

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS
July 21, 2009**

AGENDA & MINUTES

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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

**ZONING BOARD OF
APPEALS**

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

PLANNING BOARD

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

**Zoning Board of Appeals
July 21, 2009 Meeting Minutes**

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

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

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

There were approximately 12 members of the audience.

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

Roll Call:

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

1) GEORGIO & ROSA RIMALDI CASE #17-09

Mr. Ernie Martin, Paggi, Martin & Del Bene, Mr. Vincent Guerriero and Mr. Georgio Rimaldi were all present.

Chairman Buzzutto stated okay. We changed number four to...Okay. You want to read the...

The Secretary read the following legal notice:

Georgio & Rosa Rimaldi #17-09 – Special Use Permit and Area Variance

Applicants are requesting a Special Use Permit as required by §154-110 of the Patterson Town Code; Local retail centers, in order to expand the retail use of the site by the addition of a second building. The Applicants are also requesting an area variance pursuant to §154-110 for lot size. The Code requires 5 acres; Applicants have 3.68 acres; variance requested is for 1.32 acres. This property is located at 2011 Route 22 (C-1 Zoning District).

Chairman Buzzutto stated okay, Mr. Rimaldi. Do you want to stand up.

Mr. Ernie Martin stated I'm representing...

Chairman Buzzutto stated are you his attorney, or...

Mr. Martin stated my name is Ernie Martin. I'm his consulting engineer and land surveyor.

Chairman Buzzutto stated okay, fine.

Mr. Martin stated Mr. Vincent Guerriero, he's the project architect. And Mr. Rimaldi, the applicant.

Chairman Buzzutto stated okay. You heard the agenda. Is that the way you're stating it, the way that Sarah read it to you.

Mr. Martin stated that's correct.

Chairman Buzzutto stated is there any difference in that or anything. You want to explain to us, the Board...

Mr. Martin stated yes.

Chairman Buzzutto stated what you have in mind.

Mr. Martin stated do you want a brief overview.

Board Member Bodor stated yes.

Chairman Buzzutto stated yes. You can take the mic with you. Take it out of the holder though.

Mr. Martin stated oh.

Chairman Buzzutto stated it comes out off the top. That's it. Okay, take it with you. There's a pointer over there I think. If you want to use it. Okay, you want to let us know what you have in mind.

Mr. Martin stated okay. Mr. Rimaldi owns this property...

Chairman Buzzutto stated I'll tell you, you want to start with what you have there already.

Mr. Martin stated yes.

Chairman Buzzutto stated start with that.

Mr. Martin stated okay.

Chairman Buzzutto stated alright. Thank you.

Mr. Martin stated the Rimaldi's are the owner of this 3.7 acre parcel which is currently the location of the Panino Deli. They are the owner of the property and they are proprietor of the business. It's the intent of the current application with the Town to put an additional building of about 4,500 square feet on that property. By adding that building to the property it becomes by definition of the Town, a retail center. A retail center requires a special use permit. Also, for a retail center, we're normally under a commercial zone, C-1, you would need a 2 acre parcel minimum. Under retail center, you need a five acre minimum. Again, you only have 3.7 acres. We feel that this variance should be granted because although we are adding more building to the property, we have done sufficient engineering and study to determine that there is ample parking. We have enough room for a sewage disposal system. We have an existing well that's going to be serving both buildings. We have existing infrastructure in place for the collection and treatment of storm water. We also have an existing entry with access not only for the current site but also the adjacent property. And one other thing that we are adding to this particular project is we are providing a means of existing the property over here. Currently it's just a common entry. This would be for one way entering south only. Initially we had spoke with the D.O.T. and they were opposed to an additional access to the site. However, I guess after being... Things repeatedly asked by the Planning Board and being persistent with D.O.T., they did allow us to have this particular access. And what that's going to allow is probably... it will allow more... better movement in the site. Especially for delivery trucks or for a garbage truck or something like that.

Chairman Buzzutto stated one thing I wanted to ask you, why two separate buildings. Why couldn't you add to the first building to accomplish what you want.

Mr. Martin stated I think part of that I can probably answer and maybe the second part I'll defer to the architect.

Chairman Buzzutto stated alright.

Mr. Martin stated again, the Rimaldi's not only own the property but this is their particular business and I think they want to use this as separate entity whether it's for a merchant or a business that wants to (inaudible) an entire business. Or maybe it could be individual...

Chairman Buzzutto stated well, it would be two separate types of retail.

Mr. Martin stated well, yes. That's correct.

Board Member Herbst stated if I remember correctly, and correct me if I'm wrong, weren't you before the Board when you started out building that first building and requested this, and the Board turned you down because the zoning... not the zoning, but because you didn't have enough land for it.

Mr. Rimaldi stated no.

Board Member Herbst stated you never came before the Board.

Mr. Guerriero stated we came before the Board...

Board Member Herbst stated when you first built that building, as I remember because I was on the Board then...Mary, you were on the Board too. Do you remember that.

Board Member Bodor stated yes. But, I don't remember...

Chairman Buzzutto stated Rich...

Board Member Bodor stated I was on the Board, but I don't remember the specifics.

Chairman Buzzutto stated can you explain that...Jerry's question. The Town Planner.

Rich Williams stated sure. When the original application was made, indeed they were trying to do multiple store fronts out there and the Zoning Board did deny that initial application and allow them only one building. However, since then...At the time, the requirement was that there were 15 acres in order to have multiple storefronts.

Board Member Herbst stated right. As I...

Rich Williams stated the zoning has since been changed from that time. They would still require five acres, but that's a much lower threshold on the variance that they're seeking at this time from an area variance. So there's been a change in zoning which has, you know, in part predicated this application.

Board Member Herbst stated okay.

Chairman Buzzutto stated okay. But the two buildings will be on the same pad of land.

Mr. Martin stated yes. They will be on the same parcel of land. The property is...It's not our intention of our application with the Planning Board to subdivide.

Chairman Buzzutto stated okay. But there will be two separate tax...

Mr. Martin stated no. It would be one parcel.

Chairman Buzzutto stated okay. It would be just on one parcel.

Mr. Martin stated that's correct.

Chairman Buzzutto stated and the...

Mr. Martin stated the tax map number that exists will continue.

Chairman Buzzutto stated do you know what the retail would be, prospectively, going in there.

Mr. Martin stated well, I think one thing we could say for sure, it would not be something that would be competitive to mister...

Chairman Buzzutto stated yes.

Mr. Martin stated Rimaldi's business. But other than that, we don't have any speculations at this point.

Chairman Buzzutto stated it wouldn't be anything...not expanding the deli there, just...

Mr. Martin stated no. No. But the other thing too, is based on the soil conditions for the septic system, it's going to have to be something that's a...that's of light use. Not that something that's not...

Chairman Buzzutto stated it wouldn't be a restaurant type of a...

Mr. Martin stated it would not be.

Chairman Buzzutto stated it would not be...so.

Mr. Martin stated and I think they would probably...Mr. Rimaldi would probably view that as being competitive. And I don't think that's what he wants.

Chairman Buzzutto stated I see. Okay. Let's see what else do I want to ask on that.

Board Member Bodor stated the architecture is going to be quite similar to the existing building.

Mr. Guerriero stated actually, it's going to be identical. It's going to be...The only thing that we did differently is we brought down the profile of the building.

Board Member Bodor stated yes. Because the building that's existing is rather high.

Mr. Guerriero stated that's correct.

Board Member Bodor stated yes.

Mr. Guerriero stated yes. We brought the profile down, but we've maintained the same elements like the arches, the overhangs, and the gable ends. And the same texture of aesthetics.

Board Member Bodor stated and the exterior material.

Mr. Guerriero stated the exterior is still going to be a CMU type of construction with a (inaudible) or stucco system on there, which is there...existing there right now.

Board Member Bodor stated thank you.

Chairman Buzzutto stated alright...

Mr. Guerriero stated and just to answer one question, this area right here, why we landed to do two separate buildings at this point is that one thing that we do have here which is a nice entity on Route 22, is we do have some picnic tables and people do eat out here and so forth. So we wanted to maintain that type of setting and have that in relationship to the aesthetics of the building...in between the two separation.

Chairman Buzzutto stated what is the separation between those two.

Mr. Guerriero stated it's just a grass, lawn area...Greenery.

Chairman Buzzutto stated yes, but...

Board Member Bodor stated distance.

Mr. Guerriero stated oh, distance.

Chairman Buzzutto stated distance, yes.

Mr. Guerriero stated it's 26'6".

Chairman Buzzutto state 26'. What is required on the business end. Fifteen [feet].

Mr. Martin stated you know, we've verified it with the zoning and building.

Chairman Buzzutto stated yes. One question I want to ask is you say there's only one entrance to that...going in there. Going north, you'd have to cross southbound traffic to get in there.

Mr. Guerriero stated to exit the building, yes.

Chairman Buzzutto stated the entrance. Not the exit.

Mr. Martin stated if you're going north, yes.

Chairman Buzzutto stated if you're going north...

Mr. Martin stated you're going to have to cross over the southbound lane.

Chairman Buzzutto stated isn't there a slope there.

Board Member Bodor stated it's at the crest of the hill.

Mr. Martin stated it's the crest of the hill.

Chairman Buzzutto stated is that the...

Mr. Martin stated and I think that when this was done many years ago, this was subdivided, I believe the D.O.T. at that time recommended that this was the best...

Chairman Buzzutto stated yes, but I mean does the northbound traffic have sight vision for anything coming south.

Board Member Bodor stated looking down the hill towards...

Mr. Martin stated oh, yes. Because you're right at the crest of the hill there.

Chairman Buzzutto stated yes.

Board Member Bodor stated it's right at the top.

Chairman Buzzutto stated you could see that.

Board Member Burdick stated that's already existing though. That exists already.

Board Member Bodor stated that's right.

Chairman Buzzutto stated yes, okay. Fine. Just wanted to clarify. The septic system would be one for two buildings or...

Mr. Martin stated no.

Chairman Buzzutto stated each one would have it's own.

Mr. Martin stated yes. The existing system right now is in this area [referring to plans]. The existing system plus the expansion area for this is located here. The primary reserve area for the new building will be located here.

Chairman Buzzutto stated right. How close is that to the building next to you; the work place or the gym. What is it there, a gym.

Board Member Bodor stated I think so. Up there...

Mr. Martin stated well, that...

Chairman Buzzutto stated oh, that's...

Mr. Martin stated that building's up in here.

Chairman Buzzutto stated yes.

Mr. Martin stated I don't know exactly how far away it is. I would say from the property line, it's probably at least 75'.

Chairman Buzzutto stated oh, that's...

Board Member Bodor stated it's Westchester Modular that's the...

Mr. Martin stated Westchester Modular is down here, and that building is...

Board Member Bodor stated that's not adjoining.

Mr. Martin stated Westchester Modular adjoins to the south.

Board Member Bodor stated yes.

Mr. Martin stated yes. And their office is...It's probably a good, from the property line, it's probably a good 200' away.

Chairman Buzzutto stated is there anything that...

Board Member Bodor stated and this project is currently before the Planning Board, is that correct.

Mr. Martin stated that's correct. And we've probably appeared before the Board probably 3 or 4 times and I think we advanced the plan to the point where they felt comfortable making a positive recommendation to the ZBA.

Chairman Buzzutto stated I think I'd like to take a little walk out there.

Board Member Bodor stated I think it's a good idea because I don't think we're...I know we're not prepared to make a decision tonight, so between now and the next meeting if we can do a site visit, that would be good I think.

Board Member Herbst stated I think so. Yes.

Chairman Buzzutto stated okay.

Mr. Martin stated is that customary that the ZBA makes a site visit.

Board Member Bodor stated oh, yes it is.

Chairman Buzzutto stated yes it is. Yes.

Board Member Bodor stated yes.

Chairman Buzzutto stated is there any input from the audience on this particular case here. Alright, so...

Board Member Bodor stated just so you know, we like to walk the land and we'd like to see stakes put in for the proposed building so that when we get there...This is what we generally ask. When we get there we can see it visually, what the plan is.

Mr. Martin stated alright. I think we did that for the Planning Board, but we'll make sure that that...

Board Member Bodor stated stake it out.

Mr. Martin stated when you visit the site, do you want either the Applicant or us...Would you like us there also.

Board Member Bodor stated someone.

Mr. Martin stated okay.

Board Member Bodor stated someone who can walk us around. Show us where the property lines are, where the stakes are for the proposed building.

Mr. Martin stated is that something that you would report to the Planning or you would let us know.

Chairman Buzzutto stated yes. What we'll do is table this one tonight, we won't close the public hearing, and then take a site walk and then let the people in the audience know what we're going to do.

Board Member Bodor stated we'll determine the date for the site walk...

Chairman Buzzutto stated yes.

Board Member Bodor stated at the close of tonight's meeting. Sarah will know and she'll let you guys know. Is there anytime that's really bad for you, for someone.

Chairman Buzzutto stated there's always somebody in the deli though, isn't there.

Mr. Guerriero stated lunchtime is bad.

Mr. Martin stated lunchtime is bad.

Board Member Bodor stated lunchtime is bad. No, we're not going to be there at lunchtime anyway. We're talking about after work hours or the weekend. So...

Chairman Buzzutto stated yes, it would be after what, 5 o'clock...4:30 [p.m.], 5 o'clock.

Board Member Bodor stated after 4:30 [p.m.].

Chairman Buzzutto stated yes.

Board Member Burdick stated around 4:30 is fine.

Chairman Buzzutto stated not preferably the weekend though because...

Board Member Bodor stated well, if we have to put it on the...

Chairman Buzzutto stated because there's plenty of daylight...

Board Member Bodor stated right.

Chairman Buzzutto stated alright.

Board Member Bodor stated but we'll notify you when we figure what's best for five people to get together. And if it's not good for you, then we'll reschedule, that's all.

Mr. Martin stated but it looks like it would probably be late in the day.

Board Member Bodor stated probably so, yes.

Chairman Buzzutto stated okay. And proposed by...We never closed the public hearing. Okay, so we'll set that up... We'll just table the meeting...this one for tonight. Yes Rich. Want my cane.

Rich Williams stated I'm getting there. Just a real quick question. This is an unlisted action under SEQRA. Has the Board given any thought to how they want to address SEQRA.

Chairman Buzzutto stated what is it. What type of...Is it a...

Rich Williams stated it's an unlisted action.

Chairman Buzzutto stated it's unlisted.

Rich Williams stated so essentially you have three options here. You can decide that you want to do an uncoordinated review, which means every agency involved is going to make their own SEQRA determination. You can default to the Planning Board to do a coordinated review and they will make the SEQRA determination for all the agencies, assuming that they're designated Lead Agency. Third alternative...drawing a blank.

Chairman Buzzutto stated alright. Well I would prefer it to go to the Planning Board.

Rich Williams stated oh, yes. You could also declare yourselves...

Chairman Buzzutto stated yes.

Rich Williams stated or you could declare your intent to become Lead Agency. We could circulate on behalf of the ZBA, and you could make the SEQRA determination.

Chairman Buzzutto stated yes. Okay. Well, let's do it that way then.

Board Member Bodor stated no. I think we should defer to the Planning Board.

Board Member Herbst stated I would defer it to the Planning Board.

Chairman Buzzutto stated to the Planning Board, yes.

Board Member Herbst stated yes.

Chairman Buzzutto stated yes.

Board Member Herbst stated because they've already had four times before the Planning Board.

Chairman Buzzutto stated yes.

Board Member Herbst stated they're way ahead of us on this, so...

Board Member Bodor stated well, this Board will defer it to the Planning Board to make the SEQRA determination.

Rich Williams stated okay.

Chairman Buzzutto stated yes.

Board Member Bodor stated because we can't make a decision until that SEQRA determination is made anyway.

Rich Williams stated correct.

Board Member Bodor stated by someone. Right. Someone has to determine to be the Lead Agency.

Mr. Martin stated understand. Right.

Board Member Bodor stated okay. And we can't make a decision until that Lead Agency is defined. So unless we were to accept it tonight, and not decide we don't want...And decide we don't want to do a site visit, we couldn't make a decision on this, because we've got a SEQRA determination that's hanging out there somewhere.

Mr. Martin stated right.

Board Member Bodor stated okay, and we're going to defer it to the Planning people.

Mr. Martin stated if you defer it to...I just want to see if I understand.

Chairman Buzzutto stated the Planning Board will be Lead Agency.

Mr. Martin stated the Planning Board is Lead Agency...

Chairman Buzzutto stated right.

Mr. Martin stated and they make the SEQRA determination.

Board Member Bodor stated right.

Mr. Martin stated they're probably not going to do that until this plan is to a point where it's very close to in its final stage, correct.

Rich Williams stated they can do it soon.

Mr. Martin stated they can do it sooner.

Rich Williams stated well, they can do it soon. I wouldn't say sooner.

Mr. Martin stated okay.

Rich Williams stated they can do it soon.

Mr. Martin stated I guess my concern is is that we...obviously we put a considerable amount of time in the project so far and now we're before the ZBA and of course this is a very critical step before the Planning Board can even act. And I wouldn't want to go further down the road really not knowing or that the client doesn't know that he has some front footing so to speak.

Board Member Bodor stated okay. You have spent considerable amount of time but we have just seen it for the first time tonight.

Mr. Martin stated I understand that.

Board Member Bodor stated so, you know, it's unfortunate that you've spent so much time on it, but that's the way the process goes and there are still steps that need to be taken.

Chairman Buzzutto stated from the ZBA; stuff that we have to do yet.

Mr. Martin stated but you're...

Board Member Bodor stated we're ask...

Mr. Martin stated you're not going to make... Let's assume that we're all on track here to move forwards towards completion. You're not going to make a decision until to Planning Board makes a determination or votes on SEQRA. Is that correct.

Board Member Bodor stated correct. They're going to make that determination.

Mr. Martin stated does that mean... Once they move on SEQRA, the Planning Board, then we would come back here.

Rich Williams stated well, there's going to be some activity in between so this is probably going to extend your stay with the ZBA for another month. But, they're still going to do their site walk, there's still going to be, you know, some discussion back and forth. The process is going to move just a little bit slower.

Mr. Martin stated yes.

Rich Williams stated but, you'll be fine.

Chairman Buzzutto stated we won't make a decision tonight, but that don't mean we have to make a decision at the next meeting either. You know, I mean... Right.

Rich Williams stated you don't have to, no.

Chairman Buzzutto stated no. If we find something that we want to go over, that don't mean we have to make a decision next month either, but usually that's not what happens. But there could be a probability.

Mr. Martin stated you know, I mean, hopefully during the process and the discovery process, so to speak, is that there's been enough on the table there that all the issues are out there, and that...

Chairman Buzzutto stated well, we'll see after we make a site walk on what comes up on that.

Mr. Martin stated okay. Alright.

Chairman Buzzutto stated so it will be tabled for tonight.

Mr. Martin stated okay.

Board Member Bodor stated we do have a letter from the Planning Board that recommends a positive decision on our part. But you knew that.

Board Member Burdick stated if that helps it.

Mr. Martin stated yes.

Board Member Burdick stated okay.

Board Member Bodor stated okay.

Mr. Martin stated alright, well...

Board Member Bodor stated the next step will be Sarah will contact you regarding the time that we set to come out. Okay. Thank you.

2) JORGE MONGE CASE #15-09

Mr. Jorge Monge and Mr. Edmond O'Connor were present.

Chairman Buzzutto stated next on the agenda would be...

The Secretary read the following legal notice:

Jorge Monge Case #14-09 – Area Variance

Applicant is requesting an area variance pursuant to §154-27 (12)(b) of the Patterson Town Code; Permitted Accessory uses, in order to legalize a pre-existing 22' x 9' shed that was erected prior to him taking ownership of the property. The Code requires a 25' rear yard setback; Applicant has 3'; Variance requested is for 22'. This property is located at 15 Meadow Ridge Road (R-1 Zoning District).

Chairman Buzzutto stated okay, Mister...How do you pronounce the name.

Mr. Edmond O'Connor stated Monge. M-O-N-G-I-E.

Board Member Bodor stated M-O-N-G-E.

Mr. O'Connor stated you spell it better than I can. Anyway...

Board Member Bodor stated you need to use the microphone...

Mr. O'Connor stated I know.

Board Member Bodor stated and identify yourself and who you are...

Chairman Buzzutto stated you want to raise your right hand , Sir.

Board Member Bodor stated in relationship to Mr. Monge.

Chairman Buzzutto stated do you swear the testimony you are about to provide tonight will be the truth and the whole truth.

Mr. O'Connor stated I do.

Chairman Buzzutto stated and your name.

Mr. O'Connor stated my name is Edmond O'Connor.

Chairman Buzzutto stated okay.

Mr. O'Connor stated and I've been involved with Mr. Monge and this...

Board Member Bodor stated is this Mr. Monge with you.

Mr. O'Connor stated this is Mr. Monge here. For some time ever since it came to the awareness of myself and the previous building inspector...previous, previous building inspector, that Mr. Monge has bought into a series of problems. This is the last of his difficulties. It's been a very lengthy and, for Mr. Monge, a very expensive situation that really is not of his doing. The building has been built as a two-family house. It had been...I won't burden you with all the difficulties he's had, but part of the rear of the building had to be removed in order to meet...to comply with the building rules. It had to be rewired. They had put...

Board Member Bodor stated excuse me. And what is the application for tonight.

Mr. O'Connor stated alright. I'm just telling you...

Board Member Bodor stated don't give us this...

Mr. O'Connor stated well no, I mean this is a culmination of a very difficult thing. I'm just saying that Mr. Monge did not do any of these things. He bought the building the way it was and thought, on good faith, that that's what it was. The last thing it requires is the...a variance is a shed. I believe we have pictures of the shed is in the...Looking at it from the street it's on the rear right hand side over sort of where vegetation exists. You got that...Right [referring to pictures]. Alright, that shed does not meet the setbacks either for the...I believe for the...either for the...

Chairman Buzzutto stated that side.

Mr. O'Connor stated the side. Well, the side it probably does. The side seems to...

Chairman Buzzutto stated the sides and the...

Mr. O'Connor stated certainly not the rear.

Board Member Olenius stated it's just the rear.

Mr. O'Connor stated yes.

Chairman Buzzutto stated just the rear.

Board Member Bodor stated rear yard setback.

Mr. O'Connor stated right. The...It's difficult to tell sometimes with the sides because this is a lot of vegetation. But it seems to be excessive, if not...for what is necessary. For the...It's a little bit difficult at times actually to...as to what the side...the rear would be. Some of the...I guess someone from the Building Department said it was two or three feet. I looked at it and I could see with the old fence I thought it was 6 [feet], but that's neither here nor there because it does not meet the requirements. So, anyway, so this is as I said, a culmination of a long process to get Mr. Monge to get his C.O. that this is the last thing. We had to clear...The reason I wanted to mention the other things is we had to clear all of those up before we could ask for a variance because there was...there were outstanding violations on the building until just recently; both electrical and structural. And a rear yard...a rear structure overhang which had to be removed. There were a number of things that we could not come here until they were taken care of.

Board Member Bodor stated okay, so we're being asked to legalize this pre-existing shed in the backyard.

Mr. O'Connor stated yes.

Board Member Bodor stated what's on the property behind the shed.

Mr. O'Connor stated behind the shed is a gentleman by the name of Casey. Jerome Casey. The one...In order to...There is a letter from Mr. Casey saying that it is perfectly acceptable to him that the shed, or anything else that's in the backyard, causes no difficulties or problems to him whatsoever. Mr. Monge did put up, just to be on...Again, he did put up, even though Mr. Casey did not absolutely say that he had to, but he thought it would be nice, he put up a fence the whole length of the rear yard of the property. I guess that's a, you know, I don't what...Stockade type of fence.

Board Member Bodor stated stockade. Stockade, yes.

Mr. O'Connor stated but I think Mr. Monge has done everything he could to make the rear neighbor happy, and the rear neighbor is happy. And there's no objections whatsoever.

Chairman Buzzutto stated does that propane tank have to have a setback on it.

Mr. O'Connor stated at first I thought so, but...

Chairman Buzzutto stated I don't know.

Mr. O'Connor stated yes. All I know is I go by our...who was our Building Inspector and is now our Fire Marshall, and he says it's fine.

Chairman Buzzutto stated the propane tank...

Mr. O'Connor stated yes.

Chairman Buzzutto stated does not need a setback.

Board Member Herbst stated this has been going on since '07.

Mr. O'Connor stated yes.

Chairman Buzzutto stated has this been before the Zoning Board before.

Mr. O'Connor stated no. As I said, this is really the only real zoning problem. The others were more structural and electrical and had to be resolved before we, you know, if I recall my...the old days, we do not come and ask for a variance on a property that has outstanding violations. And this had a series of outstanding violations of a fairly substantial nature.

Board Member Olenius stated where is Meadow Ridge Road.

Mr. O'Connor stated what's that, Old...Is that Old Road.

Mr. Jorge Monge stated that's Old Route 22.

Mr. George Monge stated it's Old Route 22.

Board Member Olenius stated okay.

Mr. O'Connor stated it's within a stone toss from Mr. Williams so I could...

Board Member Olenius stated okay.

Mr. O'Connor stated that's the reason I turned to him.

Chairman Buzzutto stated now Old Road or Old [Route] 22.

Rich Williams stated Old Route 22.

Chairman Buzzutto stated Old Route 22.

Mr. Monge stated yes.

Chairman Buzzutto stated and that's down by the...

Mr. George Monge stated right by the border of Patterson and Brewster.

Chairman Buzzutto stated yeah, that's down past Old Road.

Board Member Herbst stated weren't we there for a site walk.

Chairman Buzzutto stated where do you get that, next to the...that little...

Board Member Burdick stated we were in that vicinity. That garage.

(Inaudible – too distant).

Chairman Buzzutto stated yes. Well, whatever.

Mr. O'Connor stated I think that we can see from the photographs while it's not the legal place for the shed to be, it is a very unobtrusive and natural seeming place for it to be.

Board Member Olenius stated I'm guessing at some point when that shed was first built though, there was a building permit pulled for it because it's listed on the assessment card as an improvement in 1970.

Mr. O'Connor stated well, it's on the... That doesn't mean it has a building permit request in now. A matter of fact, you know, the way we do things, Mr. Monge has been paying besides the very expensive things like the building change and the electrician... the electrical changes, he paid, you know, double fee for potential C.O. and double fee for a building permit for that shed and a double fee for this. And...

Board Member Olenius stated I just would...

Mr. O'Connor stated yes.

Board Member Olenius stated assume that if it's on the card that it's legal; it must have had a permit at some point in 1970. It just wasn't cited properly at that time.

Mr. O'Connor stated I think it was not cited properly. It is somewhat discouraging to have things slip through cracks back in the good old days.

Chairman Buzzutto stated this was a two-family residence, or...

Mr. O'Connor stated it was built as a two-family house. It was a two-family house by the Department of Health. We have letters to that, you know, that the septic was designed for that. And that was never quite formalized either. That was another blunder. Mr. Herbst has asked that this has been going on for years. That was another thing that caused us to have letters back and forth since originally all letters that, you know, septic's sufficient for six bedrooms for two families, for three bedrooms each, right down the middle. But it was never quite... Well, that's the way he bought it then that was his understanding and that's what it said. But that had never quite worked it's way through the bureaucracy until just recently.

Chairman Buzzutto stated it's got 2,900 square feet living... It's pretty big. It's don't look that big though, you know.

Mr. O'Connor stated no. It's just a square building. It's, I guess, the rooms are very small. I've never seen them, except... But that's all the paperwork from the all... from the construction phase was clearly two-family septic for six bedrooms.

Chairman Buzzutto stated finished basement. Let's see. This one's taken.

Board Member Olenius stated where's the septic system in relation to the existing house. If I'm facing it from the road.

Mr. Monge stated the right side.

Board Member Olenius stated the right side. Forward of the shed then.

Mr. Monge stated that's my son.

Board Member Olenius stated you can speak [referring to Mr. Monge's son]. You just have to come up and state his name and then he can speak.

Mr. George Monge stated my name is George.

Chairman Buzzutto stated you want to come up to the mic.

Mr. George Monge stated yes. The septic coming from the road is on the left hand side once you pass the house.

Board Member Olenius stated if I'm facing the house, from these pictures, it's going to be on the left.

Mr. George Monge stated yes.

Board Member Olenius stated okay.

Chairman Buzzutto stated do you want to give Sarah your full name.

Mr. George Monge stated my name is George E. (inaudible) Monge.

Chairman Buzzutto stated thank you. What brought this to a head to have a variance on it. Building Inspector or the...

Mr. O'Connor stated I think it was the... Somehow or another, the two-family concept popped up that we did not have a C.O. for two-family even though all the Building...all the Department of Health records said so. And that was the first thing we thought would be fairly simple since everything from the Department of Health said that it was constructed as a two-family house with septic for six bedrooms. And then, like I said, it just turned out that every time we'd look at something else...not every time. But fairly major things. The electrician had...

Chairman Buzzutto stated when was the first time they cited and said...

Mr. O'Connor stated what's the...about three years or...Whatever the...

Chairman Buzzutto stated '94. Oh, no.

Board Member Bodor stated 2006.

Mr. O'Connor stated it's been a good three or four years.

Chairman Buzzutto stated I mean, was it from the Building Inspector, or the...

Mr. O'Connor stated yes. From Mr. Piazza and myself were...I think he was the one that I had...He was the one that I had the first conversation with. He asked me if I knew anything about it. I had no idea who Mr. Monge was at the time.

Chairman Buzzutto stated what are they asking for on this one here.

Board Member Herbst stated Mr. Casey's letter is dated 5/1/07 so that...

Mr. O'Connor stated yes. That was when we...

Board Member Herbst stated so it's got to be going on before that even.

Mr. O'Connor stated not too much because we wanted to... We knew initially that because of the... We didn't know if the overhang on the back of the house was a problem for Mr. Casey. It turns out that it was a problem from the Building Inspector so it didn't make any difference. But then Mister... we... Whether or not the site view was a problem for Mr. Casey. He said it's fine except he would like to see a fence. He got a fence. He said the other thing is, which could impact him would have been the shed. He said that's no problem at all. He can't even see it, it's in the woods. In sort of a vegetation area anyway.

Board Member Bodor stated Mr. Casey's letter was written in 2007. Is he still in residence...

Mr. O'Connor stated yes he is.

Board Member Bodor stated at that location.

Mr. O'Connor stated yes.

Board Member Bodor stated and there's another land owner back there. Mr. Casey doesn't have the whole back line there, there's someone else. Has there been any contact with that landowner.

Mr. O'Connor stated I thought that the... No there has not been. Not to my knowledge anyway.

Board Member Bodor stated well, negative either, so...

Mr. O'Connor stated no.

Board Member Bodor stated no one's...

Mr. O'Connor stated no. No, no, he's...

Board Member Bodor stated upset about it.

Mr. O'Connor stated he's never complained.

Board Member Bodor stated is there anyone in the audience who has some input regarding this case.

Board Member Olenius stated I want to assume, Sir, judging by the age of this shed from the records that we have here, it was built in place. It was like stick built in that location as far as you know.

Mr. O'Connor stated looking at it, I think it was.

Board Member Olenius stated I don't believe they transported it...

Mr. O'Connor stated it was not transported in on the back of somebody's pick-up truck, no.

Board Member Bodor stated it looks like it's in pretty good condition still.

Mr. O'Connor stated yes. It's been painted obviously a number of times to match the color of the house. And the trim also matched the house.

Board Member Olenius stated yes.

Mr. O'Connor stated and it's been well taken care of.

Chairman Buzzutto stated do you have anymore on that, or do you want to...

Board Member Bodor stated and from the road, is it pretty well screened or is it a wide open and...

Mr. O'Connor stated well, if you look at it from the road, you can see it. There's no screening in front of it.

Board Member Bodor stated yes.

Mr. O'Connor stated it's behind it. It's, like I said, it's in a little vegetation area in the corner. That's... There's some question as to whether, you know, it's 15' or 20' because it's hard to put exactly where the... But as I said, it's... the sideline is more than efficient that you could... There's no fence on that side, so it's hard to say whether it's 23' or 26' or whatever. But it's a lot of vegetation back in that corner.

Chairman Buzzutto stated is this from the road [referring to a picture].

Board Member Bodor stated this appears to be, I guess, from the road.

Chairman Buzzutto stated from the road here. Okay, I've got nothing more on it. Ed, you satisfied with... Lars, you okay.

Board Member Olenius stated I'm fine. The side yard in R-1, he only needs 15'.

Mr. O'Connor stated yeah. I know it's twenty something, but I couldn't tell you an exact number.

Chairman Buzzutto stated it's over 22 [feet] they wanted.

Board Member Olenius stated no, it's the rear line they need.

Chairman Buzzutto stated it's the rear.

Board Member Olenius stated the side yard they don't.

Board Member Bodor stated it's just the rear, yes.

Chairman Buzzutto stated okay. Close the public hearing.

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

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

Chairman Buzzutto stated so be it. You've got a...

Board Member Olenius stated yes Sir.

Board Member Olenius read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Jorge Monge, Case #14-09
For an Area Variance for an existing 22' x 9' shed

WHEREAS, *Jorge Monge* is the owner of real property located at 15 Meadow Ridge Road (R-1 Zoning District), also identified as **Tax Map Parcel # 35.6-1-25, and**

WHEREAS, *Jorge Monge* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-27 A(12)(b) of the Patterson Town Code; Permitted accessory uses, in order to legalize an existing 22' x 9' shed that was erected prior to him taking ownership of the property, and

WHEREAS, §154-27 A(12)(b) of the Patterson Town Code states that a shed shall not be nearer to any rear line than is specified in the schedule, and

WHEREAS, the Code requires a rear yard setback of 25' in the R-1 Zoning District; Applicant has 3'; ***variance requested is for 22'***; 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 July 21, 2009 to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***in light of the fact that the shed has been situated in this location for an excess of 35 years.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***because due to the age of this shed, it was built in place and is non-mobile for relocation.***
3. the variance requested ***is*** substantial ***however not so much so as to deny the variance requested.***
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 previously stated, the structure has been in place in excess of 35 years.***
5. the alleged difficulty necessitating the variance ***was not self-created and 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 *Jorge Monge* for *an area variance of 22' from the rear yard setback of 25'* as required by §154-27 A(12)(b) of the Patterson Town Code; Permitted accessory uses, in order to permit a 3' rear yard setback between the existing 22' x 9' shed and the rear property line.

Board Member Bodor stated second.

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

Resolution carried by a vote of 5 to 0.

Chairman Buzzutto stated okay. Go to the Building...

Mr. O'Connor stated yes. (inaudible – too distant).

Chairman Buzzutto stated you take it up.

Mr. O'Connor stated (inaudible – too distant).

Chairman Buzzutto stated thank you...

Board Member Olenius stated good luck.

Mr. Monge stated thank you.

Mr. O'Connor stated thank you. Jorge...

Chairman Buzzutto stated for your presentation.

Mr. O'Connor stated can I ask one...

Chairman Buzzutto stated okay.

Mr. O'Connor stated can you (inaudible).

Board Member Bodor stated I'm sorry.

Mr. O'Connor stated your number. Where will you be tomorrow morning.

Board Member Bodor stated tomorrow. I'll be down at CAP.

Mr. O'Connor stated okay. Thank you.

Board Member Bodor stated you're welcome.

3) CHRISTIAN MERCURIO CASE #15-09

Mr. Christian Mercurio was present.

Chairman Buzzutto stated okay. Next on the agenda will be...

The Secretary read the following legal notice:

1) Christian Mercurio Case #15-09 – Area Variances

Applicant is requesting area variances pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings, and §154-7 of the Patterson Town Code; Schedule of regulations, in order to construct a 20' x 12' above ground pool, enlarge the existing deck, and attach the deck to the pool by relocating the set of deck stairs to the portion of the deck that is on the side of the dwelling. The Patterson Town Code requires a 30' side yard setback; the dwelling is approved and constructed at 11.5'. The Code also requires a 50' rear yard setback; Applicant can provide 29'; variance requested is for 21'. The Applicant is also seeking area variances pursuant to §154-27(12)(b) of the Patterson Town Code; Permitted Accessory Uses in order to legalize an existing jungle gym/swing set and an existing shed that are located on the property, prior to him taking ownership of the property. The Code requires a 15' side yard setback and a 25' rear yard setback for accessory structures. The Applicant can provide a 5' side yard setback and a 5' rear yard setback for the jungle gym/swing set; Variances requested are for 10' for the side yard and 20' for the rear yard for the jungle gym/swing set. The shed is 11' from the side yard and 10' from the rear yard; Applicant is seeking variances of 4' from the side yard and 15' from the rear yard for the shed. Applicant is also requesting a variance for impervious coverage. The Code requires 12%; Applicant currently has ≤25%; Proposed is 38%; Variance requested is for 26%. This property is located at 50 Meadowbrook Court (R-1 Zoning District).

Chairman Buzzutto stated okay. Mr. Mercurio. Do you want to state your name.

Mr. Christian Mercurio stated Christian Mercurio.

Chairman Buzzutto stated do you want to raise your right hand, Sir. Do you swear testimony you provide tonight will be the truth, the whole truth.

Mr. Mercurio stated yes, I do.

Chairman Buzzutto stated okay. Do you want give...You heard the case. Is there anything in there that was not the way you had written.

Mr. Mercurio stated no. Basically everything is exactly as we had...

Chairman Buzzutto stated okay. So you're not questioning the...

Mr. Mercurio stated nope. We're just looking to kind of expand the deck and in doing the paperwork to file for it, what we found out is the existing shed and jungle gym that were there, when we had tried to purchase the house we had had difficulty actually because the bank wouldn't approve it because of the shed

so the assumption was that once everything went through that they had done the necessary paperwork. There's also a letter attached in that packet that I... There's a ton of pictures in there as well.

Board Member Bodor stated yes.

Mr. Mercurio stated but there's a letter from the previous owners, Kilroy, who apparently had done something to try and get the necessary variances for the storage shed. But apparently he never did. And we never found that out until we were trying to apply for the extension of the deck.

Chairman Buzzutto stated and where is this property. On Meadowbrook.

Mr. Mercurio stated it's Meadowbrook Court. It's a private community right off of Route 292.

Chairman Buzzutto stated [Route] 292. Okay.

Mr. Mercurio yes, we always have some major issues with regard to the size. We have a smaller lot, so basically anything that we do requires a variance.

Chairman Buzzutto stated okay.

Mr. Mercurio stated there should be several sets of pictures. The first set are without it being marked out...off. And then a couple of weeks ago I actually turned something in that has it marked off so you could kind of see where the layout would be with the lines that are delineated as to where the new pieces would be.

Chairman Buzzutto stated is this the one that has the excess land in the...included...

Board Member Bodor stated this is...yes. This is a cluster zone.

Chairman Buzzutto stated yes.

Board Member Bodor stated they used to call cluster zone. And there is common land for the land owners that (inaudible).

Chairman Buzzutto stated yes.

Board Member Bodor stated in the past, there was a resolution made that all of the property owners kind of like own this extra land and it became part of theirs as far as...

Chairman Buzzutto stated yes.

Board Member Bodor stated acreage goes. And the correct terminology I don't remember, but I know we've been through it.

Chairman Buzzutto stated yes. I remember...

Mr. Mercurio stated yes, we've actually been having some, you know, issues with other things regarding...

Chairman Buzzutto stated yes.

Mr. Mercurio stated this particular...Our development.

Board Member Bodor stated we need to pull...Lars, you're familiar with that.

Board Member Olenius stated I actually was going to make...I don't know if I have to make a motion.

Board Member Bodor stated do you know where it is.

Board Member Olenius stated I have to defer to the attorney. But we have made an interpretation. I don't believe this one variance for impervious coverage is necessary because on November 15, 2004, this Board made an interpretation that the 43+ acres were to be divided percentage wise equally amongst all homes in the subdivision in regards to impervious coverage limitations.

Carl Lodes stated so you can either actually deny the application as moot, because there's no variance requested. By granting it in accord with that resolution.

Board Member Olenius stated yes.

Board Member Bodor stated there's like four different requests here.

Carl Lodes stated it's just the one with the impervious...

Board Member Olenius stated this is just one piece of it.

Board Member Bodor stated we have had several applications from that area through the years and that is why...

Carl Lodes stated the one resolution was...

Board Member Bodor stated yes. Yes.

Board Member Olenius stated it was basically an interpretation we made in reference to all the property owners and future property owners only towards impervious coverage.

Mr. Mercurio stated so exactly what does that mean because I'm...

Chairman Buzzutto stated how many property owners...

Mr. Mercurio stated there are 17.

Chairman Buzzutto stated 17 property owners.

Mr. Mercurio stated property owners.

Chairman Buzzutto stated are they all adjoining this...

Mr. Mercurio stated we have basically two cul-de-sacs. The person who had originally developed our building which was JGZ Contracting, they were supposed to put up 41 homes there. He built the two...the

development that we currently have with the 17 existing, and then he kind of walked away. So he's in the process right now of trying to get all of this other land.

Chairman Buzzutto stated yes.

Mr. Mercurio stated the Board of Health approvals and all this other stuff.

Chairman Buzzutto stated but they are all adjoining this parcel.

Mr. Mercurio stated it's...there are two separate cul-de-sacs.

Chairman Buzzutto stated yes.

Mr. Mercurio stated you know, we're in between...I have two people, one on either side of me.

Board Member Bodor stated the fact that they adjoin...

Chairman Buzzutto stated adjoin...

Board Member Bodor stated adjoin is not relevant because the land belongs...

Chairman Buzzutto stated even with the impervious surface.

Board Member Bodor stated the land belongs to the land owners on paper kind of thing.

Chairman Buzzutto stated yes.

Board Member Bodor stated and what it does is add to the size of their parcel on a percentage basis, depending upon the number of landowners and the size of the parcel.

Chairman Buzzutto stated okay.

Board Member Bodor stated so this on paper gives him more than whatever your lot size is. It says you really have more than this 50' x 100' lot. I don't know what it is, I'm just throwing [referring to the size of the lot]...

Mr. Mercurio stated right.

Board Member Bodor stated these numbers out there. If it is 50' x 100', on paper you may have 60' x 100'.

Chairman Buzzutto stated yes.

Board Member Bodor stated because there is this common land which you don't own-own, but on paper, because it belongs to the development...

Mr. Mercurio stated right. My location has no common land. We're not in the common land area.

Board Member Bodor stated but aren't you...as one of the landowners there, that common land belongs to everyone.

Mr. Mercurio stated right. But I'm saying where we're looking to put this particular...this setback here...

Board Member Bodor stated right.

Mr. Mercurio stated with the deck...

Board Member Bodor stated right.

Mr. Mercurio stated there's no common land on either side of us.

Board Member Bodor stated or behind you.

Mr. Mercurio stated nor behind us.

Board Member Bodor stated but you are a landowner in this development who shares part of that parkland; whatever you want to call it there.

Mr. Mercurio stated right.

Board Member Bodor stated it is part of you too, to our understanding. Everyone in there, whether your property itself butts up to that, is not relevant. You still are a landowner in that development.

Board Member Olenius stated in the cluster subdivision. It's only with regards to impervious surface.

Mr. Mercurio stated okay. So does that effect me in any way to this or...

Board Member Olenius stated it benefits you.

Mr. Mercurio stated oh, okay.

Board Member Bodor stated benefits you.

Mr. Mercurio stated okay. As long as it benefits us then...

Board Member Burdick stated you wouldn't need a variance for the...

Mr. Mercurio stated right.

Board Member Burdick stated for the impervious...

Board Member Olenius stated impervious coverage.

Mr. Mercurio stated oh, okay.

Board Member Burdick stated coverage. It's all that...

Mr. Mercurio stated okay.

Chairman Buzzutto stated so you're going to benefit by that.

Board Member Bodor stated so that one...

Board Member Olenius stated that's one kind of down.

Chairman Buzzutto stated one impervious you don't need. Okay. What are the other ones there.

Board Member Bodor stated okay. So the shed and the jungle gym...the play equipment, was there when you came or...

Mr. Mercurio stated yes, those were existing.

Board Member Bodor stated both things were there.

Mr. Mercurio stated and that's what that letter is kind of indicative of. It doesn't mention the jungle gym however, because I don't think that was a big issue with the bank, where the shed was.

Board Member Bodor stated okay. But those were both there.

Mr. Mercurio stated correct.

Chairman Buzzutto stated has this property ever been before the ZBA before. I don't remember it.

Board Member Bodor stated not this particular...

Board Member Burdick stated not this lot.

Board Member Bodor stated not this parcel.

Board Member Burdick stated other parcels in this subdivision.

Board Member Bodor stated we've been up in there.

Chairman Buzzutto stated we've been up in there, yes.

Board Member Bodor stated yes.

Chairman Buzzutto stated but this one...

Mr. Mercurio stated no, as I said, that letter is dated 2003. That's when we actually purchased the house. So my assumption was is he had done the necessary thing for the shed.

Chairman Buzzutto stated in other words, you're the second owner.

Mr. Mercurio stated we're actually the third owner I believe.

Chairman Buzzutto stated third owner. And...

Mr. Mercurio stated right. I mean, it's an older shed as you can kind of tell by those pictures. I mean, it's in good shape, but I didn't want to side it yet so this way you guys know that it's actually an older shed and I didn't just put it up.

Chairman Buzzutto stated oh, yes. I can see it's kind of...

Mr. Mercurio stated yes, it could use a paint job, but...

Chairman Buzzutto stated yes. Okay. You're the third owner and nobody else had to come before the ZBA to get variances okayed on the...

Mr. Mercurio stated we're just looking to put up a pool.

Chairman Buzzutto stated a pool.

Mr. Mercurio stated so that's really...

Board Member Bodor stated and enlarge the deck.

Mr. Mercurio stated and enlarge the deck to the pool, correct.

Chairman Buzzutto stated okay. So that's where the variance comes in.

Mr. Mercurio stated right.

Board Member Bodor stated the existing deck will be existing and...

Mr. Mercurio stated the existing deck will...

Board Member Bodor stated you're just adding on to it.

Mr. Mercurio stated right. We're just going to add on to it.

Board Member Bodor stated it's not going to come down and be redone or...

Mr. Mercurio stated well, we're going to try and...

Board Member Bodor stated I don't know what shape it's in.

Mr. Mercurio stated it's kind of beat up, so we're probably going to re, you know, re-deck it with like Trex.

Board Member Bodor stated I see.

Mr. Mercurio stated but we're going to keep the existing framework as it stands because the framework is actually in good shape.

Board Member Bodor stated okay.

Mr. Mercurio stated and then the stairwell that's currently existing would be removed. And then it would be... We put it in on both sides, but the reality... You know, I mean, I wanted to do it on both sides when we actually drew this up. But it would probably be on the end, on the side of the house. I don't know which one you guys have [referring to the survey/plans].

Board Member Bodor stated I have this one.

Mr. Mercurio stated okay. So it would... This is where we're actually going to put it. But they suggested that we put it there as well just so it's on there in case. But the reality is that we're just going to block it off right there. So the only stairwell would be up on the side.

Board Member Bodor stated on the side of the house.

Mr. Mercurio stated yes. So that actually changes the setback to the back. Because I guess when they do the actual... the distance between it, they measure out from the stairwell.

Board Member Bodor stated yes.

Mr. Mercurio stated so that's why it's only 29'. It would actually be more because you have to go like almost 8 feet down for the slope that it would be.

Board Member Bodor stated slope, yes.

Mr. Mercurio stated but we would just... They just suggested that it would be best if we wrote it up as it would be on both sides and then we could decide, you know, later on, but... I think just for safety reasons we'd rather have it just on the sides so that this way it's completely closed off, even though there would be a gate there. So that would actually change the setbacks of it, you know, to where we wouldn't even need as many feet variance of it.

Board Member Bodor stated and this is an above-ground pool.

Mr. Mercurio stated yes. And we have community well and community septic so there's no septic systems or anything that are in the back. Everything is well... It's actually in the other cul-de-sac.

Chairman Buzzutto stated how far is the pool going to be from the deck.

Mr. Mercurio stated it's actually going to be about 13 feet from the house. So the existing deck right now goes out 10 feet. We would add 3 feet out further.

Chairman Buzzutto stated okay.

Mr. Mercurio stated and then that would be 13 feet of decking from the house, and then the pool. So that would be a total of 25' from the house. The pool...

Chairman Buzzutto stated yes, the deck circles the pool almost.

Board Member Bodor stated yes.

Mr. Mercurio stated yes. Except in the back.

Chairman Buzzutto stated yes.

Board Member Bodor stated it's on the end and the side closest.

Mr. Mercurio stated so this way everything would be covered. And I mean, even though...you know, the pool is high enough so that...And now there are all kinds of requirements with regards to alarms and everything, so...

Chairman Buzzutto stated yes.

Board Member Bodor stated alright, now this deck, is it going to be...At what height is it going to be.

Mr. Mercurio stated the way that it stands now, what we're...It's actually a little bit higher. The deck is about 61". We wanted to drop it down to where it go like right to the level of the pool rather than to have it tear down because I don't want the kids to be...

Board Member Bodor stated level of the pool.

Mr. Mercurio stated which would be like 52". So we'd have to just...

Board Member Bodor stated the top.

Mr. Mercurio stated right.

Board Member Bodor stated at the top edge of the pool.

Mr. Mercurio stated yes.

Board Member Bodor stated it's going to be level with that.

Mr. Mercurio stated it will be...The pool top would be here and the deck would go right underneath so...

Board Member Bodor stated go right under the lip.

Mr. Mercurio stated so it would be about 51", right. So we'd have to just cut down like 9" and have a step down from the doorwell. Because the only means of...Right here where the side path is, where those stairs are [referring to plans]...

Board Member Bodor stated yes.

Mr. Mercurio stated that's a door that comes from the...

Board Member Bodor stated from the house.

Mr. Mercurio stated interior of the house out. That's the only way out to the deck.

Chairman Buzzutto stated it looks that's part of the deck here.

Board Member Bodor stated was there a sliding door in the back there at point.

Mr. Mercurio stated there should have been.

Board Member Bodor stated yes.

Mr. Mercurio stated they never put it there.

Board Member Bodor stated it looks like there should be one.

Mr. Mercurio stated there should be.

Board Member Bodor stated right on to the deck.

Mr. Mercurio stated yes, eventually... That's why we wanted to kind of go this way because what we would probably do is... I mean, do you mind if I come up or walk around so...

Board Member Bodor stated no.

Mr. Mercurio stated I could kind of show you.

Board Member Bodor stated just keep the mic in front of you so we get the recording.

Mr. Mercurio stated if you look here, this is how the deck is. This is on page 1 of 4 pictures. So what our goal would be to do is to extend the deck and catch underneath that middle set of windows, and that's where we would probably put a slider. But where this mark-off is, that would be the entire decking and pool. So you see, there's still, I mean, ample backyard.

Chairman Buzzutto stated where did you get that picture from.

Mr. Mercurio stated if you look on the top right hand corner, there should be something that says like 1/4.

Board Member Bodor stated it's in the packet you got tonight.

Chairman Buzzutto stated where's that.

Board Member Bodor stated the new pictures.

Chairman Buzzutto stated wait a minute.

Mr. Mercurio stated yes. I gave you old pictures without it marked off and pictures that have it.

Chairman Buzzutto stated I have it. It's in the...

Board Member Bodor stated it's right here, the one.

Mr. Mercurio stated so if you look at 1/4 [referring to the pictures], second... actually the last column, second picture down, that kind of basically gives you a pretty good overview of what the back of the house

looks like. The way that the deck is now, we'd like to just kind of go out that additional 10' or so and then catch that bottom window.

Chairman Buzzutto stated if you are going to lower the deck that would mean you would have to remove...

Mr. Mercurio stated the carpets are basically...All the footings can remain. All they have to do is just...they're just going to cut through all...The deck itself is all...the wood is getting to the point where it needs to be replaced.

Chairman Buzzutto stated yes.

Mr. Mercurio stated so we were going to put all...

Chairman Buzzutto stated the under boards...rip all...

Mr. Mercurio stated no. The under boards are all fine.

Chairman Buzzutto stated yes, but you've got to lower them.

Mr. Mercurio stated they're going to lower them, right.

Board Member Herbst stated is this the house. No.

Board Member Bodor stated this is the side, right.

Mr. Mercurio stated yes. That's the side.

Board Member Bodor stated then that is the same door that you will be using, too.

Mr. Mercurio stated that's the door that we would be using, right.

Board Member Bodor stated the only door that's there right now.

Mr. Mercurio stated that's the only door there right now, this one. So that's kind of like a little walkway that goes down and that gets you to the back of the deck. But there's no other way to get to the back. And then this section right here is where the stairs would be going down.

Board Member Bodor stated right from here.

Mr. Mercurio stated right.

Board Member Bodor stated I think I'd like to go out and take a look at this.

Board Member Olenius stated yes.

Board Member Bodor stated yes.

Board Member Olenius stated there's way too many resolutions here without me taking a peek.

Chairman Buzzutto stated do we have any input from the audience on this particular...

Mrs. Mercurio stated (inaudible – too distant). These are our three children. Everything we do is for them.

Chairman Buzzutto stated do you have any input.

Mr. Mercurio stated well, that's actually my neighbor right behind me because he's looking for a variance too [referring to Mr. Mike Grgas]. But, I mean, the big issue here is because of the way that the development was setup...

Chairman Buzzutto stated yes.

Mr. Mercurio stated the Zoning requirements are almost to the point where it's ridiculous because anything that we need to do is going to require a variance and it makes it very difficult to do.

Chairman Buzzutto stated how big is the pool going to be.

Mr. Mercurio stated just 12' x 20'.

Chairman Buzzutto stated gallons...12' x 20'.

Mr. Mercurio stated yes.

Chairman Buzzutto stated how many gallons.

Mr. Mercurio stated 10,000 [gallons].

Chairman Buzzutto stated 10,000.

Board Member Herbst stated it's too bad you didn't have it up, you wouldn't have to pay for water.

Mr. Mercurio stated yes.

Chairman Buzzutto stated yes.

Mr. Mercurio stated but you see, the thing is you try to do it the right way and not put it up, but...

Chairman Buzzutto stated okay, so hearing nothing from the audience, we'll table the matter...table this particular application.

Board Member Bodor stated we're going to setup a site visit. We'll be in contact with you.

Chairman Buzzutto stated setup a site visit.

Mr. Mercurio stated okay.

Board Member Bodor stated okay.

Mr. Mercurio stated so is that something that's done relatively quickly. But you still have to wait until the next Board meeting.

Board Member Bodor stated next meeting.

Chairman Buzzutto stated it will come up again at the next meeting regardless.

Mr. Mercurio stated so then once you guys setup the appointment, you would come out to the site visit, then we would have to go to the meeting, and then we would discuss again.

Board Member Olenius stated yes.

Chairman Buzzutto stated we have to go out...the next meeting date is...

Board Member Bodor stated next meeting is August...

Board Member Olenius stated 19th.

Chairman Buzzutto stated 19th.

Board Member Bodor stated yes. We didn't change that one did we.

Board Member Olenius stated no. I don't think so.

Chairman Buzzutto stated no. We'll do the site walk, and Sarah will get in touch with you when we'll be out there. It will most likely be on a weeknight.

Board Member Bodor stated is that okay with you guys, a weeknight.

Mr. Mercurio stated that's fine for us.

Board Member Bodor stated and do you still have this taping in the yard.

Mr. Mercurio stated no.

Board Member Bodor stated can you put it back or just put stakes.

Mr. Mercurio stated sure.

Board Member Bodor stated so can see where...what the distance is.

Mrs. Mercurio stated yes.

Chairman Buzzutto stated okay.

Board Member Bodor stated thank you.

Board Member Burdick stated thank you.

Mrs. Mercurio stated thank you.

4) MIKE GRGAS CASE #16-09

Mr. Mike Grgas was present.

Chairman Buzzutto stated okay, next on the agenda would be...

The Secretary read the following legal notice:

Mike Grgas Case #16-09 – Area Variance

Applicant is requesting an area variance pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings, in order to legalize the constructed 15.5' x 8' front entry deck. The Code requires a 35' front yard setback; Applicant has 28'. The Code also requires a 30' side yard setback; Applicant has 16'. This property is located at 52 Meadowbrook Court (R-1 Zoning District).

Mr. Mike Grgas stated Mike Grgas.

Chairman Buzzutto stated okay. You want to raise your right hand.

TAPE ENDED

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

Mr. Grgas stated I do.

Chairman Buzzutto stated okay. You heard the agenda. Is there anything on there that's...

Mr. Grgas stated everything's fine. Everything's stated as is. Basically when I built this deck around the summer of 2001, I did inquire from the Building Inspector at that time whether I needed a permit. I explained the type of deck; it wasn't attached to the house, it was freestanding. And I was told at that time that I did not need a permit. When my neighbors started enlarging their decks and permits were required, I decided to inquire whether I needed a permit to conform, and I was told yes. So I am here before the Board to see if we can make this legal.

Board Member Bodor stated it's already there.

Mr. Grgas stated it's already there. I've got pictures. They're various pictures from the road. Close-up of the deck, and from the neighbor's yard there is a picture showing the side of the house, side of the deck. And then a picture from the deck itself towards the house of the person who was just here [referring to Mr. Christian Mercurio].

Chairman Buzzutto stated oh, your neighbor.

Mr. Grgas stated yes.

Chairman Buzzutto stated oh. Okay. Well, it's not much of a variance and stuff needed for this particular...

Board Member Olenius stated you stated this is not attached to the house, Mr. Grgas.

Mr. Grgas stated correct.

Board Member Olenius stated it's just butted up next to it.

Mr. Grgas stated correct. There is a... It's butted up to the house and I had a hand drawn schematic, it would have been part of the packet, that shows that it's standing on the footings and it's not physically attached to the house or the garage that's next to it, to the side.

Chairman Buzzutto stated if it's not attached, it has to be 15' from the house. Is that the way it's got to be. If it's not attached.

Mr. Grgas stated right, but it's an entrance to that...

Board Member Burdick stated yes.

Mr. Grgas stated to the house.

Board Member Bodor stated it's like a set of stairs going up to the front door.

Board Member Burdick stated it's abutted to the house.

Board Member Bodor stated that type of thing.

Mr. Grgas stated right.

Chairman Buzzutto stated yes. But it's not attached.

Board Member Burdick stated for all intensive purposes, it is. It's just that it's not physically attached to it.

Chairman Buzzutto stated okay.

Board Member Bodor stated it's not an accessory structure.

Board Member Burdick stated yes.

Chairman Buzzutto stated it's not nailed.

Board Member Bodor stated and when did you do this, Sir.

Mr. Grgas stated in the summer of 2001.

Board Member Bodor stated it still looks good.

Mr. Grgas stated I would hope so.

(Board members laugh).

Mr. Grgas stated I would hate to see it in that short period of time to deteriorate it.

Chairman Buzzutto stated what's that rail made out of. Is that that plastic.

Mr. Grgas stated no. It's wooden railing.

Chairman Buzzutto stated it looks good, doesn't it.

Mr. Grgas stated I've painted it a number of times. The railing is a to do when you paint it.

Chairman Buzzutto stated yes. It looks good.

Board Member Bodor stated you're not looking to add on to this anytime soon are you.

Mr. Grgas stated no. No, actually we're in the process of selling the house.

Board Member Bodor stated oh, you are.

Mr. Grgas stated so it's just part of it to comply with that also. Prior to that it was a 4' x 8' entrance that was really not practical.

Board Member Bodor stated right.

Mr. Grgas stated if you stood on it and inadvertently, there was no railing, you could actually slip off it.

Board Member Bodor stated yes.

Mr. Grgas stated if you had any kind of delivery coming to your house, it was very difficult for the folks to deliver. They had no room to maneuver.

Board Member Bodor stated yes.

Chairman Buzzutto stated they need 7' front and 14' side.

Board Member Bodor stated is there anyone in the audience who has input, interest. No.

Chairman Buzzutto stated okay. You have anything on this one (inaudible).

Board Member Olenius stated I do. So just to clarify this in my own mind here because I'm looking at your survey.

Mr. Grgas stated sure.

Board Member Olenius stated this deck is actually further from the street than the front of your garage is, according to the survey.

Mr. Grgas stated right.

Board Member Olenius stated okay.

Mr. Grgas stated about a foot beyond the...behind the face of the garage.

Board Member Olenius stated okay. So it probably, in all likelihood, it would have meet the old Code, because the garage...

Mr. Grgas stated correct because I did not extend it beyond the ending...where it ended before.

Board Member Olenius stated right. The garage made it so.

Mr. Grgas stated right.

Board Member Bodor stated you want to close the public hearing. Is everybody set.

Chairman Buzzutto stated yes.

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

Board Member Olenius stated second.

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

Chairman Buzzutto stated okay. So be it. Meeting closed. Reso.

Board Member Olenius stated in the matter...Excuse me. How do you pronounce your last name, Sir.

Mr. Grgas stated Grgas.

Board Member Olenius stated Grgas, okay.

Board Member Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Mike Grgas, Case #16-09
*Enlargement of a Nonconforming Building***

WHEREAS, *Mike Grgas* is the owner of real property located at 52 Meadowbrook Court (R-1 Zoning District), also identified as **Tax Map Parcel #13.7-1-23, and**

WHEREAS, *Mike Grgas* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-58 of the Patterson Town Code; Enlargement of a nonconforming building, in order to legalize the existing 15.5' x 8' front entry deck, and

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

WHEREAS, §154-7 of the Patterson Town Code requires a 35' front yard setback; Applicant has 28'; and

WHEREAS, §154-7 of the Patterson Town Code requires a 30' side yard setback; Applicant has 16'; 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 *July 21, 2009* to consider the application; and

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

1. the proposed application *will not* produce an undesirable change in the character of the neighborhood *because said deck does not extend beyond either the sideline of the house nor the frontline of the house. It more or less just fills a corner void.*
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because said entranceway deck is been in existence for 8 years.*

Mr. Grgas stated about 8 years.

Board Member Olenius stated 8 years.

Board Member 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 in this cluster-housing segment, they are sharing an open green space, as far as impervious coverage.*
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 *Mike Grgas* for *an area variance* pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings, for the existing 15.5' x 8' deck.

Board Member Bodor stated second.

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

Resolution carried by a vote of 5 to 0.

Board Member Bodor stated would you like a set of these back [referring to pictures].

Mr. Grgas stated I have a set...

Board Member Bodor stated do you.

Mr. Grgas stated for myself. Thank you.

Board Member Bodor stated okay. You want to give them to the new owner.

(Laughing).

Mr. Grgas stated thank you very much for your help.

Chairman Buzzutto stated you're welcome.

Mr. Grgas stated have a good night.

Board Member Olenius stated good luck.

Board Member Burdick stated you too. Take care.

Board Member Herbst stated that was Mr. Mezger that was here. There he is. Where are you going. You didn't raise your hand or ask [referring to Chairman Buzzutto getting up].

5) OTHER BUSINESS

a) Edward Mezger

Mr. Edward Mezger and Mr. Michael Sirignano, Attorney, were present

Chairman Buzzutto stated other business. We have...is it Mezger.

Board Member Bodor stated yes. Edward Mezger.

Chairman Buzzutto stated Edward Mezger.

Board Member Bodor stated good evening. And we are here tonight...

Mr. Edward Mezger stated excuse me.

Board Member Bodor stated we are here tonight.

Mr. Mezger stated we are here tonight.

Board Member Bodor stated purpose. Where are we at.

Mr. Mezger stated to get an extension on my zoning permit.

Board Member Bodor stated thank you. Identify yourself for the record.

Mr. Mezger stated Edward Mezger.

Board Member Bodor stated and you're the property owner.

Mr. Mezger stated yes I am.

Board Member Bodor stated and do you have someone with you here.

Mr. Mezger stated yes, my attorney.

Board Member Bodor stated your attorney.

Mr. Michael Sirignano stated good evening.

Board Member Bodor stated Sir, could you speak into the microphone so we know who you are.

Mr. Sirignano stated good evening. Michael Sirignano.

Board Member Bodor stated okay. And you're representing Mr. Mezger.

Mr. Sirignano stated I am.

Board Member Bodor stated okay.

Mr. Sirignano stated I was told that the Board had asked that Ed bring me along at this meeting. So here I am. I'm happy to answer any questions you have.

Board Member Bodor stated okay. I... This case has been before us before and Mr. Mezger has been granted numerous extensions, and what we were concerned about is where is this... when is this going to end and where is he legally. Do we see a light at the end of tunnel at this point in time. Because it's been years. What, since 2004 I think...

Mr. Sirignano stated right.

Board Member Bodor stated when we granted the first permission. And it's extend, extend, extend. And I believe the extension ran out again at this point in time, or is about to maybe tomorrow. But, legally, where are we at.

Mr. Sirignano stated good question. We are in litigation. The case is pending before Judge O'Rourke in the Supreme Court, Putnam County. We have a litigation against the developer of the subdivision. We've had to name the three homeowners that bought the three lots that border Mr. Mezger's property. Everybody has joined in the suit. We've had numerous depositions, an enormous amount of document discovery. And the case will be certified as ready in September.

Board Member Bodor stated what does that mean, certified as ready.

Mr. Sirignano stated well, it means that the discovery process has been completed and Judge O'Rourke will deem the case trial ready. And then it's up to his schedule when the case will actually be tried, if it's not settled sooner.

Chairman Buzzutto stated can you start sort of from the beginning to see why this all has generated into this particular situation.

Mr. Sirignano stated well, it's because when the developer built out his subdivision, he altered the grades and the watercourses and the water...storm water flows from their natural contours prior to his construction...the developer's construction. And in doing so, he interfered with what we believe to be Mr. Mezger's right-of-way access to his property, which was an old farm road. And some say it's an old Town road that was abandoned by the Town many years ago.

Chairman Buzzutto stated where was the property located.

Mr. Sirignano stated oh...

Mr. Mezger stated Old Road.

Chairman Buzzutto stated Old Road.

Mr. Sirignano stated Old Road, yes.

Chairman Buzzutto stated oh, that's right up [Route] 22.

Mr. Mezger stated correct.

Chairman Buzzutto stated yes. I know where that is, yes.

Mr. Sirignano stated so when the developer built out the subdivision he altered the grades, he put in storm...detention basins and rip rap...even off of their own property. And they later realized that mistake and pulled it back. But in constructing these improvements, these site improvements and drainage systems, they altered the grade and made it if not physically impossible, fiscally impossible for Mr. Mezger to engineer around it and get a driveway through to access his property. So we're in court. We're trying to get this resolved. We're asking the court, Judge O'Rourke, to declare Mr. Mezger's rights to this access way. We're asking for money damages.

Chairman Buzzutto stated your property's part of the development or...

Mr. Sirignano stated no, no.

Mr. Mezger stated no.

Chairman Buzzutto stated no. Yours is...

Mr. Sirignano stated off premises.

Chairman Buzzutto stated adjoining to it.

Mr. Sirignano stated correct.

Mr. Mezger stated there's a lane. There's a lane that goes through all the properties.

Board Member Bodor stated could you get closer to the mic please.

Chairman Buzzutto stated yes.

Mr. Mezger stated there's a lane that goes through all the properties. It's divided by two stone walls. Now somewhere in the past, everybody...I guess a Town abandoned road, everybody adjoined into the center lane. They took it as it was useable. I don't know...Like I said, we've asked them, they didn't do any title searches. And we came up with the developer that that was a road of common for egress and ingress for all parties on that lane. They took half of it in that section and put their rip rap and drainage on it. So, in order for me to get the permit from the Planning Board, okay, we tried to go...We got an extra ten...Well, first of all I'll start out I didn't have enough roadway. We got an extra 10 feet from a neighboring property. We couldn't go over the stonewall. Then we couldn't go close to the stone wall so that pushes into the rip rap area, okay. Now if they contend that they own it and they have the rights to it, my engineer will not sign it because he feels is it their property or is it your property. So that's why...

Chairman Buzzutto stated then you came to the Zoning Board for a variance.

Mr. Mezger stated the Planning Board accepted it and it was approved...

Chairman Buzzutto stated yes. Then you came to the Zoning Board for a variance.

Mr. Mezger stated no, originally for road frontage.

Chairman Buzzutto stated for road frontage.

Mr. Sirignano stated [Section] 280-a.

Chairman Buzzutto stated and that's why you're here tonight because of...

Mr. Mezger stated right.

Chairman Buzzutto stated that particular variance you never got.

Mr. Mezger stated I can't continue...What you gave me, I can't continue...

Chairman Buzzutto stated yes.

Mr. Mezger stated until somebody says...

Chairman Buzzutto stated and this has been going on for what, four years now, something like that. Three years, four years.

Mr. Mezger stated well, from the beginning.

Mr. Sirignano stated well, unfortunately litigation isn't the perfect remedy to people's problems. It takes time and it's expensive and...But we are, as I said, we're nearing the completion of discovery. I think the case will be certified as trial ready in September. And then depending on Judge O'Rourke's trial schedule, I'm hopeful that the case can be tried, you know, within the next six months or so. And I would ask for a six month extension from the Board tonight, to give us time to get that litigation resolved. If it's not resolved, you know, we'll report back to you.

Chairman Buzzutto stated yes, but is there anyway that we can close this up and then start a new one on this to get it off the agenda here.

Carl Lodes stated well, if you didn't grant him his extension he'd be back to square one.

Chairman Buzzutto stated yeah, but that's sixty...six months.

Board Member Bodor stated if we don't grant the extension, we're back to square one and it starts all over.

Chairman Buzzutto stated yes.

Carl Lodes stated yes.

Board Member Bodor stated if we grant the extension, it's ongoing for whatever period of time we decide to grant it for.

Mr. Sirignano stated I obviously would ask you to extend it. If you don't extend it and this expires, I think it puts my client in jeopardy that this Board or there might be a change in membership in this Board, and the same result may not be obtained.

Board Member Bodor stated how long have you been involved with this situation yourself.

Mr. Sirignano stated I've been involved in this litigation from two years ago I guess it's been...

Board Member Bodor stated okay.

Mr. Sirignano stated started. And then...

Board Member Bodor stated you didn't just jump in last month or something.

Mr. Sirignano stated no, no.

Board Member Bodor stated okay.

Mr. Sirignano stated and in the life of a complex litigation, two years is really not that long a case. Some cases have a...can go on six, eight, ten years. I'm hopeful that that's not the situation here.

Board Member Bodor stated I thank you for coming tonight and explaining the legal piece...

Chairman Buzzutto stated yes.

Board Member Bodor stated and letting us know where we are exactly with...on the calendar. This has been very beneficial.

Mr. Sirignano stated good.

Board Member Bodor stated because before all we heard was well, you know, it's got to go to court and that, but we had no timeframes to deal with.

Chairman Buzzutto stated yes.

Board Member Bodor stated at least now there's some...we're hearing something. So thank you.

Chairman Buzzutto stated well, I wouldn't want to put another burden on the applicant if we can do this or if we should do this. It's been an ongoing thing now for quite a few years.

Board Member Bodor stated you're asking for six months.

Chairman Buzzutto stated six...

Mr. Sirignano stated well, I'd ask for a year, but I know you've been more than patient, so I'll leave that up to you. If we're not going to be...

Board Member Bodor stated is six months realistic.

Mr. Sirignano stated you may know Judge O'Rourke's schedule better than I do.

Carl Lodes stated I don't think so because Judge O'Rourke is retiring in December.

Board Member Bodor stated okay.

Carl Lodes stated so I would think that if it's certified trial ready in September, the likelihood...I know his schedule is already booked up through the remainder of his term.

Mr. Sirignano stated alright.

Chairman Buzzutto stated so you think six months is reasonable.

Board Member Bodor stated no.

Carl Lodes stated no, I think six months is not sufficient.

Chairman Buzzutto stated oh, it's not.

Carl Lodes stated not sufficient.

Board Member Bodor stated no. It's not going to happen.

Carl Lodes stated Judge O'Rourke sets his trial...I know personally he's already told me since July, his schedule is already booked for the rest of the year, and then he retires. And then there will be a new judge...

Board Member Bodor stated who's got to learn the game.

Carl Lodes stated yes. And has got to setup his own schedule so, you know...

Chairman Buzzutto stated alright. So then that could mean...

Carl Lodes stated you'd probably be better off...If the Board was going to consider an extension, I would consider an extension of 9 months.

Mr. Sirignano stated I think that makes sense.

Carl Lodes stated yes.

Mr. Sirignano stated now that you've told me Judge O'Rourke's retiring. I wasn't aware of that. It's a shame, he's a good judge.

Carl Lodes stated yes.

Chairman Buzzutto stated well, what consequences, or whatever, would be to the Zoning Board to give this extension. Does it create any problems for us.

Carl Lodes stated I think based on the fact that there's litigation pending, it doesn't appear that anybody's delayed that litigation; it's a complex litigation. And so I think, honestly, to put Mr. Sirignano's client back to square one, you know, would have serious repercussions for him and I think it's...

Chairman Buzzutto stated well, that's what I don't want to do.

Carl Lodes stated no. I think it's within your discretion because you've made the inquiry as to whether...what's going on and...

Chairman Buzzutto stated yes.

Carl Lodes stated and it's not like anybody's delaying it, it's just that it's taking a long time. So I think it's within the discretion of the Board to grant the variance...I'm sorry. To grant the extension. And I would, just in my personal knowledge of the calendar, I would go more towards 9 months than 6 months unless you would like to see Mr. Sirignano here for Christmas.

Board Member Olenius stated I say a year.

Chairman Buzzutto stated a year.

Board Member Olenius stated yes.

Board Member Herbst stated I think a year would be...

Board Member Olenius stated I'll say July 31, 2010. The end of July 2010. Just to avoid you having to come back again in March.

Board Member Bodor stated that makes sense.

Board Member Olenius stated especially with a new judge settling in and...

Carl Lodes stated yes. You're probably being more realistic.

Board Member Bodor stated yes.

Board Member Olenius stated while he's not there.

Chairman Buzzutto stated and that would relieve a little pressure on you and...

Mr. Sirignano stated oh yes. Because one of our claims in this litigation is that we have the variance and what's holding up is what they've done physically on site. If we were to lose the variance tonight, it would not be helpful to our cause.

Chairman Buzzutto stated it's not self-created.

Mr. Sirignano stated correct.

Chairman Buzzutto stated okay.

Board Member Olenius stated I would request if you don't know anything, an update for...

Chairman Buzzutto stated yes.

Board Member Olenius stated you know, in July, let us know where you're at if you're still... You know, you would have to come for another extension...

Mr. Sirignano stated right.

Board Member Olenius stated if that was the case anyway, or sooner. If you have results sooner, if you could just let the secretary know what the status is.

Chairman Buzzutto stated can I get a motion on that.

Mr. Sirignano stated that's fine.

Board Member Olenius stated I make a motion to extend the case of Mr. Mezger through July 31, 2010.

Board Member Herbst stated second.

Chairman Buzzutto stated roll call on that.

The Secretary took roll call:

Board Member Bodor - yes

Board Member Bodor stated but I'm not willing to extend it any further than a year.

Chairman Buzzutto stated that's fair enough.

Board Member Bodor stated so push it through.

Board Member Burdick - yes

Board Member Burdick stated but I would really appreciate updates as you're moving along. Even if it's just every three months or something, let us know what's going on. I think that would be helpful to see that there's progress.

Chairman Buzzutto stated yes. Thank you Marianne.

Board Member Herbst - yes

Board Member Olenius - yes

Chairman Buzzutto - yes

Chairman Buzzutto stated yes, with the same stipulation that Mary Bodor suggested and Marianne Burdick.

Mr. Sirignano stated thank you.

Chairman Buzzutto stated but every two or three months to know what's going on. So be it.

Mr. Sirignano stated I'd be happy to do that.

Chairman Buzzutto stated okay.

Mr. Sirignano stated very good. Thank you.

Chairman Buzzutto stated a year.

Board Member Burdick stated good luck.

Mr. Sirignano stated thank you.

Mr. Mezger stated thanks.

Board Member Olenius stated good luck.

Chairman Buzzutto stated okay. What else is on.

Board Member Herbst stated do we have another case.

b) Minutes

Board Member Bodor stated minutes.

Chairman Buzzutto stated minutes.

Board Member Bodor stated we have minutes from June 17th. Make a motion to accept the minutes from June 17th.

Board Member Burdick stated second.

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

c) Patterson Crossing

Chairman Buzzutto stated we got this new thing on Mr. Rimaldi.

Board Member Burdick stated Patterson Crossing thing.

Chairman Buzzutto stated Patterson Crossing, yes.

Board Member Burdick stated requesting to adjourn without date.

Chairman Buzzutto stated it doesn't look like we have to do anything with it.

Board Member Burdick stated should we make a motion on it.

Carl Lodes stated I'm sorry, I...

Board Member Burdick stated on Patterson Crossing.

Carl Lodes stated I can't be involved.

Board Member Burdick stated oh, okay. That's right. Sorry.

Carl Lodes stated so they tell me.

Board Member Bodor stated no, they're requesting that the present height variance application be adjourned without date while we return to the Planning Board. I'll make a motion to honor that request.

Board Member Olenius stated I'll second.

Chairman Buzzutto stated roll call. I'll take a roll call on that.

The Secretary took roll call:

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

Board Member Bodor stated I think it was, you know, nice of them to...

Board Member Burdick stated consider.

Board Member Bodor stated consider this, yes. Instead of us wondering what's going on, where are they.

Board Member Burdick stated yes.

Board Member Bodor stated they've brought it to us. So, that's good.

Chairman Buzzutto stated okay. This on McManus Road. There's nothing there, it's just that he wasn't notified or something. He's been there for 17 years or something. Fifteen years.

Board Member Bodor stated well, that was apparently a glitch with the address with that person.

Chairman Buzzutto stated yes.

Board Member Bodor stated but I don't know case that's coming up. Is this something for...

The Secretary stated that was for Duke.

Board Member Burdick stated we already voted on it. Duke.

Chairman Buzzutto stated that was...

Board Member Bodor stated oh, that was...oh.

Chairman Buzzutto stated that one passed, yes.

Board Member Bodor stated okay.

d) Site Walks

Board Member Herbst stated that's it, right.

Board Member Olenius stated site walks.

Chairman Buzzutto stated site walks.

Board Member Bodor stated alright, the next meeting is the 19th of August.

Chairman Buzzutto stated does this gentleman here have anything to [referring to someone in the audience]...

Audience member stated (inaudible – too distant).

Chairman Buzzutto stated good. Okay.

Board Member Bodor stated is some time real bad for someone.

Chairman Buzzutto stated for me, anytime is good. 3 o'clock...

Board Member Bodor stated I asked if it were bad, and you're telling me it's good.

Chairman Buzzutto stated yeah, well...

Board Member Bodor stated well.

Chairman Buzzutto stated like 3 o'clock in the morning.

Board Member Bodor stated yeah right. I'm not available from August 6th to the 14th.

Board Member Burdick stated I'm not available the 3rd and the 4th.

Chairman Buzzutto stated okay.

Board Member Herbst stated are we setting up the site walks.

Chairman Buzzutto stated yes.

Board Member Bodor stated yes.

Board Member Herbst stated right now I'm pretty available, but...

Chairman Buzzutto stated you are.

Board Member Herbst stated I'm waiting for an appointment that I don't know when it will come in, but that could be...I have to go to Mount Kisco for that. So I have no idea about the date.

Board Member Burdick stated do you want to do next week.

Board Member Olenius stated you said that the 6th through the 16th, Mary, of August was not good for you.

Board Member Bodor stated 6th to the 14th. Yes.

Board Member Olenius stated okay. That's where my bad days are in between.

Board Member Bodor stated oh, okay.

Board Member Olenius stated so...

Board Member Bodor stated that's good.

Board Member Olenius stated yes. Next week I think is fine.

Board Member Bodor stated next week looks good.

Board Member Burdick stated next week's fine with me.

Board Member Herbst stated next week is good for me too, so...

Chairman Buzzutto stated well, that's...

Board Member Olenius stated next week, is that the 27th.

Board Member Bodor stated 27th, 28th...

Board Member Burdick stated 27th, 29th....

Board Member Bodor stated 29, 30, 31.

Board Member Olenius stated the 28th and the 31st...The 28th is my sweet sixteen for my daughter, it's her birthday. And Friday night's her party.

Board Member Bodor stated okay.

Board Member Olenius stated but I could do Monday, Wednesday or Thursday. I'd be lynched if I took one of the other days.

Board Member Burdick stated would it be better for you if we did it on like the 29th because you have prep to do for the party or for the...

Board Member Olenius stated no.

Board Member Burdick stated no.

Board Member Olenius stated the actual day there's nothing. I have prep to do for the 31st.

Board Member Burdick stated okay. So...

Board Member Olenius stated earlier in the week is actually better for me.

Board Member Burdick stated it is better.

Board Member Olenius stated it's avoiding Tuesday, the actual day.

Board Member Burdick stated so do we...

Board Member Olenius stated although, you're doing it...No, it wouldn't even affect me because you're summer hours now. That wouldn't even affect me. Tuesday would be fine too, because I'd be home.

Board Member Burdick stated do we want to shoot for the 27th, excuse me [referring to coughing], at 4:30 [p.m.] and then do the 28th or the 29th for a rain date. Does that work for everybody.

Board Member Bodor stated sounds good.

Chairman Buzzutto stated yes.

Board Member Herbst stated I'm sorry. What was that.

Board Member Olenius stated Monday the 27th is the first choice.

Board Member Herbst stated Monday the 27th, alright.

Board Member Olenius stated I guess we're starting at the deli. I'm just guessing. Or no.

Board Member Bodor stated we've got the deli and...

Board Member Burdick stated we've got the deli and then...

Board Member Olenius stated Meadowbrook.

Board Member Burdick stated Meadowbrook. Whatever works for everybody is fine with me.

Board Member Bodor stated yes, probably do the deli first.

Board Member Burdick stated the deli. Okay.

Board Member Herbst stated we've got two, right. Just two.

Board Member Bodor stated yes.

Board Member Burdick stated yes.

Board Member Herbst stated they're close.

Board Member Bodor stated the deli at 4:30 and then the other one to follow. And that's on the 27th. And which is going to be the rain date. The 28 or 29.

Chairman Buzzutto stated whatever.

Board Member Burdick stated I'm fine with whatever works for everybody.

Board Member Bodor stated let's go with the 29th so it dries up by the 28th if it's raining. The 29th rain date. Give it a day.

Board Member Herbst stated alright, the 27th and the rain date's the 29th.

Board Member Olenius stated yes.

Board Member Bodor stated yes.

Board Member Herbst stated okay.

Board Member Olenius stated 4:30.

Board Member Bodor stated if we have to do it the 29th, could we push it off closer to 5:00 [p.m.].

Chairman Buzzutto stated anytime is...

Board Member Herbst stated it doesn't make a difference.

Chairman Buzzutto stated yes.

Board Member Bodor stated if we could make it 5:00 because I'm at CAP that day and I don't always get out of there on time.

Chairman Buzzutto stated the 27th you'll be there at 4:30.

Board Member Bodor stated that's fine.

Chairman Buzzutto stated that's okay.

Board Member Bodor stated that's fine. But if we have to do it the...

Chairman Buzzutto stated the 29th would be 5 o'clock.

Board Member Bodor stated 29th, if we could do 5:00, that would be better for me.

Chairman Buzzutto stated very good.

Board Member Bodor stated okay. Thank you.

Board Member Burdick stated if you guys want to do it a little bit earlier, I mean, I can be there by 4:15 on the 27th. That's up to you guys. Fifteen minutes doesn't matter one way or other.

Board Member Herbst stated where are we going to meet. At the...

Board Member Bodor stated the deli.

Board Member Olenius stated the deli.

Chairman Buzzutto stated deli.

Board Member Burdick stated the deli.

Board Member Herbst stated deli first. Okay.

Board Member Bodor stated do we want to push it back to 4:15 on Monday or no.

Chairman Buzzutto stated it's okay with me.

Board Member Olenius stated fine be me.

Board Member Bodor stated alright. Go back to 4:15.

The Secretary stated okay.

Board Member Herbst stated 4:15.

Board Member Bodor stated on Monday. Yes. The 27th.

Board Member Olenius stated if it's Monday, it will be 4:15.

Board Member Bodor stated at the deli, okay.

Board Member Olenius stated and how long do we think the deli's going to take. So Sarah can tell the other applicant.

Board Member Burdick stated I think we should be at Meadowbrook by 5:00, 5:15.

Board Member Olenius stated I think so.

Board Member Bodor stated yes, probably. 5:15ish.

The Secretary stated 5:15. Okay.

Board Member Bodor stated the deli's...I don't know how big it is.

Board Member Herbst stated the same...

Board Member Olenius stated it will be more involved than Meadowbrook.

Board Member Burdick stated yes.

Board Member Olenius stated maybe not though. There's a lot in Meadowbrook.

Board Member Bodor stated there's a lot at Meadowbrook.

Board Member Burdick stated yes.

Board Member Herbst stated are you doing the same date on the rain...the same time on the rain date.

Board Member Bodor stated no.

Board Member Burdick stated no.

Board Member Bodor stated 5:00 on the rain date please.

Board Member Herbst stated 5:00 on the rain date.

Board Member Bodor stated yes.

Board Member Herbst stated okay.

Board Member Burdick stated and Sarah's going to send us an email reminder right.

The Secretary stated yes.

Board Member Burdick stated thank you.

The Secretary stated yes I will.

Chairman Buzzutto stated Rich.

Rich Williams stated Sir.

Chairman Buzzutto stated Ed.

Rich Williams stated who. He looks a lot different than me.

Mr. O'Connor stated is the (inaudible) up.

Board Member Burdick stated no.

Mr. O'Connor stated I just had one other question.

Board Member Burdick stated should we close the meeting.

Mr. O'Connor stated somebody adjourn.

Board Member Bodor stated we have to adjourn then.

Mr. O'Connor stated yes.

Board Member Bodor stated make a motion to adjourn.

Board Member Olenius stated second.

Board Member Herbst stated I'll make a motion a to...somebody made it already.

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

Meeting adjourned at 8:34 p.m.