorney opinion letter that this addition or apartment must have been built. That's not common practice for someone to come up and register. Former address, their Bronx property. Address, South Street, Patterson, New York. Registered to vote in here in 1962. I just don't see the support to say that it wasn't built in 1961, right at the time that he did the variance. Maybe 1962. But certainly before 1964. The issue about the kitchen, and hopefully we'll hear from the DCE and see he's opinion on the kitchen. I don't know if we want to do that first. But one point that I didn't mention that I didn't realize until I spoke to my client after the meeting was that she's always been concerned about that kitchen and bathroom because all the plumbing is underneath the house. It's not built

the way it is now in where you can get to it. Obviously it was put in prior to the house. I'm sorry, is someone talking to me. No. I'm sorry. I thought I heard someone talking. It was built, you know, in the ground and the addition built on top of it. If something goes wrong with the tub, it's literally under the ground which, again, I think will be evidence of the age of it because first of all, you just don't build like that anymore. You have to be able to get to the plumbing. And secondly, you could see that it's original. So if the whole structure's original, those features within it are original as well. I mean, this would be a good time to get the opinion of the DCE before I argue a point that maybe I don't need to argue. He may agree with me. Is he here yet.

Chairman Olenius stated Mr. Lamberti.

Nick Lamberti stated yes. Hi.

Mrs. Herodes stated hi.

Chairman Olenius stated can we have some input from you, Sir, please.

Nick Lamberti stated could you restate your question.

Mrs. Herodes stated when I called you, I don't know if you remember, a couple of months ago, I asked you about your visit to the site and I asked you if you had been able to determine if the kitchen and the bathroom were of similar age and built at the same time as the addition.

Nick Lamberti stated yes. I think I...

Chairman Olenius stated Nick...

Nick Lamberti stated determined that they are.

Chairman Olenius stated can you just come up to the mic so we get it on the record, please.

Nick Lamberti stated yes. Your question to me was the bathroom and the kitchen of the same era as the rest of the home or the time the addition was constructed, and I said to her yes. Absolutely.

Chairman Olenius stated in your opinion.

Nick Lamberti stated in my opinion.

Chairman Olenius stated where's...where the photos go.

Board Member Bodor stated they went back [to Ms. Pettey].

Chairman Olenius stated I just wanted to ask you to look at the photos and...Because you've been in the addition there and we haven't. Does it still look similar to the...what's in the photos there or...

Nick Lamberti stated that was back...

Ms. Pettey stated that's going through the bedroom.

Nick Lamberti stated I think I was at your home back in November of last year. So, it's been some time but yes. I'm sure it...These pictures are a little bit faded. But what I saw there was consistent with construction methods and materials that would have been used at the time.

Chairman Olenius stated from fifty years ago.

Nick Lamberti stated yes.

Board Member Buzzutto stated I can see that...I don't think anybody disagrees that it was...the stuff was installed back then.

Nick Lamberti stated no.

Board Member Buzzutto stated but was there permits. Was there Zoning Board okay on that. I don't hear any of that. I mean, we're not questioning whether the apartment was built at that time. Yes, of course it was built.

Mrs. Herodes stated well, there was a Zoning Board approval to build an addition, an extension, whatever we want to call it. I don't want to sound argumentative and call it an apartment.

Board Member Buzzutto stated do we have Zoning Board...

Mrs. Herodes stated yes. Your minutes show that Mr. Bubenicek received approval for a variance...

Chairman Olenius stated for the sideline.

Mrs. Herodes stated to build an addition or extension. The question is what variances did he acquire at that time, and did he get a variance that allows him to have three dwelling units in there or did he just get a sideline variance as the Town Attorney's opinion letter states. And what I'm submitting to you is that the minutes are clearly remiss because he would have needed a square footage variance...

Board Member Buzzutto stated right.

Mrs. Herodes stated anyway, because she was only 10,000 square feet and you need 20,000 [square feet] even for a single-family dwelling. Of course when you build an addition, you have to, even though it's pre-existing non-conforming condition, you have to get that variance. Again, you're still varying from that.

Nick Lamberti stated can I just make a clarification...

Mrs. Herodes stated sure.

Nick Lamberti stated the original house...the original house was constructed, I believe, much earlier than that, possibly the late 1800s.

Mrs. Herodes stated that's right.

Nick Lamberti stated so, at that time, the size of the lot doesn't necessarily have to be 20,000 square feet.

Mrs. Herodes stated understood.

Nick Lamberti stated it could have been something less. So...

Mrs. Herodes stated when the...

Nick Lamberti stated the original home, which might have been a single-family dwelling, may have met all the zoning requirements at the time.

Mrs. Herodes stated no, I'm not disagreeing with that. However, in 1961 when he came to the Zoning Board to build a two-room addition, he then would have needed the appropriate variance. You now have to meet the size requirements, or show a variance there from.

Nick Lamberti stated yes, but it talks...

Mrs. Herodes stated but he would have needed a variance.

Nick Lamberti stated about 20,000 square foot per dwelling.

Mrs. Herodes stated that's right.

Nick Lamberti stated if he was adding just a simple addition to the single-family dwelling, he may have not needed another variance for it.

Mrs. Herodes stated he would have needed another variance.

Nick Lamberti stated okay.

Mrs. Herodes stated I respectfully disagree. He would have needed another variance.

Nick Lamberti stated okay, and I'm not saying he didn't. I said he may not have, so...

Mrs. Herodes stated okay.

Nick Lamberti stated I'll let you draw your own conclusion.

Mrs. Herodes stated no. I don't mean to be argumentative, I just disagree. He would have needed another variance. You have to meet the requirements of then or seek a variance. He would have sought a variance and said this is pre-existing, nonconforming and, you know, would have gotten a variance easily for the size. I'm not saying for the size of a three-family. I'm not surmising on that, but he still would have needed to get it. Just like, you know, some people...I'm sure you see it all the time now, applicants come in here and they're like, well wait a minute. I was already 4.7 [feet] from here and now I'm doing this on the same distance. They don't realize it's another structure; you need the variance. So with this other structure, you would need the variance to show that you didn't meet the size requirement. And again, so what are we saying. We're saying they were a two-family. When did they become a two-family. Were they a two-family before. Were they a two-family by this. I don't even know what we're saying anymore about how many were there when. I'm just getting to the point that variances were clearly obtained. I don't think it's clear that it was one variance because it should have been two, and if the Zoning Board was doing their proper job he would have issued two...they would have issued two. And the minutes only refer

to the word “variance”, singular, but I don’t think that means that that’s all that happened; the minutes are very slight as we’ve, you know, gone over. I don’t want to beat the minutes to death, but...

Board Member Buzzutto stated is there actual minutes of that particular application.

Mrs. Herodes stated yes, Sir, there are. There’s just a little summary of minutes and a summary report which said that he received approval to build a two-room extension on his house. Again...

Board Member Buzzutto stated without the variance, he received the approvals.

Mrs. Herodes stated no, he received a variance (inaudible) with this...

Board Member Buzzutto stated he received the variance.

Mrs. Herodes stated he received a variance but (inaudible – coughing) it doesn’t say what he received the variance for or, you know, where...

Board Member Buzzutto stated it doesn’t say what he received it for though.

Mrs. Herodes stated we don’t know what it was for. So, I would submit that even if it was an addition without looking to build an apartment, there would have been two variances. One for the side yard and one for the area. So, you know, to make the inference that, well, he only got one and didn’t get the other, again, we can infer just as easily in favor of the Applicant, which is what I believe is the obligation of the Zoning Board, to infer ambiguity in favor of the applicant. So the fact that she doesn’t have a building permit, you know, it’s unfortunate because there really should be one in the file. We made mention of, okay, as I started to say, so the understanding or the argument, I think, that’s being made is in 1964, the Town was reassessed and at that time, you know, they didn’t change it to a three-family. Well, first of all, the Town has reassessed numerous times since then and they’ve never once entered into my client’s premises. And I’m sure many other people who live in this Town...towns, do not enter into every single premise when they reassess. And there’s absolutely no proof that in 1964 the Town Tax Assessor went physically into every property when they did a town wide reassessment. That hasn’t even happened in recent years. They’ve only been in one of my client’s properties and have never since entered into this property. So, saying, well in 1964 they still said it was a two-family, you know, what I think is happening here is we want to rely on the fact that the Building Department and the zone...and the Tax Assessor’s office records don’t mesh when it’s kind of, you know, convenient. But when it’s convenient for my client, then it’s oh, well, then it’s inaccurate there. You know, we just don’t know why these...when these dates were written. Somebody wrote 1991 over there [referring to the tax assessor card]. We assumed it was, you know, due to the garbage as we talked about last time, you know... You know, an argument is made in the opinion letter, with all due respect, that I take offense to. The last statement that says why if this is what my client is saying, has she not notified the Town in thirty years that she was being taxed improperly. Well, first of all, what we’re... Since 1991, which is 21 years ago, she’s been taxed as a three-family. She’s been paying taxes and for three garbage units as a three-family since 1991. She only bought the property in 1983. So if the thirty years that I presume we’re talking about, is the 1960, ’61 to 1991 when the Town started charging, you know, taxing her as a three-family. Well first of all, in that period, she only owned it from 1983. So, my answer to that would be several points. Number one, they’re certainly not suggesting that there’s an obligation in the law that a homeowner go to the Town and say, hey you’re not taxing me enough on my tax bill. Certainly no obligation on the part of a homeowner to notify the Town, I don’t think you’re taxing me enough. That’s number one. And number two, many homeowners don’t even know how to read their tax bill or understand it and many homeowners, like the Applicant, pay their taxes through their

mortgage company. A bill gets sent to their mortgage company. They do get a bill receipted from the mortgage company. And when you start adding in water and sewer and fire districts...And I have people come to me all the time that don't understand their tax bill or their assessments. So I think the argument that she should have gone to...She bought the house in 1983, that she should have noticed that, hey, they're only taxing me as a two-family and that there was some obligation on her part to go to the Town and say tax me as a three-family, I just don't think that's a valid argument to rely on. There is no such obligation on her part and we don't even know that she realized that she wasn't being taxed. At such, in fact, she told me that she didn't because when they came in and said you have to pay for three garbage units, you're not paying enough money, it was quite a shock to her because she thought she'd been paying what she was supposed to be paying all along. So I do think that that argument is...

Board Member Buzzutto stated well, when she...It was classified as a three-family house by the Assessor's Office, didn't you realize the taxes was going to go up at that time for a three family.

Mrs. Herodes stated yes.

Board Member Buzzutto stated why did she...She didn't question the amount that it was going to be raised.

Mrs. Herodes stated no, because she believed, and was, a three-family. So she paid what the Town told her to pay since 1991. Twenty-one years she's been paying.

Board Member Buzzutto stated alright, but that's...That's a little bit beyond that. Shouldn't she have gone to the grievance committee to say...ask why her taxes were raised.

Mrs. Herodes stated they told her at the time, we don't have you down as three garbage units so you have to...we're going to raise you. We weren't taxing you properly, so that's what they told her.

Board Member Buzzutto stated but she didn't object to it at all.

Mrs. Herodes stated no, because she believes herself to be a three-family. Because she purchased it as a three-family. Because she refinanced twice as a three-family. The other inaccuracy that I want point out in the opinion letter is how this came to light. It states "Recently, the Tax Assessors Office and the Building Department were linked and this discrepancy in the classification was ultimately brought to light prompting the DCE to conduct his review." That's just absolutely not correct. This didn't come to light by the Town. This came to light because my client went to go refinance for the third time to pay for a garage that she just built and got a letter from the Building Department saying, hey, we have a discrepancy, we need to come in. Building Inspector came in and that's what started this. This wasn't like the Town, oh, you know, came to her or something came to light. Had she not refinanced, this could have gone on who knows how much longer. It's been 21 years so far. If she hadn't refinanced, conceivably, if she owned this house for another 15 years and could have gone on this way and now we're talking about 35 years of her paying as a three-family and then being told you're not a three-family anymore. So, I think it's very relevant how this came to light. This came light by a routine refinance, okay. The reason I brought up the refinance was because I wanted to point out the Applicant's reliance on the fact that she believed herself to be buying a three-family. The bank that financed her believed her to be buying a three-family. And that she has operated as a three-family all of this time. That reliance to her detriment ultimately, if the Board votes against her, is very relevant in your decision making process. The attorney's letter says "Any title report that the Applicant had obtained prior to '91 would have contained tax bills." Well, that's incorrect because tax bills are not included in a title report. There's what's called a tax search. Tax searches now have a property classification, they don't always. They certainly didn't back in 1964. They didn't even back in the '80s.

It's something more recent. It will say tax classification. And it should say tax classification 230 for a three-family. We have no idea what her tax search said at that time. I tried to obtain a copy of her title report. But whatever it said, tax codes are not ensured. Zoning is specifically excluded on every title insurance policy. So, there isn't any relevance to say...It says this discrepancy should have been noticed by the title company or the bank, but was again, not brought to the attention of the Town [referring to the Town Attorney's opinion letter]. Who was suppose to bring this to the attention of the Town. My client's refinancing it as a three-family where the Town...where the attention is brought to the bank is by the Town. That's how the bank finds out what they need to find out; by the Town through the title company. Through the municipal search. When she asked for the municipal search it said property, no violations of record. I showed you the one from 1992, from I think it was John Calbo was the inspector at the time. Review of the property, no violations of record. If you're saying in 1991 that she wasn't a legal three-family, that letter shouldn't say no violations of record. It should say there is a violation. She's a three-family and she's only permitted to be a two-family or whatever it is...whatever, you know, the argument is. So, she relied to her detriment since 1983 on the records of the Town. So that was my point of bringing out the title reports and the municipal searches that have come forth from this Town, from, you know, since that time. It says the..."According to the 1964 tax assessment, the property was listed as a two-family with an addition added." Well, it says right in there, addition added in 1960. I mean, obviously, that date may be off because the Zoning Board meeting is in '61. I don't think anyone thinks he built it before he came and got permission. That's not my client's recollection. She remembers him coming here asking if he could do it before he moved the in-laws. And again, here it says "it can be concluded that the third apartment unit was added sometime after 1964." I don't know what the basis for that statement is. Everything points to, it certainly was before '64. There's a photo there from '63. Voter registration records from '62. A Zoning Board meeting in 1961. He built it himself. I just don't see any indication that it was till 1964 that he built it. At the last meeting, I think Board Member Bodor, you asked if there was any plans. If she could find any plans, which we mentioned she didn't have, but I noticed something in reviewing the records that in the summary of minutes, the ZBA...one of the ZBA, Heltzberg, I forgot the name, says, we reviewed the sketch of the addition with Mr. Bubenicek. So he refers to a sketch right in the minutes. So again, evidence of something that was in the possession of the ZBA, which is not, unfortunately, in the file any longer for all of you and us to review and see. But, obviously, there was a sketch and, again, just evidence that the records are, you know, not complete at what was even entered into in that time.

Board Member Buzzutto stated how far can you go back in the minutes it would be legal to go back. Is there a time limit on that. Ten years, twenty years, thirty years, forty years back. Anything beyond that would be irrelevant to the...anything.

Melissa Klepack stated I'm not sure what you're asking.

Board Member Buzzutto stated well...

Mrs. Herodes stated if you can find minutes dated whenever, they're always...

Melissa Klepack stated yes.

Mrs. Herodes stated relevant. I mean, they never have statute of limitations...

Board Member Buzzutto stated what do they...

Mrs. Herodes stated on validity.

Board Member Buzzutto stated is it legal all the years that it's been put in the books.

Mrs. Herodes stated legal to review minutes...

Board Member Buzzutto stated yes. To review minutes.

Melissa Klepack stated yes. Yes.

Mrs. Herodes stated you can, absolutely. It's just unfortunately as we go back in time, we get less and less minutes. Of course you see what you do now, we read what the full variance request is into the record. I mean, it's just not the way that it was and unfortunately it leads to...

Board Member Buzzutto stated alright, how long does the Town have to maintain the records of properties. Is it a lifetime or is it...

Mrs. Herodes stated I'll let you attorney answer. I don't want to...

Melissa Klepack stated I'm not exactly sure by law how long they have to maintain it. I would think they should...

Board Member Buzzutto stated well, they go back to 1961...

Melissa Klepack stated maintain it, you know...

Board Member Buzzutto stated that would be fifty...about fifty years ago.

Mrs. Herodes stated every...

Melissa Klepack stated well, they do have some files, obviously, because they have the minutes from the...

Board Member Buzzutto stated yes.

Melissa Klepack stated 1960...

Mrs. Herodes stated yes, you're required to...

Melissa Klepack stated meeting.

Mrs. Herodes stated keep your...

Melissa Klepack stated yes.

Mrs. Herodes stated you're required to keep everything...

Board Member Buzzutto stated well, that's what I mean.

Melissa Klepack stated yes.

Mrs. Herodes stated indefinitely and...

Board Member Buzzutto stated well, that's what I'm trying to ask.

Mrs. Herodes stated absolutely.

Melissa Klepack stated yes.

Mrs. Herodes stated but, my point is just that there clearly were more things in the file. There was a sketch. It's referred to in the minutes but it's not in your file anymore. So to say well, there's no building permit, well, there was a sketch that's not in there. Maybe there was a building permit that's not in there. Again, these items should be in the possession of the Town, not in possession of the Applicant. I mean, they would help us all to know exactly what was...

Board Member Buzzutto stated so how do we know there was ever building permit obtained.

Mrs. Herodes stated well in...

Board Member Buzzutto stated we don't.

Mrs. Herodes stated 1964 when you say the Town came out to reassess her, they should have violated her for building an addition with no building permit and there's no CO. And there's no record of her being violated for having built this addition without...

Board Member Buzzutto stated yes, but the thing is, what I'm trying to say, is how do we know there was a building permit applied for. We don't. It's just...

Mrs. Herodes stated well...

Board Member Buzzutto stated on hearsay, really, or...

Mrs. Herodes stated well, typically somebody that can come....No, I can't prove that because there isn't one in the record. But typically somebody doesn't go to the step of coming to a zoning board and seeking appropriate variances and then not doing the rest of what they're suppose to do in building an addition. And again, you say the Town assessed in 1964 and numerous times thereafter. So if the Town reassessed her and reviewed the property, they should see this addition and should say violation, no building permit, no CO for this addition. That's what we catch in assessments all the time. This person has a front person. This person...

Board Member Buzzutto stated well, that's what we have right now, what's going on. Isn't that what you're trying to say, there's no permit or...

Mrs. Herodes stated I'm saying that...

Board Member Buzzutto stated in file.

Mrs. Herodes stated I'm saying that you want to rely on the fact that the Town reassessed in '64 and didn't make it...and didn't say on the records that it was a three-family. But the Town also didn't violate her father for having an addition and no building permit and no CO. So, my presumption is that he got whatever was required at that time or he should have been violated for not having it.

Board Member Bodor stated I don't think we can assume that though.

Board Member Buzzutto stated yes, that's what I'm saying.

Mrs. Herodes stated well, you don't have to assume that by any means. I'm just making a logical inference that he should have...she should have been violated if there was no CO for this addition. I think the inference, I think it's a logical inference that someone comes to a zoning board for variances, they're going to go and do the next required steps. If we're going to base the decision on the fact that the absence of a building permit and CO means that one wasn't applied for or granted, that's very problematic because there's no application for the variance in the file either and we know that they applied for a variance.

Board Member Buzzutto stated well, you say that...

Mrs. Herodes stated cause you have...

Board Member Buzzutto stated that could be problematic. It could have happened.

Mrs. Herodes stated no, no, no. What I meant is that we know that he applied for variances because you have summary minutes.

Board Member Bodor stated a variance. It mentions a side yard variance.

Board Member Buzzutto stated yes.

Mrs. Herodes stated you know that he came to the Zoning Board for a variance.

Board Member Bodor stated right.

Mrs. Herodes stated so there would have been an application for a variance. You don't have an application in the file. So what I'm saying is, if you're going to make the assumption that because something doesn't exist it wasn't there or wasn't applied for, I think that's problematic because you know he had applied for the variance; there should be an application in the file. And you know there was a sketch, it's not in the file. So, I think to say, well he didn't apply for a building permit because there isn't one in there, I have a problem with that. If you don't, that's fine. I'm just stating my opinion.

Board Member Buzzutto stated so do we. That's the problem. We have the problem with it. But that also...there's nothing documented that it was so. To make it so, really. It just...

Mrs. Herodes stated there's nothing retained in the Town's records. Yes, I agree with the fact that there was nothing retained. I don't agree with the fact that these documents didn't exist at some point. We know two documents that I think no one could argue that had to have existed.

Board Member Buzzutto stated you are assuming that they had to have been...

Mrs. Herodes stated well, how does somebody get on the Zoning Board meeting for a variance without an application, even in 1964...1961.

Board Member Buzzutto stated I don't know what the applications required back at that time.

Mrs. Herodes stated well, there had to be...I'm just saying, there had to be some formal application process.

Board Member Buzzutto stated Rich...

Mrs. Herodes stated I didn't...

Board Member Buzzutto stated could you answer that question for me.

Rich Williams stated I'm sorry, what was the question.

Mrs. Herodes stated whether he had to have a formal application for...

Board Member Buzzutto stated a formal application...

Mrs. Herodes stated a variance.

Board Member Buzzutto stated back in 1960s.

Rich Williams stated I'm not familiar with the procedures back in 1960.

Board Member Buzzutto stated yes, see, that's why I don't know.

Rich Williams stated I have no idea.

Mrs. Herodes stated may I ask a question for the Board without...just so that I'm clear on what we're still... You know, I think I'm clear on where our...where we still have the problem, but getting back to the point about the variance versus variances. If someone was building an addition, not an apartment, Mr. Bubenicek came to the Zoning Board. He was building that addition. Based on the M-1 requirements, let's pretend it's today and those are the requirements, would he have needed one variance or would he have needed two. Because if the Board answers that he needs two, which I believe is unequivocal that he needs two, than the argument over the fact that it refers to variance as a singular, obviously there was an error. If you don't meet the size requirements, even if a portion is preexisting, nonconforming, when you go to do something new, it's a whole new ball of wax. You have to get your new variances.

Chairman Olenius stated you're surmising that because even if it was two dwelling units, for arguments sake, you would still have needed the 20,000 feet...of whatever it was...

Mrs. Herodes stated well, I'm going to say even if it was one dwelling unit, I'm going to go even further, I'm going to say even if it was one dwelling unit, you needed 20,000 [square feet], okay, and this was only 10 [thousand]. I'm using the attorney's numbers, I didn't check it, but I'm sure that was right. So, this unit was only ten something. So let's pretend he was a single-family house and he just wanted to build an addition. He was under the size even for the one dwelling. So, okay...I'm just starting backwards.

Chairman Olenius stated yes.

Mrs. Herodes stated so in that argument, perhaps the Zoning Board at that time would have said he's pre-existing, nonconforming in the fact that he doesn't meet the size to be a one-family and we're not going to

revisit that issue, okay. But if he was two-family dwelling, he would have needed 40,000. He was only 10,000 [square] feet. So, there would have had to been a variance because you're increasing the size of the building on the lot. There would have had to be a variance just because of that fact, regardless on whether you were building an addition or an apartment because you were not in conformity with the then zoning requirements. So, you still need a variance. Just like it says, even though the house is preexisting, nonconforming in the minutes relative to the fact that the sideline already was too close on the existing house. With building the addition out right in line...Sorry. (Inaudible) I'm holding it like I'm holding the picture [referring to holding the assessor's card]. This addition goes right in line with the original house. You know, pretty close in line it looks like from this picture. So, obviously, you know, it's not like you'd say, oh you don't need a variance on this because you're already preexisting over here. No. You need your variance because your new portion needs the variance. When you build a new portion, you're increasing the size, you would...they would need the square footage variance. So, I'm just not comfortable with the fact that it says variance and therefore making the assumption that only one variance was obtained because it's my opinion that they would have...he would have needed two to do this addition, whatever it was for.

Board Member Buzzutto stated assuming it doesn't make it so. When you assume something that's basically be your opinion. But did it actually exist.

Mrs. Herodes stated well, it's actually zoning law on whether or not you would need a variance in that circumstance.

Board Member Buzzutto stated that's right.

Mrs. Herodes stated and I'm submitting that my legal opinion is that you would have. If the Board's opinion is something different I can't change that. But I'm not making an assumption. I'm giving my legal opinion, as the Applicant's attorney...

Board Member Buzzutto stated yes.

Mrs. Herodes stated that he would have needed a second variance at that time. If I was sitting before this Zoning Board today as the attorney and there was a new applicant with the same situation, that would be my advice, that they need both variances.

Board Member Buzzutto stated well, I'm not saying...

Mrs. Herodes stated so I have to...Why I'm assuming...

Board Member Buzzutto stated yes.

Mrs. Herodes stated is I'm assuming the Zoning Board did what they were supposed to do at the time. Any other assumption...Look, if you don't think they needed both variances then I can't deal with that argument because...I can just tell you what I...

Board Member Buzzutto stated no, what I'm saying is they needed...We know they needed one but did they apply for the second one to go with that. You're assuming that they did.

Mrs. Herodes stated well, I'm assuming that the Zoning Board knew what they needed to do and would have made them get both variances because that's what would have been required under what they were

doing. And if the Zoning Board didn't then I don't know what to say about that. That, you know, I don't know what they did. I'm making the assumption as...

Board Member Buzzutto stated yes.

Mrs. Herodes stated we do in looking back at cases that a zoning board did, you know, I'm making the assumption in favor of the Zoning Board, that they did what they would have been required to do. That if they had an applicant before them...If you have an applicant come before you that thinks they just need one variance...It happens all the time where you look at the project and say, well you need a variance because you need this or you need that. You know...

Board Member Buzzutto stated true.

Mrs. Herodes stated and so the Zoning Board points out to people what they need to do. So I think whether he knew it or not when he came, it should have come out what he needed to do. I'm assuming that because I'm erring on the side of assuming the Zoning Board, you know, acted correctly at that time.

Chairman Olenius stated was that, the current lot size, was that the lot size in 1961. I'm just looking to see, like, if it had been subdivided at some...

Ms. Pettey stated no.

Chairman Olenius stated point in time. It was that size the whole time. I didn't know if it could have been larger...

Mrs. Herodes stated yes. No.

Chairman Olenius stated back then. That's...

Mrs. Herodes stated no.

Chairman Olenius stated because it doesn't state it on the card that anywhere that I can see.

Board Member Herbst stated (inaudible).

Board Member Buzzutto stated I don't know who it is.

Board Member Herbst stated I don't remember his name. I know who it is but I don't remember his name.

Chairman Olenius stated I think my biggest sticking point on this whole thing is that nowhere on any of things from back on the day say anything about an additional dwelling unit. They all say addition or extension. You know, it doesn't designate any type of separation that it was a separate dwelling unit. I can't...That's my personal opinion. I just can't get past that. Because, you know, if I want my parents to come and live with me it doesn't mean I would build them a separate dwelling unit necessarily, you know.

Mrs. Herodes stated yes.

Chairman Olenius stated I'm just saying that's...

Mrs. Herodes stated but your DE...

Chairman Olenius stated my opinion.

Mrs. Herodes stated so, agreed. And I understand. I wish it...I honestly wish it gave us a little more. The only thing that I can hang my hat on there and I know Board Member Burdick, you know, had a, you know, had a flipside opinion to that and I total concur with that, was the little reference to speaking to the sanitary inspector, Pezzullo, not Buzzutto. Mr. Pezzullo said they spoke to him and he believes the sanitary systems were adequate. But, that could go to your argument that he just knew more people were living in the house and didn't know it was going to be an addition. But I think that coupled with the fact that the Building Inspector is saying, but in fact, we now have his opinion that the dwelling unit was built. The apartment was built and all is built at the same time. It was built in 1961 with a kitchen, with a bathroom. So now I think we're getting into arguments like, well how does the Town know they built it. Well, okay, so we're relying on saying well, the Town reassessed in 1964 and we still called you a two-family, but it was there. So you obviously didn't go in the house to reassess it because if you did, we wouldn't be here. So...

Chairman Olenius stated I understand. I can argue the point that back then a lot of houses has summer kitchens, you know. So if you were putting an addition on, maybe you wanted a summer kitchen to do your canning or something, you know, as part of your main house, you know.

Mrs. Herodes stated yes.

Chairman Olenius stated I'm just saying, there's so many...

Mrs. Herodes stated well, I guess I was trying to put the facts together in totality. There is more evidence...There were three letters from people who were around at that time. They came up there to live in the apartment. That they came to the Zoning Board for the approval. The belief was, on the part of the Applicant and her family, that he certainly came to the Zoning Board and told them what he was doing; I'm moving my in-laws up here. I'm building this apartment. We know the apartment was built. If you looked at the house, which I'm not suggesting it's a case for a site plan, but if you look at the house because, you know, I've seen it, it is clearly three, you know, apartments. It's not like a summer kitchen, respectfully, what you're getting at. It is clearly delineated as like it's own unit. And you can see from the pictures, clearly, was that that was that grandparents' apartment, even the way it's setup and the photos. So I guess, you know, what it really just comes down to is that, in my opinion, that three-families were permitted in the district at that time...

Board Member Buzzutto stated it's if it legal three (inaudible).

Mrs. Herodes stated three-families were legal. Whether or not everyone knew it was a three-family, three-families were legal, absolutely, in the district at that time.

Melissa Klepack stated I think he's saying whether that third...Whether that third apartment unit, itself, was legal.

Board Member Buzzutto stated yes. Maybe I'll ask Rich if...

Melissa Klepack stated I think that's what he was saying.

Mrs. Herodes stated okay. So again, to meet the criteria of a pre-existing, nonconforming, it has to be legal when constructed, actually constructed, and the use continued, you know, without break. So, I think my client has as much evidence as she can have that it was legal at the time constructed; three-families were legal in the M-1 District without approval. The only approval that we get into is because of the size, okay. If he had been a bigger lot, again, he wouldn't have needed any approvals. So I just want to, you know, hammer that point home. I know I keep saying that, I just want to try to put that in perspective. If he had been on a big enough lot that had 60,000...let's say 100,000 square feet, and he went from a two to a three, he wouldn't have needed to do anything unless he needed a sideline setback. But let's pretend there was no setback in play. He wouldn't have needed anything to move from a two to a three because three-family dwellings were permitted and would have been in the size requirement. So I think we're getting hung up on something that I feel probably was just understood at the time. But again, I'm making inferences. Of course I'm making inferences. They're inferences that are favorable to the Applicant. They're inferences just as easily for this Board to make as the negative inferences. It's just as easy to say that he did come and he did tell them exactly what he was doing and he did build it as he said he did. And the Building Inspector says it was built at that time. And her in-laws...Her grandparents did move in and registered to vote and three living, neighbor and two relatives, said they did move in there. Town never violated them in all these years. It's two feet away from the Town...Oh, I'm pointing in the wrong direction. It's two feet from the Town. It's been in existence all that time. In '91 the Town came in and started taxing her for twenty-one years. She's been paying taxes as a three-family. Had she not gone to refinance, we wouldn't even be standing here. This would just be going on like this. No one came and knocked on her door. I just want to be clear on that. This is not the same scenario as someone knocking on her door and saying, hey you're in violation. You've got three apartments here and you're not allowed to. She brought this to the attention by refinancing and seeking a routine Building Department search.

Chairman Olenius stated at which point she was violated because the Town did its due diligence because it was made aware of the...

Mrs. Herodes stated she asked for the search...

Chairman Olenius stated discrepancy.

Mrs. Herodes stated and I'm assuming, I wanted to ask the Building Inspector if it's a new procedure in the Town of Patterson to automatically...Are you issuing out those letters with all...The letters that my client received that we need to check the property, because I have three other real estate deals in Patterson, and the all got the same letter back. I'm not saying there's anything improper with that, but it seems to may be a new method maybe to go in and, you know, get a chance to inspect properties and a lot of towns are doing that. So I'm assuming that's what's happening.

Nick Lamberti stated yes, well, there is collaboration between my office and the Tax Assessor's Office. And when something comes up that shows a discrepancy then we actually do send a letter to the building owner and we do an actual search.

Mrs. Herodes stated right.

Nick Lamberti stated yes, that's...To answer your question, we do.

Chairman Olenius stated is that a new protocol or...

Nick Lamberti stated it's been going on for almost three years now.

Mrs. Herodes stated well, and again, I'm not saying there's anything wrong with that. I'm just trying to point out that a routine Building Department search was done, and like I said, I do a fair amount of real estate and have three other clients who've had a routine Building Department search from Patterson come back with this same letter of oh, we need to go in and check the property. And that's fine. A lot of towns are doing this to try to, you know, gain control of properties that, you know, because realistically they can't go out and inspect every single property. But at the same time, we're talking about a condition from 1961. We're talking about numerous reassessments over the years, and I'm saying that she's never been violated in all these years and that she has received no violation letters and letters that came back without showing a discrepancy. A discrepancy that was there according to the Town. Not according to the Town, according to the attorney's memo, the discrepancy was there. If they reassessed anytime before 1991, what I'm reading in this is that the card said two-family. So any assessments that were done in all those years, the discrepancy was there. A discrepancy that would have been beneficial for my client then to know that she wasn't in 1983 purchasing what she believed to be a three-family with, you know, three rent...potential rental units. And which is why there is a huge problem now for her and her refinance because the bank now says we thought we were refinancing three-family, which has a greater value than a two-family because of the income potential.

Chairman Olenius stated you know you just...Excuse me. You just argued that it was a discrepancy. I am just still not sold that it was a discrepancy. You know, it could have been a two-family since 1961.

Mrs. Herodes stated well, I'm saying that the three apartments have...the three apartments have been there since...The three apartment units and the kitchens and bathrooms, three bathroom, three kitchens, have all been there since that time. So, that's what I'm saying that...If the Town's saying that it's not a three-family then those items weren't allowed to be there.

Board Member Buzzutto stated yes, but does it make it a legal three-family house, even though they've been there.

Mrs. Herodes stated no. I'm saying that if you're saying it wasn't legal, then it was illegal to have that third kitchen and she...there would have been a discrepancy, she should have been violated in all these years. If she wasn't a legal three-family, then all those years that three kitchens and three bathrooms were there are illegal. When the County put up their new imaging site, which has been going on for years now, the Town reported to the County of Putnam that my client has three kitchens, three bathrooms, and is a three-family unit. I provided you with that last time. And someone said to me, well they get that information from us. Well, at what point is the Town responsible for the information that they're giving out to the County and that my client is relying on and that's been given out to any bank that...You want to talk about what the bank should have known, is the bank checks the County records for this property. Right now, as of this day, I checked it again this morning, and why would it change of course, but I'm just saying it's three-family, three kitchens, three garbage units, three bathrooms.

Board Member Buzzutto stated it's not that the first two were refinanced it didn't pickup that the same as what this last bank did. Pickup the...

Mrs. Herodes stated well, it wasn't the bank. It was that the Town did not issue out the same municipal search. The bank only gets information from the Town, via the title company. So, the Town on both...on her purchase and her two prior refinances, issued a letter saying there's no violations of record, which says to the Town...to the bank that everything is legal as it is. So when the bank appraiser goes out, and he sees three kitchens and three apartments, he gets a no violation letter and so everything is good. And that's how

you buy or you refinance. This time she goes to do it, and she doesn't get the same letter back. She gets a letter that there's a discrepancy.

Chairman Olenius stated does anyone else in the audience have any input on this case. Hearing none.

Board Member Buzzutto stated why don't you ask Rich if he has anything. He might have something.

Chairman Olenius stated he would have said something.

Board Member Buzzutto stated no, I don't...

Rich Williams stated if you have questions, I'll be happy to answer or Nick will be happy to answer.

Chairman Olenius stated yes.

Board Member Buzzutto stated what did he say.

Chairman Olenius stated he said if we had any questions he'd be happy to answer.

Mrs. Herodes stated so, the one...the last municipal search from my client's last refinance, was in 1992, okay. So this was a letter from the then building inspector, John Calbo. It's your standard, you know, building inspection letter that...Or excuse me, municipal search letter, that the dwelling was constructed prior to the CO and at this time the records do not show any violations of record. So, what I think the significance of this is, this is 1992. In 1991, is when we know for a fact that the card was changed. We're not saying that that's when the garbage situation happened, and somebody wrote 1991 over here. I don't know who or when, and nor do you, but we know that in '91, a year before that, the tax assessor said hold on. This is a three-family, we need to tax this as a three-family. So my point is, some activity and change and thing went on in this file, and yet one year later, Building Department's still saying no violations of record. Refinance goes through, perfectly fine. Again, had she not refinanced to pay for this garage that she built seven months ago, we wouldn't be here. She would still be operating three apartments in there, two or them rented.

Board Member Buzzutto stated well, the attorney, do you have any input, any opinion of the conversation here that's been going on or...

Melissa Klepack stated well, as to your point that you just made right now, the Building Department wasn't linked to the Tax Assessor. So, in 1992, they had no reason to know that the Tax Assessor thought it was three-family. So it wasn't wrong for them to say there was no violations.

Mrs. Herodes stated well, I'm not going to say it's wrong for them to say that, but you're required to rely on the statement that you make. You're making a statement that a property has no violations. So if your routine is not to go and inspect and to verify that, an applicant, a homeowner, is relying on that information. You're saying there's no violations. We're trying to hold it against the Applicant that there's this disconnect between what the Assessor has and what the Building Department has. So, if this Board is to vote no on my client's request here today, is the Tax Assessors Office going to refund her taxes and garbage from 1991, twenty-one years worth. I doubt it. So, I doubt it willingly without a lawsuit. So I'm not sure how we can say, well we get to rely on the discrepancy here to the Applicant's detriment, but we're not responsible for any discrepancies as a Town. And any way we slice it, it is as a Town, okay. It's all under the Town. This is the Zoning Board, you know, for the Town. Building Inspector, Tax Assessor,

I mean, don't always working together, but it's really the Town versus my client, in a sense. Not to make it sound as adversarial as it is, but that's what it comes down to.

Chairman Olenius stated I understand your last argument, but I'm trying to figure out how to phrase this. But the issue in front of me is whether it's a three-family dwelling unit and that's really all I'm concerned with tonight. I'm...

Mrs. Herodes stated yes. I wasn't trying to get into other arguments, I just was trying to speak to it, what your attorney stated that you can't say, well, the Building Department wasn't wrong because they don't have any responsibility about what the Tax Assessor's saying.

Melissa Klepack stated I'm not saying that. I'm saying according to their own records.

Mrs. Herodes stated but, their own records are in the same...You know, when you send out those letter, now what we do is we...the two offices connect when you do a search. But the fact that that wasn't done ultimately is going to be held against my client because we don't...because they didn't do that. So we don't know what would have happened if we did that. But that failure in procedure, again, shouldn't be held against the Applicant. That's all I'm stating. What you're saying is there is a violation of record and there has been. If you're saying that she wasn't a legal three-family, then there was a violation of record and this Town issued out three Building Department letters that we know of saying there was no violations. This Town issued information to the County of Putnam saying that my client's a legal three-family and then saying well we don't know what the Tax Assessor's giving to the County on the County imaging site. This is suppose to be reliable information. Town is certifying whoever gave that information that this property is a three-family.

Board Member Buzzutto stated well, because three-family, does that legally make it so that it...Does that...Do they have any...

Rich Williams stated They only...they. Let me explain.

Board Member Buzzutto stated thank you. Come on up.

Rich Williams stated yes. The assessors only assess what's existing. They don't make a determination about whether a property has any violations. That there is any illegal aspects of the property. They only assess what's there.

Board Member Buzzutto stated what's there.

Rich Williams stated right.

Board Member Buzzutto stated but what's there could be legal or could be illegal.

Rich William stated correct.

Board Member Buzzutto stated right.

Rich Williams stated they make no determinations in that respect. That's up to the code enforcement officer.

Board Member Buzzutto stated right. So he's basing the assessment on what he sees.

Rich Williams stated yes.

Board Member Buzzutto stated but that doesn't make it legal. That's what I'm trying to say.

Mrs. Herodes stated right, and I was just trying to...

Board Member Buzzutto stated the assessor has no authority...

Mrs. Herodes stated no authority. I'm not arguing with you on that point. I'm just saying, that based on what he sees and what anyone saw, no one ever said this is illegal. No one had ever said this is illegal in all these years, since 1964, and since 1983 since my client owned it. And the only reason it's being stated now is, again, because she brought it to the (inaudible – papers shuffling).

Board Member Buzzutto stated about the resolution, should have some guidance I think to make sure it's worded out...If you're going to do anything, I don't know.

Chairman Olenius stated I don't even know what more I could ask for to be submitted. I think everything is pretty much out here.

Board Member Buzzutto stated yes, well...

Chairman Olenius stated it's been submitted.

Mrs. Herodes stated and if I could speak to that.

Chairman Olenius stated yes.

Mrs. Herodes stated and that's an excellent point, because I really don't think there is anything more. I think we've all probably tried to think. And so my point is the...What we come down to is the only thing that would help us here would be better Zoning Board minutes from 1961 and better Building Department record. We don't have those things, and I submit without beating my dead horse and making you all want to kill me...

The Secretary stated hold on [referring to the tape for the minutes ending]. Sorry.

## **TAPE ENDED**

Mrs. Herodes stated he's voting over there. I'm not finished with my argument and you're voting.

[Laughter]

Mrs. Herodes stated I think that the things that are missing, the (inaudible) is on the Town, not on the Applicant for those items. To say that they didn't exist or that he didn't obtain them simply because they're not in the file, I think is a dangerous ground to take and I think it's unsupported by other evidence that there were other things. I mean, I don't want to keep bringing it up, there was a sketch. Well,

obviously there was sketch. Now there's a sketch. It's in your minutes. It's in your folder. So we know there is sketch. It's referred to there. It's not in there. Obviously more conversations took place than what says in those minutes. I would submit there had to be some form of an application process. I doubt even in 1961 you just called up the Town and said put me on the agenda and I'm going to come in and talk. I mean, there had to be something reduced to writing on what this person was there for. So again, the only things that would give us what we all need would be in the possession of the Town. And the fact that the Town doesn't have those records, is really then... If a negative inference is made, it's being made against the Applicant. When again, an inference can just as easily be made for the Applicant; that the Board knew what he was here for. That he built what he said he was going to build. That his in-laws moved in and that they've been there since 1964 and no one ever said a word about it because everybody knew that's what was there and what he was building. I mean, that argument is just as easily made and I, don't get me wrong, I... you can easily make the other argument. But I think, you know, there's letters from other people that were around, you know. But again, that doesn't get back to your, I think, you're agreeing the addition was there. And maybe even the apartment was there. You're just asking whether he got the variance for the size. And to that, I can only say I believe he would have needed two variances. This is a point of law that can be checked, certainly. He would have needed two, so if he would have needed two we have to assume that two were obtained. And if that's the case, then finding against her because it's spoken in the singular, variance versus variances, is, you know...

Board Member Buzzutto stated see there again you're assuming.

Mrs. Herodes stated well, I can only assume with which part... I can assume...

Board Member Buzzutto stated no, I mean...

Mrs. Herodes stated because there's parts that...

Board Member Buzzutto stated that there was...

Mrs. Herodes stated I mean, that's all...

Board Member Buzzutto stated two variances issued. But assuming, that's...

Mrs. Herodes stated well, I'm not assuming that two were needed. I'm stating that I believe that's absolutely factual, that two variances were needed. That's my opinion as a...

Board Member Bodor stated the brief summary that we do have of that meeting mentions a side yard variance in more than one location. It's mentioned in there twice. So I don't think we can assume that there was another variance requested and/or issued. And as far as extra people moving into that structure, does not mean that there was another living unit. You can move as many people into a two-family residence. You may have four family units living in there, but it's only a two-family. So, the fact that there was an addition put on, and not referred to in those minutes as a residential unit, a separate living unit, an apartment, whatever you want to call it, it says extension. To me, I'm having trouble with the fact that this apartment was built as opposed to a simple extension, which to me, is just rooms. With no plumbing and no... And I realize, apparently, at that time, all the plumbing was put in. But that didn't make it right, in my assumption.

Mrs. Herodes stated absolutely. Didn't make it right if he did not get the proper approvals...

Board Member Bodor stated exactly.

Mrs. Herodes stated for the dwelling unit. Absolutely. I wouldn't argue that. The point about other people moving in is because when you're trying to argue a pre-existing, nonconforming, you have to bring all evidence of the fact that it was legal. The fact that it was, in fact, created. So, when we first started this, I didn't know where our arguments were at. So, that's the argument about people moving in there. You know, again, we don't know what was stated. I think, again, I take issue with hanging on, I mean, it's seven lines. It's seven lines. It's a seven line summary. We can't possibly say that that's all that was stated. In fact, it says something about someone who's coming late or something and is going...Right. Isn't there...

Board Member Bodor stated yes. And he came later and he was advised of what was going on and he did, in fact, vote, too.

Mrs. Herodes stated absolutely. My point was just that there was clearly more conversation than seven lines. So I don't know...

Board Member Bodor stated but this is what we have to work with. This was...is the record. The same as we may have a 15 page minutes from this meeting, and that's our record. What was done back then, what we have here, is the record of that day. It is the written record, so that's what we have to work with.

Mrs. Herodes stated see, the issue...I think when you say he says there's a sideline violation...

Board Member Bodor stated yes.

Mrs. Herodes stated is that what you're referring to. Nonconforming right now. That's referring to the existing sideline violation, that the house itself already had a sideline violation...

Board Member Bodor stated right.

Mrs. Herodes stated verified by your attorney in her opinion.

Board Member Bodor stated yes.

Mrs. Herodes stated the house itself was...What did you say, I'm sorry. What was it, 4.7 [feet] or something.

Melissa Klepack stated yes, 4.7.

Mrs. Herodes stated it was only 4.7. So that's not saying that he applied for a sideline violation. It says he requested a variance, again, a variance to add a two-room extension with a sideline violation. I believe that that interpretation is they're referring to the existing sideline violation. They go on to say, there is a sideline violation, nonconforming right now, referring to just, again, given the totality of circumstances that he's got. This house, it already has a sideline violation. That to me doesn't say that he's getting a sideline variance for the new structure. I believe that you could just as easily interrupt that, that that's what they're talking about. That they're just pointing out that there is a sideline violation currently...He says, there is a sideline violation, nonconforming right now. We're talking about the existing structure, not the addition.

Board Member Bodor stated but up at the very first sentence it says a request for a variance. So why bother to mention the violation if that's not the variance that's being requested.

Mrs. Herodes stated well, I think you would always...Well, I mean, why wouldn't you mention the violation. But with a sideline violation. I think he would always mention at what the status of a house is right now. If we have someone come in and they're already in violation with for a portion and they're doing whatever, it's just part of discussing...

Board Member Bodor stated yes.

Mrs. Herodes stated what we're dealing with.

Board Member Bodor stated but if the request is for a variance, the only possible variance that is mentioned in this word...in these words, is the sideline violation. So, you...

Mrs. Herodes stated yes.

Board Member Bodor stated therefore have to, in my opinion...

Mrs. Herodes stated yes.

Board Member Bodor stated assume that that's the variance that was being addressed.

Mrs. Herodes stated well I, quite honestly, I truly don't make that assumption at all. I read this to be that they are referring to the existing sideline variation on the property. The fact that the structure, as it presently existed, has a sideline violation.

Board Member Bodor stated yes.

Mrs. Herodes stated okay. And I don't read...I don't think that is at all the same thing as saying as we are now seeking a variance for a sideline, you know, a sideline variance because the structure will also be...I mean, there's obviously a lot of wording missing, but when they say, he's looking for his present structure but with a sideline violation. And then there is a sideline violation, it's nonconforming right now. We're clearly talking about the structure. He...No one thinks he built the house before he came to the Zoning Board and then got permission. So we're talking about the existing structure. So I think, again, it's making an inference and an opinion's going to play into it. We're making an inference that that's the variance he was requesting. I making the inference that I read that to say they're referring to the existing violation. I absolutely think they got a...he got a sideline variance. He needed to, to build to the house. I fully think he did. My point is just simply that...And the reason I'm bringing up the argument about that he needed more than two because your attorney brought it up in the opinion letter. So I'm speaking to that. Her position was that if he was looking to put more dwelling units, he would have also needed the square footage variance. And I'm saying that he would have needed that anyway, even if he was just building the addition. So what you're saying is, either the Zoning Board back then didn't, you know, make him get a variance that he needed to get, or these minutes just don't tell us what happened. It's one or the other. Or, you're taking the position that he didn't need one and I can't...That's just a legal, you know, that's a legal fact one way or the other. I can't...My opinion is that you needed it, that you would have needed it. You're attorney's position, from what I'm hearing, is that you didn't need it because she's saying that, you know, you didn't get it. So that's a point of law to be determined. I mean, I...There's no point in, you know, arguing that. But if you were to determine upon legal research that the variance would have been

required, then what are we to surmise of that. That the Zoning Board just didn't make him get it. That the Zoning Board did give it to him and it just incorrectly says a variance where it should have said variances. You know, so, there...it opens up a lot of holes to the scenario. And again, I do submit that if he came in here with this sketch and he said I want to build this, and if you came to the conclusion that he needed two variances but he only applied, and we don't know what he applied for because we don't have the application, and he only applied for a sideline, the Zoning Board should have said, well you also need an area one. Okay, so if they didn't tell him what you need, how do we know what was said because that's a big problem right there. We just don't know what was said. And I think it's just as easily to, again, make the inferences that he came doing the right thing; came to the Zoning Board in 1961 when a lot of people just did whatever they wanted to do. He came and everything is as the Applicant states it to be. He was upfront with what he was doing. His in-laws worked right here at the cigar factory and told everybody what was happening and that he was building an addition to move his in-laws in. And I submit that as, you know, not evidence that makes it legal, evidence to support the fact that I think it's entirely plausible that he came to the Zoning Board with the full information of what he intended to do. He had no reason not to. You have no evidence to believe that he would have been denied if he came. But maybe we should try it from that approach. There were numerous three-families on South Street and Front Street. In this entire area. There was a cigar factory right down the road, okay. So, let's think about that. If he came in 1961 and said I want to build an addition to move my in-laws into and I need a variance because I don't have the square footage, do we believe he would have been denied. I'm not asking you to really answer that.

Chairman Olenius stated again, you keep...

Mrs. Herodes stated I'm not asking you to answer that.

Chairman Olenius stated you keep saying addition though, so...

Mrs. Herodes stated well because I feel like I'm making everyone angry every time I call it an apartment...

Chairman Olenius stated no.

Mrs. Herodes stated so I'm just trying not to be argumentative. So, my point was just that, you know, he only...We're saying he's a two-family. He's only got 10,000 [square feet] for two-family, he needed 40,000 square feet. And we're all saying he's a two-family; the Building Inspector's letter says you're a two-family. So he's go a variance of 30,000 [square feet]. So why shouldn't we assume that it would have been so hard to get a variance to be three-family. It was permitted in the district. These houses are pretty close together. It's not like size was really...I mean nowadays, of course, you know, three-family on a lot that size, you know...I'm not saying that that makes it so because they would have. I'm just saying the facts, to me, support that he told them exactly what he was doing because he had no reason not to. I don't believe he would have been denied or needed to hide what he was doing. He was right there.

Board Member Buzzutto stated well, I think the conversation is so drawn out we're getting repeats, repeats, repeats. It's...

Mrs. Herodes stated oh, I...

Board Member Buzzutto stated it's the same thing over and over and over again.

Mrs. Herodes stated well, the record's very important if...

Board Member Buzzutto stated yes.

Mrs. Herodes stated there's a denial. So we have to make sure that we've made our case, so...

Board Member Buzzutto stated well, I think it's been like a broken record here.

Mrs. Herodes stated oh. Well...

Board Member Buzzutto stated we keep...

Mrs. Herodes stated I apologize for that.

Board Member Buzzutto stated no. Well...

Mrs. Herodes stated you're asking me if there's three-families permitted on the end of the road now, so I, you know, I'm just trying to answer the...

Board Member Buzzutto stated well...

Mrs. Herodes stated questions that are posed to me. So I will not continue my broken record if there's nothing else.

Board Member Buzzutto stated I don't mean to be sarcastic.

Mrs. Herodes stated no.

Board Member Buzzutto stated I'm sorry.

Mrs. Herodes stated that's okay, neither do I.

Board Member Buzzutto stated I apologize for that.

Mrs. Herodes stated I just can't help myself. You do have to understand though that the record, in the case... This is going to sound like I'm threatening and it is not.

Board Member Buzzutto stated no, you're not.

Mrs. Herodes stated it's just the reality. My client can't have the financial loss of this now being a two-family. So she's going to have no choice. So you have to understand that I'm not trying to argue appeal or anything, but that would be where she'll have to go. So the record is incredibly important. So that's why if I'm repeating, it's because I want to make sure that I'm getting everything I need to, to be on the record. Because when we start going down other roads, you can't remember if you've gotten your point out, so...

Board Member Buzzutto stated okay.

Chairman Olenius stated Marianne, do you have anything else.

Board Member Burdick stated no.

Board Member Buzzutto stated I'd like permission through the Chairman to ask Rich if he has any input at all on this particular.

Rich Williams stated okay. Actually, you know, I think the record speaks for itself. I think Mrs. Herodes has made a brilliant argument but, you know, I've known her for a long time. She's a great litigator. She makes great arguments. But me personally, I don't buy it. I think Melissa did an outstanding job with the memo that she did and based what I have seen in the record, you know, I think there isn't enough evidence at this point to support a, you know, determination that there was a third family. Not saying that there was or there wasn't, but it's just not in the record at this point, that I've seen. So I don't know what additional information the ZBA would be looking for...

Mrs. Herodes stated that there was a three-family or that they asked for proof that...

Rich William stated that there was three apartments at a time when it was legal to have three apartments...

Mrs. Herodes stated oh, so you're saying it wasn't even three apartments in 1961.

Rich Williams stated I'm saying that there was... There was not three apartments at a time when it was legal to have three apartments, prior to 1960...

Mrs. Herodes stated yes.

Rich Williams stated and that after 1960, the record doesn't show that there was a second variance issued that would have needed to be. I will say this, you know, Nick, Code Enforcement Officer, he can back me up on this, if we have somebody come in for a variance as you have suggested earlier, that had a pre-existing...

Board Member Buzzutto stated excuse me...

Rich Williams stated nonconforming...

Board Member Buzzutto stated is that being picked up [referring to the conversation being in the minutes].

Rich Williams stated pre-existing, nonconforming condition of a piece of property, and they were not changing it, we would not ask them to get a variance for that. That's our current...

Board Member Buzzutto stated right.

Rich Williams stated procedures. If you're telling us we're not in compliance with, you know, the typical case law, we'll have to investigate that.

Mrs. Herodes stated I'm sorry, can you repeat that because I didn't hear...

Rich Williams stated that if there is a pre-existing, nonconforming condition of a property and it came in for putting an addition on that they need a side yard variance...

Mrs. Herodes stated right.

Rich Williams stated using a case, you now, to date, that we would not make them get a variance for that pre-existing, nonconforming...

Mrs. Herodes stated but you did here. They're saying this is the variance that he got, the side yard variance. It was pre-existing, nonconforming. He was just... You just made my argument. I mean, that if he didn't need that variance then he was getting the variance for...

Rich Williams stated no. The variance was for the addition.

Nick Lamberti stated for the addition.

Mrs. Herodes stated because the side yard was pre-existing.

Rich Williams stated because they were...

Mrs. Herodes stated the side yard was (inaudible – too many talking).

Rich Williams stated they were creating a new structure attached to the existing structure...

Mrs. Herodes stated right.

Rich Williams stated which was four feet off the property line. It didn't meet the property...

Mrs. Herodes stated right.

Rich Williams stated yard setback.

Mrs. Herodes stated nor did the existing house. You just said, or I just misunderstood you, that we had a pre-existing nonconforming condition and someone came in for addition, you wouldn't make them get a variance for that condition.

Rich Williams stated you misunderstand. Alright, let me do it this way. It was a legal pre-existing, three-family home at the time because the three families were constructed in 1950, when it was legal to do three-families there without consideration of the lot area.

Mrs. Herodes stated yes.

Rich Williams stated and they came in for the addition, today, that didn't meet the side yard, we would make them come in for the side yard. We wouldn't make them get a variance for having three-families in that house which was a legal pre-existing, nonconforming condition. And, Melissa, are we doing it right or are we doing it wrong, do you know. Or would you need to look at that.

Melissa Klepack stated well, I would need to look at it but, I mean, as I stated in the memo, it was the lot area per unit. So, they wouldn't necessarily have to adjust that if he wasn't getting an additional unit added to the house.

Nick Lamberti stated right.

Melissa Klepack stated if it was just an addition.

Nick Lamberti stated exactly.

Mrs. Herodes stated I beg to... You know, in my opinion, that's not the case. But... And by the way, whether that's the practice of this Town or not, it doesn't answer the legal question on whether that's required under Zoning Law.

Rich Williams stated sure.

Mrs. Herodes stated so, we all have to relook at that. But I'm... I have looked at it and I'm quite clear that a variance should have been obtained. Even though it would have been freely given because of the fact that...

Rich Williams stated well, we can't make that assumption...

Mrs. Herodes stated well, you're saying he didn't even need it so I'm saying if you didn't make people get it, if they did ask for it you would give it then.

Rich Williams stated well, I... In this case, it's a different situation. I was doing a hypothetical situation.

Mrs. Herodes stated right.

Rich Williams stated in this case, there was clearly two apartments in nineteen, or prior to the zoning in 1960; there were two apartments. That's without dispute. They were pre-existing, nonconforming. Then what you're saying is they put an addition on in 1960 after the zoning changed...

Mrs. Herodes stated yes.

Rich Williams stated right.

Mrs. Herodes stated yes.

Rich Williams stated and in that addition they installed an apartment.

Mrs. Herodes stated right.

Rich Williams stated well, for that they would have needed two variances.

Mrs. Herodes stated right. What your... What you just said a moment ago that you don't think there's been three apartments in there since 1960 and...

Rich Williams stated I don't think there... No, I didn't say that. I said there haven't... there wasn't established three apartments at a time when it was legal to establish the three apartments, and then after that point, in 1960 when it was no longer legal to have any because of the lot area, there is nothing to show that the Town took any affirmative action to legalize that third apartment going in. Is that a clearer way to say it.

Mrs. Herodes stated I understand what you're saying. I just think, you know, I think when you say that there weren't three families at a time when it was legal, I just want to be clear three-families were legal in

that district. It all comes down to whether the variance was needed or obtained for the fact that there was another dwelling unit going in.

Rich Williams stated yes. Nick, you have anything you want to throw in this.

Nick Lamberti stated well...

Mrs. Herodes stated and the dwelling unit went in.

Nick Lamberti stated I'll just reiterate that at the time that the request was made at that addition...

Board Member Buzzutto stated are we picking this up into the minutes. I want to make sure this all gets into the minutes.

Nick Lamberti stated at the time that the request was placed for the addition, there was a pre-existing, nonconforming two-family home. The request came in wanting to add this addition and a variance was needed because of the side yard setback not meeting the 20' that would have been required. So the variance requested was a variance for the side yard setback. That's enlarging a nonconforming, pre-existing use. That would have been required. It wouldn't have been a requirement, in my opinion, to do the variance for the lot size. That wouldn't have been needed so...If there was one requested, then I think it would have, added to your argument, that there was really the intent to add a third apartment.

Mrs. Herodes stated but I just want to be clear that everything you just said, from the beginning, was in your opinion; what the variance was requested...

Nick Lamberti stated just like your opinion...

Mrs. Herodes stated absolutely. I just want to be clear on that.

Nick Lamberti stated it's all our opinion, I don't make the decisions.

Mrs. Herodes stated your first letter also was of the opinion that three-families were not permitted in the M-1 District, so I'm just saying, you know, you're stating your opinion as an I, and we don't know what was said. So it just comes back down to a totality of the facts and a belief on whether he was in there getting the variances that he needed. It does not say he applied for a sideline variance. I'm sorry, it just does not say that. They may have referred to that because that's what they all knew they were talking about. I'm not saying that inference cannot be made by any means, but we just don't know what that variance was.

Rich Williams stated does anybody the property card handy.

Nick Lamberti stated I think what we're doing is trying to struggle through this by what was meant at a time by the parties.

Rich Williams stated can you read the note in the upper right hand corner [referring to the tax assessor property description card].

Chairman Olenius stated side...Side use...Side...

Rich Williams stated no. The one that says the addition.

Board Member Burdick stated addition 1960. That one.

Rich Williams stated that one.

Chairman Olenius stated oh, I'm sorry.

Board Member Burdick stated addition 1960, \$1500...

Mrs. Herodes stated own labor.

Rich Williams stated so, you know, we're making a lot of assumptions here. I mean, we could also assume based on that card that the addition was started in 1960, the Building Department went out, found the addition had been started, said hey you don't meet the side yard setbacks. You've got a violation here, you need to address that with the ZBA. I mean, we could assume that.

Mrs. Herodes stated we can...All we can do is assume because they don't have...

Rich Williams stated that's true.

Nick Lamberti stated right.

Mrs. Herodes stated the records. There's no question about it. I can't argue that.

Nick Lamberti stated it will be up to the Board to decide what's (inaudible – too distant).

Mrs. Herodes stated absolutely.

Board Member Buzzutto stated when the work...It says has the work been started, it says yes on the original application. See.

Board Member Herbst stated yes.

Board Member Buzzutto stated this goes back to '61...1961. It also says (inaudible).

Chairman Olenius stated this is a summary report here clearly states "the Board unanimously approved the above though the house is nonconforming it's use is one allowed in the particular district." Which is kind of what the current Code Enforcement Officer was stating.

Mrs. Herodes stated it also could have been referring to it's use as a three-family. That was permitted in the district as well.

Board Member Buzzutto stated (inaudible).

Chairman Olenius stated there's a lot of speculation. So...

Mrs. Herodes stated no, I swear...

Chairman Olenius stated I have to make a decision on what is in front of me without speculating, and I don't see...I'm not going to speak. I don't want to state...

Mrs. Herodes stated that's alright. I'm not going to respond.

Chairman Olenius stated I have my own opinion but...

Board Member Herbst stated we should have taken the other guys first [referring to the following case on the agenda].

Chairman Olenius stated I think we've pretty much heard everything we've needed to hear and I think with...if there's no argument, I'd like to close the public hearing and make a resolution on this case.

Board Member Bodor stated I'll second.

Board Member Herbst stated I'll make a motion to close the public hearing.

Board Member Burdick stated second.

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

Chairman Olenius stated okay.

Board Member Buzzutto stated okay.

Chairman Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF  
*Kathleen Pettey, Case #01-11***

***For an Interpretation on an Appeal of a Determination by the Code Enforcement Officer***

**WHEREAS, *Kathleen Pettey*** is the owner of real property located at 35 South Street (R-1 Zoning District), also identified as **Tax Map Parcel #3.20-2-8, and**

**WHEREAS, *Kathleen Pettey*** has made application to the Patterson Zoning Board of Appeals for an interpretation on an appeal of a determination of the Codes Enforcement Officer pertaining to **§154-26** of the Patterson Town Code, Permitted principal uses in a residential district, and

**WHEREAS, Nicholas Lamberti, Director of Codes Enforcement, made the determination that the legal status of *Kathleen Pettey's* property has been properly listed as a two-family dwelling only, and**

**WHEREAS, the Applicant is seeking a determination that her residence has the legal status of a pre-existing, nonconforming, three-family dwelling, and**

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

**WHEREAS**, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on *January 19, 2011, February 16, 2011, March 16, 2011, April 25, 2011, May 18, 2011 and June 15, 2011* to consider the application; and

**WHEREAS**, the Zoning Board of Appeals has given careful consideration to the facts presented in the application and at the public hearings and finds that the Applicant has failed to sustain her burden in establishing a pre-existing, non-conforming third residential unit within the existing structure because:

1. In 1960, there was an existing two-family dwelling on the Applicant's property. That same year, the Town of Patterson adopted amendments to the Patterson Zoning Code which placed the subject property in the M-1 Zoning District. Multifamily dwellings, including three-family homes, were permitted in the M-1 zoning district upon each dwelling unit meeting certain lot area requirements.
2. In the early 1960's, the then property owner constructed an addition onto the existing residential structure.
3. Municipal records demonstrate that an application for a single area variance was requested in 1961 for a two-room addition. The extension did not meet the side yard setbacks, which would have necessitated the need for the area variance for the side yard setback. Further, the minutes of the meeting acknowledge the violation of the side yard setback.
4. Between 1960 and 1969, the property was located in the M-1 Zoning District. The M-1 Zoning District permitted multiple family dwellings, provided that the lot contained a minimum of 20,000 square feet per dwelling unit. The Applicant's parcel, since 1960, has been approximately 10,193 square feet in area, significantly less than the minimum area required in order to add a third apartment to the existing two-family dwelling. There is no record of a variance being obtained for the deficiency.
5. In 1964, after the application was made and the addition to the house was added, the Town Assessment records reflect only two units within the main structure.
6. While the Applicant showed that her grandparents resided in the structure, no evidence was provided that the unit was established through municipal approvals, or existed prior to 1960.

**NOW, THEREFORE BE IT RESOLVED**, that the Patterson Zoning Board of Appeals hereby finds that Kathleen Pettey has failed to meet burden of proof that the unit was constructed with municipal approvals, and at a time when three-family dwellings were permitted by the Town of Patterson Zoning Code, and therefore is not a legal pre-existing, non-conforming three-family dwelling.

Board Member Bodor stated I'll second it.

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

Resolution carried by a vote of 5 to 0.

**RAYMOND SEE JR. CASE #08-11**

Board Member Buzzutto stated the next one's See, isn't it [referring to the next case on the agenda]. Is the next one See.

Chairman Olenius stated yes. Raymond.

Board Member Buzzutto stated okay.

Chairman Olenius stated do you have enough time on the tape to start Mr. See now.

The Secretary stated you have some time.

Chairman Olenius stated okay, second case tonight is Raymond See Jr. Case #08-11.

**2) PATRICIA TANZI CASE #03-11**

Board Member Bodor stated I think before we go on with that one we ought to have the record show that the Tanzi case was requested to be held over by the Applicant.

Board Member Buzzutto stated oh, okay.

**3) RAYMOND SEE JR. CASE #08-11**

Mr. Raymond See Jr. was present.

Chairman Olenius stated Mr. See.

Mr. Raymond See stated how are you.

Chairman Olenius stated good evening. Sorry to put you through that long, drawn out...

Board Member Buzzutto stated yes.

Mr. See stated that's alright.

Chairman Olenius stated case there.

Board Member Buzzutto stated unnecessary.

**Audience member stated** just tell them to (inaudible – too distant).

Board Member Buzzutto stated should she read the agenda. She did last time.

Chairman Olenius stated no, it was read last time.

Board Member Buzzutto stated yes. You're still in agreement the way the agenda had read from the last time. Is there any changes made on your description.

Mr. See stated no. Everything's the same.

Board Member Buzzutto stated okay, we did a site walk out there and I thought it was marked off very...Nicely done, really.

Mr. See stated thank you.

Board Member Bodor stated thank you for being there and...

Board Member Buzzutto stated thank you for...

Board Member Bodor stated and doing such a good job of showing us what you wanted to do.

Board Member Buzzutto stated making it easy for us to sort of look at what...

Mr. See stated yes.

Board Member Buzzutto stated was going to be there. So very nice.

Chairman Olenius stated I think from doing the site walk, too, it was noted that the topography of the land will do substantial screening of its own to the proposed structure's location.

Mr. See stated yes.

Chairman Olenius stated and I believe while we were on the site walk, you agreed to be...do some plantings as screening...

Mr. See stated sure.

Chairman Olenius stated in addition to...

Mr. See stated what's there. Yes.

Chairman Olenius stated you know, what is already...

Mr. See stated definitely.

Chairman Olenius stated there already.

Mr. See stated yes.

Board Member Buzzutto stated Nick, I just wanted to ask a question on the degree of the driveway. That's got to be what, 15%.

Nick Lamberti stated the slope, yes.

Board Member Buzzutto stated yes. I didn't know, does that sort of meet the requirements of the driveway, 15%.

Mr. See stated I would think so.

Nick Lamberti stated no higher than 15 [percent].

Board Member Buzzutto stated it didn't look that steep.

**Antonio Macchia stated** all that's going to change, too, when we do the excavation and...

Board Member Buzzutto stated yes, okay.

Mr. See stated yes.

Chairman Olenius stated just state your name for the record one more time...

**Antonio Macchia stated** Antonio Macchia.

Chairman Olenius stated thank you.

**Antonio Macchia stated** the driveway, once we build that berm...

Board Member Buzzutto stated yes.

**Antonio Macchia stated** you know, with the rock...

Board Member Buzzutto stated with the rock, yes.

**Antonio Macchia stated** we're talking about to go down, to be able to turn into it. You know, that's all going to change, so...

Nick Lamberti stated there still will be...

**Antonio Macchia stated** it won't be such a big slope.

Board Member Buzzutto stated okay, fine.

**Antonio Macchia stated** remember you were talking you could pull in and you could back in.

Chairman Olenius stated it's like...almost like a switchback.

**Antonio Macchia stated** exactly.

Chairman Olenius stated alright.

**Antonio Macchia stated** so the lower side of the garage will be built up, you know, with the existing boulders on the property...

Chairman Olenius stated okay.

**Antonio Macchia stated** to level off.

Board Member Buzzutto stated right.

**Antonio Macchia stated** and then the degree of the driveway will change. And that...

Board Member Buzzutto stated good deal.

**Antonio Macchia stated** and that hump coming out of the road, you know, we'll fix that all up.

Chairman Olenius stated yes.

Board Member Buzzutto stated okay. That's what I...

Chairman Olenius stated I'm sure Mr. Lamberti will make sure you meet all Town criteria.

[Laughter]

Nick Lamberti stated yes. There's still (inaudible – too distant). We'll meet it.

**Antonio Macchia stated** yes.

Nick Lamberti stated that's fine.

Board Member Bodor stated are you familiar with the property, Nick.

Nick Lamberti stated Ray See's property, yes.

Board Member Bodor stated okay.

Chairman Olenius stated I think it's a substantial piece and I don't think you'll have trouble...

Board Member Buzzutto stated how are you going to get that car out of there.

**Antonio Macchia stated** I'm going to drive it out. We're going to have (inaudible – too distant).

[Laughter]

Board Member Buzzutto stated it was put in there by, I think, a helicopter.

**Antonio Macchia stated** get an excavator and then throw it in a truck.

[Laughter]

Board Member Buzzutto stated a helicopter put that in there, I don't know.

Board Member Herbst stated I wouldn't worry about it, he got us out with that steep driveway.

Board Member Buzzutto stated piece by piece.

[Laughter]

**Antonio Macchia stated** you got a ride (inaudible – too distant) and music.

[Laughter]

Board Member Buzzutto stated but the tree's this big (inaudible) on it now.

**Antonio Macchia stated** no, we'll get it out, don't worry.

Nick Lamberti stated like Dukes of Hazzard had it in there.

[Laughter]

Board Member Buzzutto stated you're going to drive it out, okay.

(Inaudible – too many talking)

Board Member Buzzutto stated okay. Who's prepped for this one here.

Chairman Olenius stated I don't have too much more. Does anybody else in the audience have any input on this case. I know there's only one other person in the audience.

Board Member Buzzutto stated okay.

Chairman Olenius stated I really don't have too much more. I think everybody...

Board Member Bodor stated I think it's pretty clear that...

Chairman Olenius stated it's been explained, and everything that's been submitted.

Board Member Buzzutto stated yes.

Board Member Bodor stated the submission package was complete with pictures which is wonderful...

Chairman Olenius stated yes.

Board Member Buzzutto stated yes. Very nicely done.

Board Member Bodor stated to begin with. By the way, do you want these back [referring to the pictures the Applicant submitted].

Mr. See stated no, no.

Board Member Bodor stated no.

Mr. See stated that's alright.

**Antonio Macchia stated** keep them on record.

[Laughter]

Board Member Bodor stated we'll keep them on record. Are we all set.

Chairman Olenius stated does anybody else have any more.

Board Member Buzzutto stated no.

Chairman Olenius stated I'll make a motion to close the public hearing then.

Board Member Herbst stated second.

Board Member Bodor stated second.

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

Chairman Olenius stated okay.

Board Member Bodor stated you want to do... You can do an easy one [referring to the resolution].

Chairman Olenius stated I can.

Board Member Bodor stated yes.

Board Member Buzzutto stated you want to do it or...

Board Member Bodor stated you had the other one. Go ahead.

Chairman Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF**  
***Raymond See, Jr., Case #08-11***  
***For an Area Variance for a 38' x 48' x26' Garage***

**WHEREAS, *Raymond See, Jr.* is the owner of real property located at 501 Farm to Market Road (R-4 Zoning District), also identified as **Tax Map Parcel #23.-2-56, and****

**WHEREAS, Raymond See, Jr.** has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-27 A(7) of the Patterson Town Code, Permitted accessory uses, in order to construct a 38' x 48' x 26' garage, and

**WHEREAS,** §154-27 A (7) of the Patterson Town Code requires a private garage to not exceed in size a bulk area ratio of 50% of the principal dwelling; Applicant's proposed garage will be 119% larger than the principal dwelling; **Variance requested is for 169%,** 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 18, 2011 and June 15, 2011,** and a site walk was conducted on **June 7, 2011,** to consider the application; and

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

1. the proposed application **will not** produce an undesirable change in the character of the neighborhood **because the site of the proposed garage is well screened from all neighboring properties.**
2. the benefit sought by the applicant **cannot** be achieved by any other feasible means **because of the topography of the existing land; it's the closest point to the road and an access point which makes the most sense, as the land tapers down and gets more damp in the back.**

Board Member Bodor stated and the present residence is in existence and is small. It exists and it's very small. It's a cottage size.

Chairman Olenius continued to read the following resolution:

3. the variance requested **is** substantial **however not so much so as to cause a denial of the requested 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 as far as impervious surface goes, it's a 40 plus acre lot with just a small area being taken up for a machine shed, the rest dedicated to some type of agriculture in the future,** I believe the Applicant stated.
5. the alleged difficulty necessitating the variance **was self created, however, 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 **Raymond See, Jr.** for **an area variance** pursuant to §154-27 A(7) of the Patterson Town Code; Permitted accessory uses, **for a variance of 169% from the 50% allowed for bulk area,** in order to construct a 38' x 48' x 26' garage,

With the following condition that, as the Applicant stated

1. Extra screening will be provided along the road edge to shield from the roof from people to see.

Board Member Bodor stated and this garage is for storage of vehicles, machinery, tools and not to have a residential section.

Mr. See stated there's no water, anyway.

Board Member Buzzutto stated does this meet the setback from the road. I didn't get that.

Mr. See stated yes, it's...

Nick Lamberti stated oh yes.

Board Member Buzzutto stated it does.

Nick Lamberti stated (inaudible – too distant).

Mr. See stated it's 40 [feet] but it's actually...

Board Member Buzzutto stated okay. I wasn't sure. I couldn't...

Mr. See stated it's almost 70 [feet] actually.

Board Member Buzzutto stated yeah, okay, fine. That's okay. I just wanted to get that clear.

Board Member Burdick stated second.

Chairman Olenius stated all in favor.

Board Member Herbst stated aye.

Board Member Buzzutto stated aye.

Chairman Olenius stated sorry. Forget it.

Board Member Buzzutto stated oh wait a minute.

[Laughter]

Chairman Olenius stated that was my bad.

[Laughter]

The Secretary took roll call:

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

Resolution carried by a vote of 5 to 0.

Chairman Olenius stated I'm still frazzled from the first case. Good luck, gentlemen.

Board Member Burdick stated good luck.

Mr. See stated thank you.

Board Member Bodor stated yes.

Chairman Olenius stated he's your next stop [referring to Nick Lamberti].

Mr. See stated thanks a lot.

**Antonio Macchia stated** have a good night.

Chairman Olenius stated you, too.

Board Member Bodor stated have a good supper.

Board Member Buzzutto stated hey, Nick. Thank you for your input...

Chairman Olenius stated yes, thank you.

Board Member Buzzutto stated it was...

Board Member Herbst stated Nick.

#### **4) OTHER BUSINESS**

##### **a) Meeting Date Changes**

Board Member Buzzutto stated what do we got, new business.

Chairman Olenius stated I have some other business that I have to apologize for.

Board Member Bodor stated oh, yeah.

Chairman Olenius stated the date of next month's meeting I cannot be at. I made a mistake. I thought the meeting was the week before that, the 13<sup>th</sup>, so I booked my vacation leaving the 14<sup>th</sup> so I could get the meeting in and...

Board Member Herbst stated you know (inaudible – too many talking) [talking with Nick Lamberti].

Board Member Burdick stated I think I had a problem in August.

Chairman Olenius stated (inaudible – too many talking).

Board Member Buzzutto stated that would be July 20<sup>th</sup>.

Board Member Bodor stated and I have to get with it, I don't have it on the calendar. So when...The next one is supposed to be the 20<sup>th</sup>.

Board Member Buzzutto stated July 20<sup>th</sup>.

Chairman Olenius stated I thought we were still in the teens. I thought it was the 13<sup>th</sup> for some reason.

Board Member Herbst stated (inaudible – too many talking). You don't even have to go there you could take it by (inaudible – too many talking). [Still talking with Nick Lamberti]

Board Member Burdick stated well, I'm okay with doing it that week, the week before.

Nick Lamberti stated then I'll go and see it.

Chairman Olenius stated can you do it the week before, the 13<sup>th</sup>.

Nick Lamberti stated (inaudible- too many talking). No.

Board Member Burdick stated Sarah, is the second Tuesday a Town Board Meeting.

The Secretary stated Wednesdays are the meeting.

Board Member Burdick stated Wednesdays, okay.

The Secretary stated the second and fourth Wednesday.

Board Member Bodor stated it's Wednesday. So that would be...

Board Member Herbst stated no big deal.

Board Member Burdick stated the 12<sup>th</sup> then.

Board Member Bodor stated yeah, alright. I'm looking at Wednesday.

Board Member Burdick stated yes, so was I.

Nick Lamberti stated there's no accounting for people.

Board Member Bodor stated so the 12<sup>th</sup>.

Board Member Herbst stated no, there really isn't.

Chairman Olenius stated we'd have to do them Tuesday instead of...

Board Member Burdick stated or the Thursday.

Board Member Buzzutto stated is that okay with...

Board Member Burdick stated you want to do it Thursday.

Board Member Herbst stated I have another question.

Chairman Olenius stated that's the family...

Board Member Burdick stated the 14<sup>th</sup> you're leaving.

Chairman Olenius stated that's...

Board Member Burdick stated okay.

Chairman Olenius stated yes.

Board Member Burdick stated or if you want to go earlier.

Chairman Olenius stated I don't know if we can so much with the legal...

Board Member Bodor stated the legal notice. Yes.

Chairman Olenius stated can we go the 12<sup>th</sup>. Is that too early.

Board Member Herbst stated (inaudible – too many talking) that time.

The Secretary stated 12. The deadline's what. The...

Chairman Olenius stated 5<sup>th</sup>.

Board Member Herbst stated I've been on the tape. Would that have any bearing on this. And the reason I'm asking is because there was (inaudible – too many talking).

The Secretary stated yes.

Board Member Burdick stated so do you prefer to go the last week.

Board Member Herbst stated I know it was right in...within that.

The Secretary stated it has to be noticed for ten days.

Nick Lamberti stated you know, I think that's probably a better question for...

Board Member Burdick stated would you prefer to do it when you come back, Lars.

Nick Lamberti stated legal...

Board Member Herbst stated I'm going to ask.

Nick Lamberti stated you know...

Chairman Olenius stated you know what, why don't we...

Nick Lamberti stated it made a difference.

Chairman Olenius stated I could do it the...

Nick Lamberti stated maybe...

Chairman Olenius stated what's the Thursday.

Nick Lamberti stated it would have made a difference...

Board Member Burdick stated that's when you're leaving though, right.

Chairman Olenius stated yes, I'm suppose to go. It's not like I booked a flight.

Board Member Herbst stated that how I (inaudible – too many talking).

Chairman Olenius stated why don't we do it then. I'd rather...Does that give you enough time [referring to the legal notice]. The 14<sup>th</sup> doesn't either. That's nine days.

Board Member Herbst stated I've been here 40 years.

The Secretary stated okay.

Board Member Burdick stated do you want to see if we can hold it some place else. On the 13<sup>th</sup>.

Board Member Herbst stated he was so stupid. He had a good term.

The Secretary stated unless you want to move the deadline.

Board Member Herbst stated I know he was before Calbo.

Chairman Olenius stated how do we do that. We can move that up.

Nick Lamberti stated I'm not familiar with the history prior to that.

Chairman Olenius stated has anybody made applications yet.

The Secretary stated there's somebody that's starting to apply.

Chairman Olenius stated starting the process. But are they aware of the existing submission deadline.

The Secretary stated yes. But they're basically...

Board Member Bodor stated good night. Thank you [talking to Nick Lamberti].

Chairman Olenius stated thank you. Counsel...

Board Member Burdick stated when you coming back...

Chairman Olenius stated are we allowed to...Are we breaking any rules by moving the submission deadline up.

Melissa Klepack stated I don't know off the top of my head so...

The Secretary stated I don't know, so I can...

Chairman Olenius stated can we tentatively attempt to do it and then if there's a discrepancy we can follow up and (inaudible).

The Secretary stated yes.

Chairman Olenius stated so can we go for the 12<sup>th</sup> then at that point and see if we can move the submission deadline up enough to compensate for that. Does that work for you, Jerry. The 12<sup>th</sup>.

Board Member Buzzutto stated yes, it works for...Well, I can do it anytime.

Board Member Herbst stated what was that, I'm sorry.

Chairman Olenius stated July 12<sup>th</sup>, if we can move that meeting. It's supposed to be the 20<sup>th</sup>. I'm asking if we can...

Board Member Herbst stated yes.

Chairman Olenius stated move it to Tuesday the 12<sup>th</sup>.

Board Member Herbst stated right now, as far as I'm concerned, I see no reason. If I have something else on that day I can change that. You know, I don't have to change the meeting, I can change that. So...

Chairman Olenius stated thank you.

Board Member Buzzutto stated Tuesday the 12<sup>th</sup>. Okay.

Board Member Burdick stated oh, we have meetings.

Board Member Buzzutto stated we do.

Board Member Burdick stated the second Tuesday of the month.

Board Member Buzzutto stated oh, yes. Well...

Board Member Burdick stated I'm alright with it.

Board Member Buzzutto stated right now they're...

Board Member Burdick stated I don't need to go to that meeting. I'm fine. I just won't go to the meeting.

Board Member Herbst stated I won't either. I'll get...

Board Member Burdick stated we'll have our things turned in before then. And what are we going to...I mean, I don't know what we're going to meet about, so...

Board Member Herbst stated that's right. I got my one signature to turn in.

Board Member Burdick stated I'm fine with it, Lars.

Chairman Olenius stated is it okay.

Board Member Burdick stated I just wanted to bring it up to them in case they...

Board Member Bodor stated okay, then August.

Chairman Olenius stated Sarah, we're going to tentatively schedule it July 12<sup>th</sup> and moving the submission deadline for it. Just make sure that we're alright to do it.

The Secretary stated on the bottom of the schedule, does it say meeting dates can be changed or does it just say dates.

Chairman Olenius stated meeting schedule is subject to change by the Zoning Board of Appeals.

Board Member Herbst stated it's on a Tuesday, right.

Board Member Buzzutto stated yes, that's what I wrote in here. Tuesday the 12<sup>th</sup>.

Chairman Olenius stated it's the Meeting Schedule.

The Secretary stated the whole thing is considered the schedule though, right.

Chairman Olenius stated it is.

Board Member Burdick stated yes.

Chairman Olenius stated it states right at the top Meeting Schedule.

Board Member Burdick stated yes.

Board Member Herbst stated I mean, I have it. It's in my car so...

Melissa Klepack stated I can confirm with Tim if you want to, you know, want a definite answer. I'll ask him tomorrow.

Chairman Olenius stated so you can let us know tomorrow whatever the determination is, and then otherwise...

Melissa Klepack stated I'll ask him.

Board Member Herbst stated Tuesday...

Board Member Buzzutto stated Tuesday the 12<sup>th</sup>.

Chairman Olenius stated figure out another day. And August, I'm sorry.

Board Member Burdick stated August, I'm going to be gone the week of the 15<sup>th</sup>; I'm leaving on the 10<sup>th</sup> and I'm going to be gone until the 20<sup>th</sup>.

Chairman Olenius stated the 20<sup>th</sup> is a Saturday.

Board Member Burdick stated yes.

Chairman Olenius stated what would work better for you, before or after.

Board Member Burdick stated doesn't matter. Whatever works for you guys.

Chairman Olenius stated gentlemen, do you have any conflicts in August.

Board Member Buzzutto stated no. Well, mine's alright.

Board Member Burdick stated only that second Tuesday. Only the second Tuesday, so we don't miss two meetings in a row.

Chairman Olenius stated okay. So would you rather do that one after then, because we can't do it...

Board Member Burdick stated can't do it Monday the 8<sup>th</sup>, right. It's too early.

Board Member Bodor stated I don't know if I'm going to be here then.

Board Member Burdick stated okay. I'm fine, you know, as soon...when we come back, as long as everybody else is. The week of the 22<sup>nd</sup>.

Chairman Olenius stated so it would have to be the 23<sup>rd</sup> though, because Town Board meets the 24<sup>th</sup>. The second and fourth Wednesdays. Is that what you said.

Board Member Burdick stated they meet the second and fourth Wednesdays.

The Secretary stated I think the second and fourth.

Board Member Herbst stated second and fourth...

The Secretary stated if you want...

Board Member Herbst stated on a Thursday, right. Because it's usually the Town Board on Wednesdays, so...

Chairman Olenius stated that's what...Yes. So I was going to try and do Tuesday and Tuesday if we could.

Board Member Herbst stated or Tuesday and Tuesday.

Chairman Olenius stated because the July is Tuesday.

Board Member Burdick stated 23<sup>rd</sup>.

Board Member Herbst stated I don't care.

Board Member Burdick stated August 23<sup>rd</sup>.

Board Member Herbst stated on a Wednesday they would.

Chairman Olenius stated I think everybody is good with that.

Board Member Herbst stated wait a minute. Is that...You're talking about August.

Chairman Olenius stated yes.

Board Member Herbst stated Town Board only meets once in August.

Board Member Burdick stated they only meet once in August.

Board Member Herbst stated one meeting they'll have in August.

Board Member Burdick stated but you want to do it on a Tuesday. You want to keep it on Tuesdays, right.

Chairman Olenius stated it doesn't matter to me, but...Do you want to do it Wednesday night. Oh, you don't know for sure that the Town Board...

The Secretary stated yes, it is the second and fourth.

Chairman Olenius stated it's...

The Secretary stated you want it...Yes, second and fourth Wednesday of every month.

Chairman Olenius stated okay. So we'll go for Tuesday then.

Board Member Burdick stated 23<sup>rd</sup>.

Chairman Olenius stated 23<sup>rd</sup>.

Board Member Bodor stated 23<sup>rd</sup>.

Chairman Olenius stated yes.

Board Member Burdick stated that's in August.

Board Member Herbst stated August.

Board Member Buzzutto stated Tuesday the twenty...

Board Member Bodor stated 23<sup>rd</sup>.

Board Member Burdick stated August 23<sup>rd</sup>. So July 12<sup>th</sup> and August 23<sup>rd</sup>. Thank you, Lars.

Chairman Olenius stated oh, (inaudible). Let's see. Oh, look at this. We're going for three Tuesdays in a row because September 20<sup>th</sup> is a Tuesday night, too. It's already on the schedule, so...

Board Member Bodor stated oh, is it. Oh.

Chairman Olenius stated we have a Tuesday theme. Why is that meeting a Tuesday: September 20<sup>th</sup>.

The Secretary stated I think Town Board.

Chairman Olenius stated it's just the way the schedule fell.

Board Member Burdick stated let me write that down or I'll be coming on Wednesday.

[Laughter]

Board Member Buzzutto stated September 20<sup>th</sup> is a Tuesday.

Chairman Olenius stated yes. It was on the schedule as a Tuesday already.

Board Member Buzzutto stated alright. I just want to write Tuesday in there.

Chairman Olenius stated yes.

Board Member Buzzutto stated showing up here Wednesday.

Chairman Olenius stated and then the November one is a Tuesday also. Oh, no. That's a Monday, excuse me. Oh, that's that...

Board Member Burdick stated it's Thanksgiving week.

Chairman Olenius stated Thanksgiving week. That's always on a Monday, that Thanksgiving week.

The Secretary stated yes.

Chairman Olenius stated alright. So you'll let us know if that works for that...

The Secretary stated yes.

Chairman Olenius stated everybody has the dates.

Board Member Herbst stated I'll have wait till Sarah...

**b) Minutes**

Chairman Olenius stated did everybody get a chance to look at the minutes. I did electronically. I didn't...

The Secretary stated yes.

Chairman Olenius stated print them.

Board Member Buzzutto stated I didn't print them either. I didn't even see them. I was just trying to find who Melissa was.

[Laughter]

Board Member Buzzutto stated I didn't know who Melissa was.

[Laughter]

Board Member Buzzutto stated don't mind me.

Board Member Bodor stated I make a motion to approve the minutes.

Chairman Olenius stated I'll second. All in favor. Motion carried by a vote of 5 to 0.

Board Member Bodor stated anything else.

Chairman Olenius stated anything else anyone. I'll make a motion to close the meeting.

Board Member Herbst stated second.

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

Meeting was adjourned at 8:45 p.m.