

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS
August 19, 2009**

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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
August 19, 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, Laura Roberts, Attorney with Town Attorney's Office Curtiss & Leibell (arrived at 7:25 p.m.) and Rich Williams, Town Planner.

Chairman Buzzutto called the meeting to order at 7:04 p.m.

There were approximately 2 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

Nobody representing the application was present.

Chairman Buzzutto stated okay. The meeting's opened.

The Secretary read the following legal notice:

NOTICE IS HEREBY GIVEN BY THE TOWN OF PATTERSON BOARD OF APPEALS of a public hearing to be held on Wednesday, August 19, 2009 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following application:

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

Chairman Buzzutto stated do we got (inaudible) because...

Board Member Olenius stated Rimaldi.

Chairman Buzzutto stated he's not showing up tonight. Just table this until the next meeting. There's some SEQRA...

Board Member Bodor stated we are unable to make a decision tonight regarding the case because the SEQRA determination has not been made.

Chairman Buzzutto stated alright.

Board Member Bodor stated however, we do have a request from the Planning Board that the Town of Patterson Planning Board serve as Lead Agency, and we have to either consent with that or not consent to it as a Board.

Chairman Buzzutto stated as a Lead Agency.

Board Member Bodor stated do we want the Planning Board to serve as Lead Agency.

Chairman Buzzutto stated I, myself, would consent to that very much for them to go ahead.

Board Member Bodor stated okay. Let's...

Board Member Olenius stated I'll second that.

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

Board Member Bodor stated okay, then you will have to fill out the form.

Chairman Buzzutto stated I'll do that...

Board Member Bodor stated you can do it later.

Chairman Buzzutto stated later.

Board Member Bodor stated this is what you need, too [referring to the consent form].

Chairman Buzzutto stated what was that. I got one.

Board Member Bodor stated you have one of these, too.

Chairman Buzzutto stated yes. I've got one of these. I'll do that later.

Board Member Bodor stated here. All you do is check this consent and sign it and date it.

Chairman Buzzutto stated okay.

Board Member Bodor stated I can give you this one since it's right here. Same thing. Here you go.

Chairman Buzzutto stated alright.

Board Member Bodor stated alright. So they can...we're giving them the consent from this Board to act as Lead Agency.

Chairman Buzzutto stated agency, yes.

Board Member Bodor stated okay.

Chairman Buzzutto stated and I'll take it off and...Because they do a lot more at the end anyway, so...

Board Member Bodor stated it makes more sense for them to...

Chairman Buzzutto stated yes.

Board Member Bodor stated have that. So we'll table the decision on the case.

Chairman Buzzutto stated until we hear from them.

Board Member Bodor stated we could make a determination based...pending the decision by the Planning Board. We'll let it...

Chairman Buzzutto stated go. Let it go.

Board Member Bodor stated I'm willing to let it go and let them make their decision first.

Board Member Olenius stated agree.

Board Member Bodor stated make sense.

Board Member Olenius stated yes.

Chairman Buzzutto stated makes sense to me. Okay, so we'll just table the...Rimaldi till the next meeting. We should get something from the Planning Board for then...the next one.

2) CHRISTIAN MERCURIO CASE #15-09

Mr. Christian Mercurio was present.

Chairman Buzzutto stated we'll go to the next one, it will be Mercurio.

The Secretary stated did you want me to read the whole thing.

Chairman Buzzutto stated yes. Yes because then he might have a change in it.

The Secretary stated okay.

The Secretary read the following legal notice:

Christian Mercurio Case #15-09 – Area Variances; Held over from July 21, 2009 meeting

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 $\leq 25\%$; Proposed is 38%; Variance requested is for 26%. This property is located at 50 Meadowbrook Court (R-1 Zoning District).

Chairman Buzzutto stated I'm sorry. I didn't realize this was the same as the last time. I'm sorry.

The Secretary stated it's okay.

Chairman Buzzutto stated okay. Mercurio. I believe you heard that one for the second time.

Mr. Christian Mercurio stated yes. You guys came out and you did a site visit, so...

Chairman Buzzutto stated yes. Is there anything different from...

Mr. Mercurio stated no. The only thing that we would do is we had spoke about possibly dropping the deck. We're not going to do that.

Chairman Buzzutto stated yes. You're not going to do that.

Mr. Mercurio stated so everything else...All the dimensions and everything are the same.

Chairman Buzzutto stated what she read is basically the same as what you have in mind.

Mr. Mercurio stated yes. Everything.

Chairman Buzzutto stated we did do a site walk on that and the lawn was very well staked out and so forth. And the jungle gym, is that going to stay there or is that going to...

Mr. Mercurio stated yes. That's going to stay there.

Chairman Buzzutto stated that's going to stay there. You need a variance for that.

Mr. Mercurio stated right.

Chairman Buzzutto stated yes. For...

Mr. Mercurio stated those two things were preexisting.

Chairman Buzzutto stated preexisting.

Mr. Mercurio stated and we had documentation for the shed because we had originally, as I had told you, we couldn't...

Chairman Buzzutto stated yes.

Mr. Mercurio stated even get the house. But somehow or another they kind of just went away.

Chairman Buzzutto stated yes.

Board Member Olenius stated do you have an idea of when that shed was constructed.

Mr. Mercurio stated I have not the slightest clue.

Board Member Olenius stated you've been there for...

Mr. Mercurio stated I've been there six and a half years. So it's been there...

Board Member Olenius stated like ten years.

Mr. Mercurio stated oh yeah.

Board Member Olenius stated I would say.

Board Member Herbst stated easily 10 years. I remember what it looks like.

Mr. Mercurio stated yes. The interior of it...the structure of it is good. It's just the outside; I'm going to try and reside it.

Chairman Buzzutto stated reside it the same as the house.

Mr. Mercurio stated yes.

Chairman Buzzutto stated yes, because we were looking at the inside and the inside is like new.

Mr. Mercurio stated it's like brand new inside, yes. It's just structure... The outside of it, you know, it needs to be power washed and... But I was going to side it to match the house so... But I didn't want to do anything until we... I didn't even know that that wasn't on there.

Chairman Buzzutto stated and the entrance to the deck is on the side. Will that ever be changed to the sliding doors.

Mr. Mercurio stated the entrance to the...

Chairman Buzzutto stated well, to get out onto the deck. It's got...

Mr. Mercurio stated we're never going to... On the plans that I had shown you, we had originally drawn steps on both sides of it. We're probably only going to do the steps on the side entrance because it's just safer with the pool.

Chairman Buzzutto stated yes.

Mr. Mercurio stated so that's what we're going to do.

Chairman Buzzutto stated I don't see anything wrong with what's going on here. Anybody in the audience have anything to say. No. What do you think.

Board Member Bodor stated I have no more input.

Chairman Buzzutto stated yes.

Board Member Bodor stated in fact, I'd like to make a motion to close the public hearing.

Board Member Burdick stated second.

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

Chairman Buzzutto stated okay. The public hearing is closed. The pool itself is not going to be very big though.

Mr. Mercurio stated no.

Chairman Buzzutto stated it's going to be smaller. Okay.

Board Member Herbst stated which one are you doing first [referring to the resolutions].

Board Member Olenius stated which one do you want to do.

Board Member Herbst stated no. You do them. I don't want to do them.

Board Member Olenius stated I can't do all of these. You've got to do one of them. Come on.

Board Member Herbst stated no, no.

Board Member Olenius stated come on. You've got to contribute here.

Board Member Herbst stated no.

Board Member Olenius stated I'll do the shed. Is that okay.

Board Member Bodor stated that's fine.

Chairman Buzzutto stated yes.

Board Member Olenius stated start with the shed.

Board Member Bodor stated go right ahead.

Board Member Herbst stated with the shed. Okay. I just wanted to know where you were starting, that's all.

Board Member Olenius read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Christian Mercurio, Case #15-09
For Area Variances for an Existing Shed

WHEREAS, *Christian Mercurio* is the owner of real property located at 50 Meadowbrook Court (R-1 Zoning District), also identified as **Tax Map Parcel # 13.7-1-22, and**

WHEREAS, *Christian Mercurio* has made application to the Patterson Zoning Board of Appeals for area variances pursuant to §154-27 A(12)(b) of the Patterson Town Code; Permitted accessory uses, in order to legalize an existing 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 side or 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 10'; ***variance requested is for 15'***; and

WHEREAS, the Code requires a side yard setback of 15' in the R-1 Zoning District; Applicant has 11'; ***variance requested is for 4'***; 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 and August 19, 2009***, and a site walk was conducted on ***July 27, 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 shed has been in place for 10 or more years and has not proved as of yet to be offensive.*

2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *due to the limited rear lawn area of said property.*
3. the variance requested *is* substantial *however not so much as to cause the 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 the property is located in a cluster subdivision with shared common land.*
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 *Christian Mercurio* for *an area variance of 22' from the side 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...

Board Member Olenius stated wait a minute. A 3' rear yard setback between the existing 22' x 9' shed and the rear and side...Oh, rear and side property lines. No.

Board Member Olenius continued to read the following resolution:

In order to permit a 10' rear yard setback between shed and the rear property line and 11' setback for the side property line.

Board Member Bodor stated yes.

Board Member Olenius stated sorry. You have to amend that in the minutes somehow Sarah.

The Secretary stated I'm sorry.

Board Member Olenius stated make sense of it all.

Board Member Bodor stated okay. I'll second that, with the new figures in there.

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 Burdick stated would you like me to do the jungle gym, Chairman. I'll do the jungle gym.

Chairman Buzzutto stated fine.

Board Member Burdick read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Christian Mercurio, Case #15-09
For Area Variances for an Existing Jungle Gym/Swing Set

WHEREAS, *Christian Mercurio* is the owner of real property located at 50 Meadowbrook Court (R-1 Zoning District), also identified as **Tax Map Parcel # 13.7-1-22, and**

WHEREAS, *Christian Mercurio* has made application to the Patterson Zoning Board of Appeals for area variances pursuant to §154-27 A(12)(b) of the Patterson Town Code; Permitted accessory uses, in order to legalize an existing jungle gym/swing set 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 an accessory structure shall not be nearer to any side or 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 5'; ***variance requested is for 20'***; and

WHEREAS, the Code requires a side yard setback of 15' in the R-1 Zoning District; Applicant has 5'; ***variance requested is for 10'***; 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 and August 19, 2009***, and a site walk was conducted on ***July 27, 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 the jungle gym was erected prior to Mr. Mercurio taking ownership to the property and is not offensive to the neighborhood.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***because of the limited rear lawn area.***
3. the variance requested ***is*** substantial ***however not sufficient to cause denial.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***because this is a cluster subdivision with shared common land.***
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 *Christian Mercurio* for *an area variance of 20' from the rear yard setback of 25' and an area variance of 10' from the side yard setback of 15'*, as required by §154-27 A(12)(b) of the Patterson Town Code; Permitted accessory uses, in order to permit a 5' rear yard setback and a 5' side yard setback between the existing jungle gym/swing set and the rear and side property lines.

Board Member Burdick stated is that correct. In order to...Yes. In order to permit 5' on each side, right.

Board Member Olenius stated yes.

Board Member Bodor stated yes.

Board Member Olenius 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 you got one more.

Board Member Bodor stated we've got a couple more.

Board Member Burdick stated two more.

Board Member Herbst stated two more.

Board Member Bodor stated alright Jerry, which one's yours.

Board Member Herbst stated no, I'm not ready yet.

Board Member Bodor stated alright, I'll do the next one.

Board Member Herbst stated I'll do the one after that as soon as I...

Chairman Buzzutto stated this one is...Which one are you doing.

Board Member Bodor stated enlargement of a nonconforming building.

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

Board Member Olenius stated no, you make those up as you go.

Board Member Herbst stated what.

Board Member Olenius stated I make them up on the fly.

Chairman Buzzutto stated okay. You can go ahead.

Board Member Bodor stated okay.

Board Member Bodor stated read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Christian Mercurio, Case #15-09
Enlargement of a Nonconforming Building

WHEREAS, *Christian Mercurio* is the owner of real property located at 50 Meadowbrook Court (R-1 Zoning District), also identified as **Tax Map Parcel #13.7-1-22**, and

WHEREAS, *Christian Mercurio* 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 install a 20' x 12' 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, 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 an 30' side yard setback; Applicant has 11.5'; 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 and August 19, 2009***, and a site walk was conducted on ***July 27, 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 construction will be in the back of the residence and adjoining neighbors have, in the past, constructed similar deck/pool facilities.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***because of the size of the lot and the placement of the resident on the lot in cluster zoned area.***
3. the variance requested ***is*** substantial ***however not such that it would cause a denial of this request.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or

environmental conditions in the neighborhood or district *because neighboring properties having similar structures. And again, it is in the back yard which would not be seen from the street.*

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 *Christian Mercurio* for *an area variance* pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings, in order to install a 20' x 12' 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.

Board Member Burdick 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 Herbst stated I guess it's me. You're going to have to bear with me on all the because on it.

Board Member Herbst read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
*Christian...***

Board Member Herbst stated pronounce your name.

Mr. Mercurio stated Mercurio.

Board Member Herbst stated Mercurio. Okay.

Board Member Herbst continued to read the following resolution:

***Case #15-09
For an Area Variance for Installation of a 20' x 12' Pool***

WHEREAS, *Christian Mercurio* is the owner of real property located at 50 Meadowbrook Court (R-1 Zoning District), also identified as **Tax Map Parcel # 13.7-1-22, and**

WHEREAS, *Christian Mercurio* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code; Schedule of Regulations in order to enlarge the existing deck and attach stairs so he can install a 20' x 12' pool and attach the pool to the deck, and

WHEREAS, §154-7 of the Patterson Town Code requires a 50' rear yard setback in the R-1 Zoning District; Applicant will have 29'; *variance requested is for 21'*, 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 and August 19, 2009*, and a site walk was conducted on *July 27, 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 it is in the rear of the house and woods behind it.*
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because of lack of land.*
3. the variance requested *is* substantial *but it is in the back of the house.*
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
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 *Christian Mercurio* for an *area variance of 21'* from the rear yard setback of 50' as required in the R-1 Zoning District as set forth by §154-7 of the Patterson Town Code; Schedule of Regulations, in order to permit a 29' rear yard setback between the enlarged deck with stairs and the rear property line.

Board Member Bodor stated I 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 could that have been self-created or isn't it self-created.

Board Member Bodor stated no.

Chairman Buzzutto stated no. Okay.

Board Member Bodor stated no. But there was one piece regarding impervious surface coverage which we need to address.

Board Member Olenius stated I'm trying to make something up right now.

Board Member Bodor stated I know. I don't want anybody to think we forgot it.

Chairman Buzzutto stated good evening.

Laura Roberts stated hi. How are you.

Chairman Buzzutto stated okay. Laura.

Laura Roberts stated yes. I apologize. I was told to be here at 7:30 p.m.

Chairman Buzzutto stated stuck in traffic that's over there.

Laura Roberts stated I was told it starts at 7:30 p.m.

Chairman Buzzutto stated oh, okay.

Laura Roberts stated so I was misinformed. I apologize to the people of the audience and the Board.

Chairman Buzzutto stated I apologize you were misinformed.

Laura Roberts stated thank you.

Board Member Olenius stated you're going to have to put flowers on this one because this is going to be messy. But I'm going to do the best I can [referring to the resolution].

Board Member Bodor stated just wing it.

Board Member Olenius stated okay.

Board Member Olenius read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Christian Mercurio, Case #15-09
For an Area Variance for Installing a 20' x 12' Above-ground Pool

WHEREAS, *Christian Mercurio* is the owner of real property located at 50 Meadowbrook Court (R-1 Zoning District), also identified as **Tax Map Parcel # 13.7-1-22, and**

WHEREAS, *Christian Mercurio* has made application to the Patterson Zoning Board of Appeals for an area variances pursuant to §154-4 [*Editor's note*: should read §154-7]....

Board Member Olenius stated that's what I just looked up in there. So double check me on that.

The Secretary stated okay.

Board Member Olenius stated but I think that's the right...

The Secretary stated okay.

Board Member Olenius stated I just looked it up in the index and I found it.

Board Member Olenius continued to read the following resolution:

of the Patterson Town Code; Schedule of Regulations in order to enlarge the existing deck and install a 20' x 12' above-ground pool in the backyard, and

WHEREAS, §154-4 [*Editor's note*: should read §154-7]of the Patterson Town Code requires ≤12% impervious surface coverage in an R-1 Zoning District; Applicant currently has ≤25%; Applicant will have 38%; ***variance requested is for 26%***, 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 and August 21, 2009***, and a site walk was conducted on ***July 27, 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 of the fact that this Board made an interpretation on November 15, 2004 with regards to cluster subdivisions that all common acreage be divided equally amongst the homes within the subdivision with regards to impervious coverage limitations.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means.
3. the variance requested ***is*** substantial ***however due to the Board's interpretation in 2004, it is covered within the common land.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***because of the shared common land.***
5. the alleged difficulty necessitating the variance ***was self created*** but ***is not*** sufficient so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby ***grants*** the application of ***Christian Mercurio*** for an ***impervious coverage variance of 26% as...***

Board Member Bodor stated based upon the interpretation that we made, do we even have to go through all the percentages and...

Board Member Olenius stated I was just kind of covering my bases.

Board Member Bodor stated yes, I know. Do we have to do this as a... We do. As a regular reso with all the... Okay. Alright.

Board Member Olenius stated I've got it now I think. I've got to go back to...

Board Member Olenius continued to read the following resolution:

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *grants* the application of *Christian Mercurio* for an *impervious coverage variance of 26% from the ≤12%* as required in the R-1 Zoning District as set forth by §154-4 [*Editor's note: should read §154-7*] of the Patterson Town Code; Schedule of Regulations, in order to permit a 38% total impervious coverage for the property.

Board Member Burdick 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 you did good.

Board Member Olenius stated too many numbers.

Mr. Mercurio stated thank you.

Board Member Bodor stated you're welcome.

Board Member Burdick stated good luck.

Board Member Herbst stated so why would I do it if you did the whole thing over again.

Board Member Olenius stated I didn't do yours, I was doing the impervious coverage one.

Board Member Bodor stated he was doing impervious coverage.

Board Member Olenius stated I was doing a total different one.

Board Member Bodor stated yours was different.

Board Member Olenius stated we didn't have a reso for it, that's why I had to wing it.

Board Member Herbst stated okay. I didn't know that. It sounded a lot like mine. I was wondering what the hell did I do wrong.

Board Member Olenius stated no. Because that's the one on here that we didn't have a reso for.

3) JOSHUA POTTER CASE #18-09

Mr. Joshua Potter was present.

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

The Secretary read the following legal notice:

Joshua Potter Case #18-09 – Area Variances

Applicant is requesting area variances pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, and §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings, in order to construct a 7' x 4.5' enclosed entryway on the front of his home. The Code requires a 15' front yard setback; Applicant will have 12.5'; Variance requested is for 2.5'. Applicant also has a lot size of 16,000 square feet; Code requires 19,500 square feet. This property is located at 29 Overlin Road (RPL-10 Zoning District).

Mr. Joshua Potter stated good evening.

Chairman Buzzutto stated can you raise your right hand, Sir. You swear the testimony you provide tonight will be the truth, the whole truth.

Mr. Potter stated I swear.

Chairman Buzzutto stated okay.

Board Member Bodor stated can I have your name for the record please.

Mr. Potter stated my name is Joshua Potter.

Chairman Buzzutto stated address.

Mr. Potter stated address is 29 Overlin Road.

Chairman Buzzutto stated okay, fine. And basically what you heard of the agenda here, is there anything different on that then what you were proposing.

Mr. Potter stated no, Sir.

Chairman Buzzutto stated same thing. Alright, let's see.

Board Member Olenius stated is the survey you provided with your application...I don't see a date on it. Was this relatively new.

Mr. Potter stated yes. I had that one done in June of '09.

Board Member Olenius stated '09.

Mr. Potter stated it was, to my knowledge, the only survey done. There was nothing on file that I could pull up.

Board Member Olenius stated so you're on 8 lots.

Mr. Potter stated yes, Sir.

Board Member Olenius stated in Putnam Lake.

Board Member Bodor stated and currently you meet all the side line, rear line requirements...distance requirements. Yes.

Mr. Potter stated I believe so.

Board Member Bodor stated currently you do.

Mr. Potter stated I believe so.

Board Member Bodor stated the entryway is going to jut out into the front yard.

Mr. Potter stated yes, Ma'am.

Board Member Bodor stated and that needs to be dealt with. You took lots of pictures. I like pictures.

Chairman Buzzutto stated yeah.

Mr. Potter stated I figured it would help.

Board Member Bodor stated it does. It really does.

Board Member Olenius stated oh I see. The actual edge of the roadway is considerably further away from your property line.

Mr. Potter stated yes. There is an easement from the center of the road.

Board Member Olenius stated yes.

Mr. Potter stated I believe Mr. Baxter, who did the survey, told me it was a 50' easement. So 25' from the center of the road and then it comes back to the beginning of my property.

Board Member Olenius stated okay. And you have a paved parking area parallel to the road as well as a driveway.

Mr. Potter stated yes.

Board Member Bodor stated and the entryway is only coming out 4.5'. Is that correct.

Mr. Potter stated yes, Ma'am. Basically just a place to put your shoes or when you enter the house, you don't enter right into the living room and the dining area.

Board Member Bodor stated that's...

Mr. Potter stated if it's raining or something.

Board Member Bodor stated you're entering into the living room directly, currently.

Mr. Potter stated currently. Right.

Board Member Olenius stated you have an existing concrete stoop or something there.

Mr. Potter stated it's a walkway. Actually a blacktop walkway.

Chairman Buzzutto stated nice pictures.

Board Member Bodor stated now this entryway is going to have a peak.

Mr. Potter stated yes, Ma'am.

Board Member Bodor stated yes.

Board Member Olenius stated oh, you're doing...I see. You're changing the whole look of the house. You're putting dormers on as well; judging by this sketch. So the entryway peak gable will match the dormer gables.

Mr. Potter stated absolutely, yes.

Board Member Olenius stated in symmetry and everything.

Mr. Potter stated yes.

Board Member Olenius stated that's nice.

Board Member Bodor stated you're putting dormers upstairs. Is the upstairs space livable now or is it just...

Mr. Potter stated yes. The full upstairs is the master bedroom currently.

Board Member Bodor stated oh, it is. Okay.

Chairman Buzzutto stated is the dormers going to add living space to upstairs. Bedrooms or anything with the dormers.

Mr. Potter stated I believe they will...Square footage wise it won't add any. It's going to be the same footprint of the house.

Chairman Buzzutto stated yes.

Mr. Potter stated we will be eliminating some E walls, and...

Chairman Buzzutto stated I mean on the interior.

Mr. Potter stated oh, I plan on moving the bathroom upstairs. And right now there's a second bedroom on the first floor. I want to put that upstairs and then open up the first floor. That's to enlarge my living room area.

Board Member Bodor stated currently the upstairs is the master bedroom.

Chairman Buzzutto stated oh, I see.

Board Member Olenius stated he's adding more light. He wants to add more light into it.

Chairman Buzzutto stated oh, I get it. And that's...

Board Member Bodor stated so you've got one bedroom down and one up.

Mr. Potter stated yes, Ma'am.

Board Member Bodor stated yes. And you're moving the bathroom up from the bottom. You're not going to have two bathrooms.

Mr. Potter stated currently there's only one bathroom; it's on the first floor. I'm just going to relocate that upstairs next to the bedrooms.

Board Member Bodor stated okay. Dormers in the front and dormers in the back, or...

Mr. Potter stated two dormers in the front for look, and one, what they call a shed dormer, in the rear.

Board Member Bodor stated just...

Mr. Potter stated to facilitate...

Board Member Bodor stated the whole distance of the house, to raise it up, pretty much.

Mr. Potter stated pretty much. I'm not sure if I want to come in 2' or do the whole length. I think it's easier if I come in a couple of feet. It's a lot less construction, but I have to talk to my contractor.

Board Member Bodor stated okay. I like the look of the front. It really changes it as you said.

Chairman Buzzutto stated yes, it does.

Board Member Bodor stated yes.

Chairman Buzzutto stated it adds something to it that's...

Board Member Bodor stated and really the entryway is minimal. 4.5', it's not really large.

Mr. Potter stated yes. Just a place to hang your coat.

Board Member Bodor stated as you said, yes. Right. Put the wet umbrella.

Mr. Potter stated right. Wet shoes.

Board Member Bodor stated yes. Is there a back entrance to the house.

Mr. Potter stated in the basement. A full walk-in basement.

Board Member Bodor stated oh.

Mr. Potter stated and in the rear there's an entry door.

Board Member Bodor stated oh, okay.

Mr. Potter stated which is an unfinished basement.

Board Member Bodor stated this indicates an enclosed wood deck out the back.

Mr. Potter stated it's not enclosed. It does have a roof. There's no windows, it's screened in.

Board Member Bodor stated oh, okay. And you access that...

Mr. Potter stated through an entry door in the kitchen in the rear, on the first floor. But there's no access to the ground from there in other words.

Board Member Bodor stated alright.

Mr. Potter stated you can't get up from outside.

Board Member Bodor stated I like that. My deck is like that, too.

Mr. Potter stated yes. It's nice to go and sit when it's too hot outside. Get a breeze.

TAPE ENDED

Chairman Buzzutto stated is the rest of the property wooded, or is it just...

Mr. Potter stated to the left there is a yard and then the rest of the house is wooded.

Board Member Olenius stated it's kind of a steep slope, too, right.

Mr. Potter stated yes.

Chairman Buzzutto stated oh, okay.

Board Member Olenius stated I used to take care of this property many moons ago. Two owners ago.

Chairman Buzzutto stated mowed the lawn.

Board Member Olenius stated yes. Plowed the snow.

Chairman Buzzutto stated okay.

Board Member Olenius stated I like the look. It's a nice improvement when it's done.

Chairman Buzzutto stated okay. Nobody in the audience to give me any... You don't count [referring to Rich Williams]. Have anymore on that.

Board Member Olenius stated Mr. Williams, just a quick question for you. This one variance here for the 19,500 square feet, we're basing everything in RPL-10 now on ten lots. Is that what that math comes out to.

Rich Williams stated it's generally related to ten lots.

Board Member Olenius stated about ten lots.

Rich Williams stated the old code required ten lots, we changed that to actual square footage.

Board Member Olenius stated okay.

Rich Williams stated because, you know, we ran into a situation where we had somebody with three acres of property that wanted to do a 2-lot subdivision; creating two (2) acre-and-a-half lots in Putnam Lake, and couldn't pull a building permit because she had two lots.

Board Member Olenius stated oh, okay.

Chairman Buzzutto stated okay.

Board Member Olenius stated got you.

Chairman Buzzutto stated he's got eight lots.

Board Member Olenius stated it's actually a big property for Putnam Lake.

Board Member Bodor stated it is, yes.

Board Member Olenius stated I'm (inaudible) seen it at like two or...

Board Member Bodor stated I know, when I looked at it I said this one's eight lots. You've got a lot of property over there.

Mr. Potter stated I was actually surprised when I got the survey done that it was set back as far as it was from the road, which gives me, you know, a lot more woods and property behind me then I actually realized I had. Because I kind of roughed it out from the road edge.

Board Member Bodor stated yes.

Mr. Potter stated so I had more than I thought.

Board Member Bodor stated surprise.

Mr. Potter stated not bad. Same amount actually, just moved back.

Chairman Buzzutto stated the asphalt pavement, over there. This is the road here, right [referring to the survey].

Board Member Bodor stated yes.

Board Member Olenius stated there's a parallel parking area that he has in front of the house. They just paved on the shoulder of the road basically, for a parking area.

Chairman Buzzutto stated that's nice. That's convenient.

Board Member Olenius stated because this driveway here is kind of a steep down slope.

Chairman Buzzutto stated right.

Board Member Olenius stated so the winter it's parkable.

Chairman Buzzutto stated so he could park. That's great. Okay. Close the public hearing.

Board Member Bodor stated second.

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

Chairman Buzzutto stated the public hearing is now closed. Do you have anything. Do you want to read.

Board Member Olenius stated sure. The lot size one. Do you mind which one I do first.

Chairman Buzzutto stated either one of them.

Board Member Olenius stated I'll do the lot size one first. How was it announced. Does it matter. Do I have to do it the same way it was announced [referring to the order of the resolutions]. Should I do the other one first.

Board Member Bodor stated it doesn't have to be in order.

The Secretary stated no.

Board Member Bodor stated it doesn't matter.

Board Member Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Joshua Potter, Case #18-09
*For an Area Variance for Lot Size***

WHEREAS, *Joshua Potter* is the owner of real property located at 29 Overlin Road (RPL-10 Zoning District), also identified as **Tax Map Parcel #25.46-1-53**, and

WHEREAS, *Joshua Potter* has made application to the Patterson Zoning Board of Appeals for area variances pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings, in order to construct a 7' x 4.5' enclosed entryway on the front of his home, and

WHEREAS, §154-58 of the Patterson Town Code states any building which does not conform to the requirements of area and lot width of lot, shall not be enlarged unless such enlarged portion conforms to all of the provisions applying to the district in which such building is located, and

WHEREAS, the Patterson Town Code requires a lot to be at least 19,500 square feet in the RPL-10 Zoning District; Applicant has 16,000 square feet; 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 **August 19, 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 a large percentage of the lot is still wooded and well screened.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***because in order to have a useable front entryway, you need at least the depth requested.***
3. the variance requested ***is*** substantial ***however not so much so as to cause the denial of the requested variance due to other typical lot sizes in this RPL-10 neighborhood.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***because there is still substantial open lot on the property with the enlargement of this nonconforming building.***
5. the alleged difficulty necessitating the variance ***was self-created*** but ***is not sufficient*** so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby ***grants*** the application of ***Joshua Potter*** for ***an area variance*** pursuant to §154-58 of the Patterson Town

Code; Enlargement of nonconforming buildings, in order to construct a 7' x 4.5' enclosed entryway on the front of his home.

Board Member Herbst 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.

Board Member Bodor stated do you want me to do it. Does someone else want to do it.

Chairman Buzzutto stated Jerry.

Board Member Herbst stated what.

Board Member Bodor stated you want to read another one.

Board Member Herbst stated I'm sorry. I didn't...

Board Member Bodor stated do you want to read another one.

Board Member Burdick stated I don't mind doing it.

Board Member Herbst stated no, thank you.

Board Member Burdick stated I don't mind doing it.

Board Member Bodor stated alright.

Board Member Burdick read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Joshua Potter, Case #18-09
For an Area Variance for a Front Yard Setback

WHEREAS, *Joshua Potter* is the owner of real property located at 29 Overlin Road (RPL-10 Zoning District), also identified as **Tax Map Parcel #25.46-1-53**, and

WHEREAS, *Joshua Potter* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code; Schedule of Regulations, in order to construct a 7' x 4.5' enclosed entryway on the front of his home, and

WHEREAS, §154-7 of the Patterson Town Code requires a 15' front yard setback; Applicant currently has 16.3'; Applicant will have 12.5'; ***Variance requested is for 2.5'***, 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 **August 19, 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 hearing and finds that:

1. the proposed application *will not* produce an undesirable change in the character of the neighborhood *because the addition of the enclosed entryway will enhance the appearance of the home.*
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because it's a front entryway.*
3. the variance requested *is not* substantial.
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because there are eight lots, and it is only a 7' x 4.5' enclosed entryway that is being requested.*
5. the alleged difficulty necessitating the variance *was self-created* but *is not sufficient* so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *grants* the application of *Joshua Potter* for *an area variance of 2.5' from the front yard setback of 15'* as required in the RPL-10 Zoning District as set forth by §154-7 of the Patterson Town Code; Schedule of Regulations, in order to permit a 12.5' front yard setback between the 7' x 4.5' enclosed entryway and the front property line.

Board Member Olenius 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.

Mr. Potter stated okay. Thank you very much.

Board Member Bodor stated good to go.

Board Member Olenius stated good luck.

Mr. Potter stated that was very, very painless. Thank you for your help. The pictures were her idea. I got to give her credit [referring to the Secretary].

Board Member Burdick stated they're very helpful. Thank you.

Board Member Olenius stated yes.

Board Member Bodor stated they're wonderful. If you hadn't brought them, we might have wanted to go out and walk the property. So...

Board Member Burdick stated yes.

Mr. Potter stated that's what she said.

(Board Members laugh).

Mr. Potter stated alright. Thanks.

Board Member Olenius stated good luck.

Board Member Bodor stated bye-bye.

Chairman Buzzutto stated let's see.

Rich Williams stated tall, dark stranger.

Laura Roberts stated I switched sides.

Rich Williams stated I see that. You worked for (inaudible – too distant).

4) OTHER BUSINESS

Chairman Buzzutto stated we've got other business.

a) October Regular Meeting

Board Member Bodor stated oh. I have other business. I may not be around for the October meeting...scheduled meeting. I'd like not to be here.

Board Member Burdick stated what was that.

Board Member Bodor stated October meeting. I would like to be away then.

Chairman Buzzutto stated we reschedule the meeting to later...

Board Member Bodor stated that's what I would ask you to do, but...

Board Member Olenius stated other business.

Chairman Buzzutto stated yes.

Board Member Bodor stated the October meeting. If it could be rescheduled, I would appreciate it. But if it can't be, then I understand. I would like to be away that whole week.

Board Member Herbst stated what is this for.

Board Member Bodor stated one, two, three. It would be the 21st.

Board Member Olenius stated the October meeting.

Chairman Buzzutto stated the October meeting is the 21st.

Board Member Burdick stated yes.

Board Member Bodor stated yes.

Chairman Buzzutto stated and...

Board Member Bodor stated that whole week, I would like to be out of town.

Chairman Buzzutto stated of the 21st. Up until...

Board Member Bodor stated the whole week.

Chairman Buzzutto stated yes, okay.

Board Member Olenius stated so we have to do it later, right.

Board Member Bodor stated later or earlier, whichever.

Board Member Herbst stated well I don't know if we can do it earlier because of the Town Board, if we stick to Wednesday. If we do a different day, then we could.

Board Member Bodor stated well, we could change... Yes.

Chairman Buzzutto stated well, we could change the day.

Board Member Olenius stated what about the submission deadline, is that okay.

Board Member Bodor stated that's going to mix them up, yes.

Rich Williams stated then we adjust them as we go.

Board Member Olenius stated okay.

The Secretary stated if you move it ahead, it can stay the same.

Board Member Bodor stated so it might be easier then to go to the 28th. The following Wednesday.

The Secretary stated right.

Board Member Bodor stated if that's okay.

Chairman Buzzutto stated it's okay with me.

Board Member Olenius stated is our Wednesday going to be good; the fourth Wednesday.

Board Member Bodor stated no it's not, is it. No.

Board Member Olenius stated no.

Board Member Burdick stated what about Tuesday.

Board Member Bodor stated Tuesday the 27th then.

Board Member Olenius stated okay, let me start with this then, I'm going to jump ahead one thing. If we have to do the cell tower meeting back up again...

Board Member Bodor stated yes.

Board Member Olenius stated for October, is the Rec Center easier for Tuesday. I don't know, it seems like we're always there on Tuesdays. So would that be better to...

The Secretary stated I don't know what their fall schedule is.

Board Member Olenius stated okay.

The Secretary stated I don't know what kind of programs they're going to have going on.

Board Member Olenius stated okay.

The Secretary stated so it's kind of hard to say.

Board Member Olenius stated I'm just trying to be ahead of the thing if we had to do it.

Board Member Burdick stated but Mary would be here that week anyway. We could always try to do that on the 13th. Right, the cell tower. We could try to do that...

Board Member Olenius stated is that too early. From the...

Rich Williams stated October 13th.

Board Member Bodor stated yes.

Board Member Olenius stated oh, October.

Board Member Bodor stated yes. We're into October.

Board Member Olenius stated oh, I'm way ahead.

Board Member Bodor stated we're in October.

Board Member Olenius stated I'm sorry.

Board Member Bodor stated we're into October.

Board Member Olenius stated school's already started in my head, that's my problem.

(Board Members laugh).

Rich Williams stated so soon.

Board Member Olenius stated yes. I'm sorry. Don't mind me. So it would be instead of the 28th it would be the 27th. Tuesday, is that what you said.

Board Member Bodor stated yes.

Board Member Herbst stated Tuesday...

Board Member Olenius stated that's fine by me.

Board Member Herbst stated the 27th.

Board Member Bodor stated does that work for everyone.

Board Member Olenius stated that's fine by me.

Board Member Bodor stated as far as you know at this point.

Board Member Herbst stated that's October.

Board Member Bodor stated October.

Board Member Burdick stated yes, October.

Board Member Bodor stated October.

Board Member Herbst stated on the 27th, Tuesday.

Board Member Bodor stated that's the last Tuesday of the month.

Board Member Herbst stated and that will be here, not at the Rec Center, right.

Board Member Olenius stated no, here.

Board Member Bodor stated right.

Board Member Olenius stated it's the regular meeting.

Board Member Bodor stated okay. Thank you.

Chairman Buzzutto stated we'll have... Suppose the cell tower comes up on the 27th, that probably... may still be on the dockets for the meeting.

Rich Williams stated why don't we take it one step at a time and see what they submit.

Board Member Olenius stated we still have September in between.

Board Member Bodor stated yes, September is still in there.

Chairman Buzzutto stated okay.

Board Member Olenius stated I was getting way ahead, too. Sorry.

Chairman Buzzutto stated so that meeting could be at the Rec Center.

Board Member Burdick stated if we had to reschedule it in September...

Chairman Buzzutto stated yes.

Board Member Burdick stated yes.

Chairman Buzzutto stated alright, like you say, we'll just let it go. That's okay with everybody, the 27th.

Board Member Bodor stated thank you.

Chairman Buzzutto stated alright, now...

Board Member Bodor stated that's my other business.

Chairman Buzzutto stated any other business we got.

b) Patterson Crossing Lawsuit Decision

Chairman Buzzutto stated well, the only other thing I want to discuss... You got something there.

The Secretary stated the lawsuit with Patterson Crossing, there was a decision made yesterday, and it was in favor of us on all counts. So...

Chairman Buzzutto stated okay.

The Secretary stated dismissed or...

Rich Williams stated we won on all accounts...all the counts.

Chairman Buzzutto stated okay.

Rich Williams stated I do it every time.

Chairman Buzzutto stated alright, so that may come back on the agenda again.

Board Member Bodor stated no.

Rich Williams stated no, you're done.

Chairman Buzzutto stated I thought they were coming in for the variance...

Rich Williams stated they challenged your decision.

Chairman Buzzutto stated right.

Rich Williams stated the Applicant came back into the...Oh, just so you know. The Applicant came back into the Planning Board with a design which meet the height requirements of the Town.

Chairman Buzzutto stated okay.

Rich Williams stated so at this point, because of issues going on over in Kent, they are not coming back to the ZBA for a height variance, they are going with a lower height.

Chairman Buzzutto stated okay.

Board Member Herbst stated so we're finished with them.

Rich Williams stated you're done.

Chairman Buzzutto stated okay, fine.

Board Member Burdick stated for now.

Chairman Buzzutto stated for now.

Board Member Burdick stated for now.

Board Member Olenius stated for now.

Board Member Bodor stated for that issue.

Chairman Buzzutto stated well, that's great news, really.

Board Member Bodor stated well, that's good. Thanks to whomever...

Chairman Buzzutto stated yes.

Board Member Bodor stated they did a lot of work for us.

Rich Williams stated it was a big pull, and a lot of people.

Board Member Bodor stated a lot of people.

Rich Williams stated a big team.

Board Member Bodor stated thanks to all of them.

Chairman Buzzutto stated yes.

c) Cell Tower Meeting Procedures

Chairman Buzzutto stated now on the cell tower meeting next week, it's going to be on the Rec Center. Are we going to just hear his side of the...their side of the stipulations and so forth...Not stipulations, but the...what they're going to do.

Rich Williams stated they're coming in to present their proposed alternate location; the work that they've done at the request of the ZBA to find an alternate location. And they have found one apparently...

Chairman Buzzutto stated okay.

Rich Williams stated up on the north end of the Lake. And they're coming in to present that.

Chairman Buzzutto stated okay. So we have to hear what they have to say and then we'll just keep it...not a closed meeting, but just a one-sided...Let them present their case and keep the public hearing open and listen to the...and keep it on the agenda till...

Rich Williams stated well, the original application was for a cell tower at the edge of the lake.

Chairman Buzzutto stated at the edge of the lake, yes.

Rich Williams stated I imagine at this point they're going to suspend that application while they pursue an application on this new site.

Chairman Buzzutto stated right.

Rich Williams stated if the ZBA looks favorably on this site. So it would be two separate applications; one would be held at abeyance until the first one is...or...

Chairman Buzzutto stated second one.

Rich Williams stated the second one is decided.

Chairman Buzzutto stated is decided, yes. So once the second one is decided, they'll pull the application on the first one.

Rich Williams stated they will withdraw the application.

Chairman Buzzutto stated withdraw the application.

Rich Williams stated or alternatively, the Zoning Board of Appeals could take an action on that (inaudible – too many talking) application.

Chairman Buzzutto stated we could take it and deny it.

Rich Williams stated you could. If you felt it was appropriate to deny it.

Chairman Buzzutto stated well...

Rich Williams stated that certainly would close the door on that site.

Chairman Buzzutto stated deny it, yes. Just to consider it finished. Alright, so the place will be setup over there; the chairs and so forth will be all...What you see in the Lake there, there could be quite a crowd there.

Board Member Olenius stated yes.

Rich Williams stated you think.

Board Member Olenius stated yes.

Chairman Buzzutto stated yes.

Board Member Olenius stated yes.

Chairman Buzzutto stated so...

Board Member Olenius stated there's signs and flashing billboards everywhere.

Board Member Bodor stated but to go further...If they're going to present information on alternate location, how...

Chairman Buzzutto stated will we have an attorney there.

Board Member Bodor stated how are we going to...People are going to want to ask questions.

Rich Williams stated it's in your discretion to take questions or not.

Board Member Bodor stated well, I think we're going to have a revolt if we don't let them ask questions as...

Chairman Buzzutto stated yes.

Board Member Bodor stated you know, once they've heard a presentation. Things are going to popup and they're going to want to say a few words.

Rich Williams stated well, they're certainly going to want to say a few words. The question is whether you want to...

Board Member Bodor stated yes, but how...

Rich Williams stated allow that to happen at a forum which is not a public hearing on that application or not.

Board Member Bodor stated okay. There's...alright. It's not a public hearing on the...

Rich Williams stated on the alternate site.

Board Member Olenius stated the new...

Board Member Bodor stated on the new information.

Rich Williams stated so you would then have to still have that public hearing later on and take those same questions and comments.

Board Member Burdick stated do we have any idea where the new site is.

Rich Williams stated I have an approximate location. It's on property owned by Quail Ridge at the north end of the lake.

Board Member Burdick stated oh.

Board Member Olenius stated it's in their common land, because that's a cluster subdivision as well.

Chairman Buzzutto stated I know people are going to want to speak though. That's...

Board Member Bodor stated well, you know, we're going to have to decide whether we're going to let them ask questions or speak. And it will have to be stated at the inception, you know, what the rules are. What's going to happen.

Chairman Buzzutto stated right.

Board Member Burdick stated well, legally what would be the best way to handle it since we don't have a formal application on the new site. Does it matter. I mean, procedurally, would it be better to wait until we have a formal application on the new site.

Laura Roberts stated I'd have to review the procedure and then definitely get back to you with an answer. My understanding, if it's a closed forum, they can't speak. I mean...

Rich Williams stated well, here's...

Laura Roberts stated to entertain the public...

Rich Williams stated Laura, here's where it get a little complicated. They have an application where the public hearing is still, you know, held over...

Board Member Bodor stated still open.

Rich Williams stated on a cell tower site. The people are now coming in to present an alternate, which they would need to make a new application on. And that's where it gets a little dicey. People would be making comment on that second application, even though the public hearing is relative to the first application.

Laura Roberts stated yes, I wrote everything down. You know what, I'll talk to Tim and we'll definitely give an opinion back to the Board.

Board Member Bodor stated because we need to, you know, let the people know how it's going to go.

Laura Roberts stated right.

Board Member Bodor stated we can't wait until they have 100 hands in the air and say I wanted to speak, or...

Laura Roberts stated yes.

Board Member Bodor stated I signed up on that piece of paper by the door which we didn't even put there, you know. That kind of stuff, so...

Board Member Burdick stated and if the decision is that we don't open it up, I would appreciate something, if we don't have an attorney, I would appreciate something written up legally that we as a Board can read and say this is why we're not entertaining on advice of counsel because we don't have a formal application for this site. Whatever it may be. I don't know how anybody else feels, but I agree that if we don't give them reason why we're not listening to them, they are going to be screaming.

Board Member Bodor stated you know, because they're going to come there expecting to see this plan and be able to comment on it like they've done in the past. They don't understand...

Board Member Burdick stated can we give them the...

Board Member Bodor stated public hearing or just an informational meeting.

Chairman Buzzutto stated yes.

Board Member Burdick stated can we give them an option to...that they can't speak at that point, but we certainly will take written comment if they prefer to send something into us pending the new application.

Rich Williams stated we never refuse written comment, ever. So yes, always.

Board Member Burdick stated we can make that offer.

Rich Williams stated yes you can. I also want to point out to you that really, I would imagine, I'm not sure what the attorneys are going to come back with, but I would suspect this is not going to be so much a legal issue as it is a procedural one. And that is within the discretion of the Board.

Laura Roberts stated be more of a policy.

Rich Williams stated yes.

Chairman Buzzutto stated I'm just afraid of the outburst of the people. You know...

Rich Williams stated I've got to say this, I think they're going to look fairly favorably on the new location. So I don't think you're going to have that acrimony. You know, on top of that, you know, every time they've been in they've been reasonably well-mannered and respectful.

Board Member Bodor stated yes, but if they expect to come to the meeting and say a few words or ask some questions and then they're not allowed to, it's going to make them unhappy. So we need to let them know what they can expect.

Rich Williams stated sure.

Board Member Burdick stated well, will it mess up the record because what they're going to be talking about is for an application that's not made yet. So I guess that's where I'm coming from. Does it convolute everything...

Board Member Bodor stated yes.

Board Member Burdick stated or do we just...

Laura Roberts stated unless you entertain the application.

Rich Williams stated well, they haven't made it so...

Board Member Burdick stated so we can't.

Laura Roberts stated correct.

Rich Williams stated yes.

Laura Roberts stated yes, that's what I'll have to research and definitely get back to the Board.

Board Member Bodor stated it's an informational meeting. That's all it really is.

Laura Roberts stated yes.

Chairman Buzzutto stated unless it will be information on the new...

Rich Williams stated on the new tower.

Board Member Bodor stated information on the new site.

Rich Williams stated and I think the people are going to be very understanding if you explain it right at the outset that, you know, the application hasn't been made. This is not a public hearing. There has to be and will be a public hearing at which time people can, you know, make comment, but this is just the beginning of the community and the ZBA evaluating this new proposed location.

Chairman Buzzutto stated and they will speak on what their procedures are going to be. At least, you know...

Rich Williams stated they're going to speak on what procedures.

Chairman Buzzutto stated on what the tower's going to be. On where it's going to be.

Rich Williams stated yes.

Chairman Buzzutto stated height and all that.

Rich Williams stated yes.

Chairman Buzzutto stated and they can take that home with them and, you know, browse over it and come back at the next meeting and speak.

Rich Williams stated and we don't have anything in the office at this point, I believe, as far as maps showing location, access, things like that. So...

The Secretary stated no. Only what was submitted with the one letter that you got where it showed about in Quail Ridge and then in the letter saying that I believe it might be 145'.

Board Member Bodor stated there was some information that we did receive, yes.

The Secretary stated just a little bit, but it was vague.

Board Member Bodor stated yes.

Chairman Buzzutto stated just for your information, the cell tower on the lake is a very sensitive...

Laura Roberts stated I could imagine.

Chairman Buzzutto stated a very sensitive thing over there.

Board Member Burdick stated I can still see them feeling that they have the right to ask questions though, of the people doing the presentation. I really can. It's going to be delicate.

The Secretary stated the only thing is it was noticed as a public hearing.

Board Member Bodor stated it was. Or wasn't.

The Secretary stated it had to be...

Rich Williams stated for the initial application. Only for the initial application.

Board Member Bodor stated but you see...

The Secretary stated if they come and you say it's not a public hearing but it was noticed as a public hearing.

Board Member Burdick stated people aren't going to understand.

Board Member Olenius stated I think we're just going to have to be specific at the outset.

Board Member Burdick stated yes.

Board Member Olenius stated this is a public hearing for the initial application.

Board Member Burdick stated and this is a proposal...

Laura Roberts stated it's an alternative application...

Board Member Olenius stated there's an alternative location that the Applicant's going to provide with us tonight. Please defer questions on the new location until the next public hearing, at which time a formal application...

Laura Roberts stated on that second location. Yes.

Board Member Olenius stated yes.

Board Member Bodor stated when the application is received.

Laura Roberts stated yes.

Board Member Olenius stated you're welcome to make comments on the initial...

Laura Roberts stated correct.

Board Member Olenius stated application.

Rich Williams stated I want to be clear, I'm not trying to discourage you from taking public comment...

Chairman Buzzutto stated no.

Board Member Bodor stated no.

Rich Williams stated if you're comfortable and want to do that.

Board Member Bodor stated I just...no. I'm trying to, you know, look at it...People don't understand public hearing/informational meeting. It doesn't mean anything.

Rich Williams stated right.

Board Member Bodor stated it's been noticed as a public hearing so they're going to come in there expecting to speak about the cell towers in Putnam Lake. Perhaps the new proposal will be the one they want to speak to. But the fact that we don't have an application for it yet doesn't...It means that we can't open it up as a public hearing, but they don't know that.

Rich Williams stated right.

Board Member Bodor stated they don't know that. And this is the piece, you know. It's hard for us to understand and they're out there, you know. And I feel they're going to want to. We're going to have to make up our minds: are we going to allow them to speak on the old, the new information, whatever it is, or not.

Chairman Buzzutto stated well, what are they going to talk about the old one for. That's been...

Board Member Bodor stated well, they're going to tell us how bad it is.

Board Member Olenius stated yes.

Chairman Buzzutto stated yes.

Board Member Bodor stated and it shouldn't be there. They're going to reiterate a lot of the stuff.

Rich Williams stated yes. And honestly if you open it up to a public hearing on the old one, what they're going to do is they're going to come up and say old one bad, new one good. And that's what they're going to do.

Chairman Buzzutto stated yes.

Rich Williams stated and they're going to, you know, you're going to roll the new one into it.

Chairman Buzzutto stated damn. Damn, damn, damn. No, that's why I wanted to discuss this tonight so we have some...

Board Member Bodor stated we're going to get a new proposal. It's an information meeting for us. The public's going to be hearing it at the same time. We're going to have some questions too. Now, if we start asking questions, why can't you ask questions too on it. I mean, your question's different than mine.

Laura Roberts stated correct.

Board Member Burdick stated should we be asking questions without a formal application.

Rich Williams stated without hearing a presentation, I have no idea. I don't know what questions there might be.

Board Member Burdick stated should we even be having this meeting without a formal application.

Rich Williams stated well...

Board Member Bodor stated good point.

Board Member Burdick stated I mean, I don't know.

Rich Williams stated I think you have to because your direction was, you know, we're not comfortable with the existing site you're proposing, go look at alternatives. And they're coming back in response to that direction.

Laura Roberts stated but shouldn't they put a formal application in if they have an alternative site.

Rich Williams stated if...What I think they're looking to do is for...to present it to the ZBA, saying this is what we've looked at, this is what we've done, you know. Are you...

Laura Roberts stated what do you think.

Rich Williams stated yes. Are you comfortable...

Laura Roberts stated before we do it.

Rich Williams stated these sites. Their response should be, you know, either: no, it's horrible, I don't like it. Or, you know, we need to evaluate it further, put an application in.

Board Member Olenius stated that's all the more reason to let the public speak then, in my opinion, because you'd want to hear what the pulse of the community wants to know, too.

Board Member Burdick stated that's why I think we need a formal application.

Chairman Buzzutto stated how are we going to get a formal application between now and Tuesday.

Board Member Burdick stated no, I'm just saying I just think that it's very...

Chairman Buzzutto stated I agree with you.

Board Member Burdick stated they would be speaking to an application that's not even officially made. I agree that they should have...They're going to come expecting to be able to be heard and ask questions. Do we know if the applicant's going to be prepared to address questions from the audience.

Rich Williams stated I would imagine they're going to be prepared to answer some questions, you know. That's the nature of the beast, that you come in expecting to be questioned, both by the Board and possibly by the public.

Board Member Herbst stated I would think that if they're sending in their attorney and their executives over, or whoever handles this, they should be able to answer some questions.

Board Member Burdick stated but how did...Again, I'm going to go back to how that affect the record of there's no formal application. If we start asking questions on an application that we don't have before us yet, how does the record transfer to that application once it's made.

Laura Roberts stated correct. And I'll have to do some research and talk to Tim. I mean, is your public going to be outraged too because now you're speaking on an application that one, isn't before the Board and two, have they been noticed on it. So are they going to walk into this meeting feeling that, you know, they were misinformed. And now you're throwing new information at them without giving them ample time to research it and have their questions ready.

Rich Williams stated I don't see where that would be an issue because, I mean, all that still has to be done. And, you know, you just need to make them aware that, you know, these are steps that haven't been taken yet.

Laura Roberts stated I agree with the Board member, but the public, they're not going to understand informational and public hearing.

Rich Williams stated I think really the danger to the record is the redundancy that you have. You know, you would have comments on the initial application which really are relative to the second application. And the people are going to be coming back in making those same comments again. So...but...

Laura Roberts stated and I'll speak to Tim in great detail about this and get an opinion. I feel it's more procedural than it is legal.

Rich Williams stated right. It's what you want to do with it.

Board Member Bodor stated thanks.

(Board Member laughs)

Rich Williams stated well, you know, we've given you, you know, our best advice and options and, you know...

Laura Roberts stated and, you know, we want to check the procedure and make sure you can entertain an application...an issue that's not an application before the Board. And that's why I'll definitely talk...

Board Member Bodor stated they call it brainstorming session, for the community and the Board.

(Board Member laughs).

Board Member Burdick stated but usually if you go to a presentation, you do have the ability to ask questions...

Board Member Bodor stated yes, yes.

Board Member Burdick stated on what's being presented.

Board Member Bodor stated that's right.

Chairman Buzzutto stated we can't discuss the first application and make a decision on that one and then let them come up with the new...regular...

Rich Williams stated sure you can.

Chairman Buzzutto stated can't that be the height of the meeting then. Let them discuss that and take a vote on it, deny it and let them go back with a new application for the...

Rich Williams stated but if you deny it then you are cutting off avenues that they are looking to keep open. And don't be surprised if you end up with an Article 78. I don't want to speak out of turn for the attorney. You know, I know the attorney that's representing him; he's a smart attorney and he's...

Laura Roberts stated who's the attorney.

The Secretary stated Neil Alexander.

Rich Williams stated yes.

Laura Roberts stated okay.

Rich Williams stated and he's done a lot of these and he likes to keep his options open.

Board Member Olenius stated I would think they would probably petition us for waiving fees for a second application since we requested them to come up with an alternate location.

Rich Williams stated let's hope they haven't thought of that.

Board Member Olenius stated yes.

Board Member Burdick stated well if he's such a sharp cookie I'm sure he has.

Board Member Olenius stated yes.

Rich Williams stated he's also a very reasonable cookie and...

Board Member Burdick stated then he should have made an application for the new site.

(Board Members laugh)

Chairman Buzzutto stated I just know that there's going to be outcry if we...

Board Member Burdick stated I think if it's handled correctly in the very beginning and just state that this is an informational meeting on the new proposed site and if we decide to take comments then it's only going to be for the new site, not the old site because we've already heard comments about the old site. And I think if we could limit it to that and stay on task with it, if somebody starts talking about the old site, then

we probably can maintain control. Other than that, I think it's going to be chaos. If we don't allow them to talk, I think it's going to be chaos; if we don't allow them to ask questions.

Chairman Buzzutto stated well, can they talk about the old site though.

Board Member Burdick stated I think we have the right to tell them that this is only about the new proposed...Right.

Rich Williams stated I would agree that you have the ability to entertain any comments you feel relative to the current application.

Board Member Burdick stated well, the current application is the old site though.

Rich Williams stated but you're also evaluating alternates, so you can balance it.

Board Member Burdick stated okay.

Chairman Buzzutto stated so we're going to entertain on a new site which we don't have an application for. Not yet anyway.

Rich Williams stated that's what's being discussed, yes.

Chairman Buzzutto stated yes. I resign.

(Board Members laugh)

Board Member Olenius stated scaredy cat. If anybody's going it's me. I'm the one getting lynched.

Board Member Burdick stated well what is the general feeling. Have you...

Board Member Olenius stated it's positive.

Board Member Burdick stated it's positive.

Board Member Olenius stated I believe it's positive.

Board Member Burdick stated have you heard feedback that people are expecting to be able to speak at the meeting, or they haven't gotten that detailed.

Board Member Olenius stated they pretty much hold these signs, and anything I've heard is just show up and hear what it's all about.

Board Member Burdick stated okay.

Board Member Olenius stated you know, I mean, they may expect...I'm sure they're going to expect to ask some questions. But I think if we state, you know, we're really just looking to get a sense of the public if it's favorable in their eyes, that they'll respect that. You know, and explain that there's going to have to be another whole application and public hearing and time for comment and...

Rich Williams stated I'll tell you this, if you in the beginning, at the outset, say that you're looking to get a sense of what the public's looking for, you're going to encourage comment.

Board Member Burdick stated yes. Exactly.

Board Member Olenius stated that's true.

Board Member Herbst stated what about PLCC. Are they still hoping.

Board Member Olenius stated I'm sure they are.

Rich Williams stated yes, there's some friction there because some PLCC still wants it...

Board Member Herbst stated we should probably expect them there, too, right.

Board Member Olenius stated oh yes.

Rich Williams stated yes. Absolutely.

Board Member Olenius stated definitely.

The Secretary stated and the office has received a few questions wanting to know if they are going to be able to speak. They've been told that it's at the discretion of the Board, so...

Chairman Buzzutto stated alright, so you were going to give some information on the... What was it you asked now. The...

Board Member Burdick stated just the procedure.

Laura Roberts stated the procedure, yes. I'm going to speak with Tim and review the Code to see procedurally.

Board Member Bodor stated if it's described at the very beginning and everybody's made aware that this is an informational meeting on an alternate site as the Board had requested, but we don't have an application for it yet, we're just trying to get... learn what it's all about, and when the presentation is finished if the public wishes they can question... if they have questions regarding the information on this proposed new site, we would entertain them. If we could just channel it just questions regarding the new site. Not discussion: I'm in favor, I'm not in favor and what about that. But questions related directly to what the information is as presented Tuesday night. Question the presenters on where do you say the tower... You know, just stuff whatever it is they're going to give us. If maybe we can just narrow it down to that at the inception, and let them know that that's how it will work, maybe we can handle it. I don't...

Board Member Olenius stated probably announce time limits, too, again, right.

Board Member Bodor stated yes, but... Yes. But a question shouldn't take forever and ever.

Board Member Olenius stated right.

Board Member Burdick stated they shouldn't have...

Board Member Bodor stated discussion could.

Board Member Olenius stated right.

Board Member Burdick stated yes. Because there's no information out there about exact location and all of that, we shouldn't have that kind of information to come and start talking against this for these reasons...

Board Member Bodor stated right.

Board Member Burdick stated because they don't have that information yet. So hopefully by doing that, it would just allow them to ask questions of what was presented.

Board Member Bodor stated on the presented material...

Board Member Burdick stated yes.

Board Member Bodor stated alone. That's it. Solely.

Chairman Buzzutto stated so how will we get information to the people.

Board Member Bodor stated that night.

Board Member Burdick stated that night.

Board Member Bodor stated make that announcement.

Chairman Buzzutto stated that night, that's all.

Board Member Bodor stated yes. Well, they're coming there and then we'll tell them, you know.

Board Member Burdick stated but from what Lars is saying, that's really what the literature he's seen out there is just come and learn about the new proposed site.

Chairman Buzzutto stated what is there to learn about except where it is.

Board Member Burdick stated what they're going to present.

Chairman Buzzutto stated yes, just to listen to them. What the stats are going to be on it and so forth. Alright, that's...

Board Member Bodor stated look at their pictures and their drawing and their diagrams and...

Chairman Buzzutto stated okay.

Board Member Bodor stated they come armed.

Chairman Buzzutto stated and I imagine they'll have an official application for the next meeting.

Board Member Bodor stated if...

Board Member Olenius stated well, they probably want to get a sense of...

Board Member Bodor stated they want to get a sense.

Board Member Olenius stated if we like the location.

Board Member Bodor stated that's right.

Chairman Buzzutto stated yes.

Board Member Olenius stated before they spend that...

Board Member Bodor stated and is the public going to lynch them, so they might want to know that before they go any further.

Board Member Olenius stated yes, they don't want to...

Board Member Burdick stated is it okay to defer the decision whether we want them to put in a formal application till after the meeting and wait until the public's gone so we're not doing that in front of the lynch mob. I mean, we've had conversations in the past with Carl that we can defer some of our decisions and do the resos at a later date. Is this a situation where we can do that.

Rich Williams stated well I would...First off, I would not recommend that you take any action on the initial application.

Board Member Burdick stated yes.

Rich Williams stated okay. I think it would be fair to, at the end of the meeting, kind of give them a general feeling about, you know, the second application. But I wouldn't recommend that they put an application in or not. You know, that's, you know, entirely up to them. They're going to, you know, if they get the sense that the Board looks semi-favorably on the new application...or the new location, then they're just going to do that on their own. But I don't think you need to take any action as far as...

Board Member Burdick stated so we're going to have to give them feedback though, based on what, you know...We're going to have to say something to them as far as, okay, that's more favorable than the old one.

Chairman Buzzutto stated well, as long as the applicant don't think that because the position where the tower's going to go and they're all favorable up there that that's what the Board is thinking. You know, we might have a different decision, too.

Rich William stated yes.

Chairman Buzzutto stated they may say, well, we want it up there, but we may come up with something to say why you can't have it up there.

Board Member Olenius stated yes, you're right.

Chairman Buzzutto stated so I don't want them to think just because they have a meeting and everybody's in favor of it, that they're going to put an application and think it's going to fly.

Rich Williams stated no. And I agree. And that's why I'm saying not so much to say, oh yeah, we really like this application...we really like this location, why don't you put an application in for this one. But, you know, it seems like it would be less visible. It might be less of an impact to the community. You know, we have to evaluate that. But it looks like it might be better at this point, kind of. And I'm not sure what they're coming in with either, because I do know they looked at a few locations. I do know they looked at another location at south end of the lake. I'm not sure if they're coming in with that or not.

Chairman Buzzutto stated well, Quail Ridge seems to be the favorable site.

Rich Williams stated my discussions with them, they seem to be leaning towards Quail Ridge. They didn't...It wasn't as good with the coverage, but it was good enough and the property owner was very receptive, it was out of the way...

TAPE ENDED

Board Member Olenius stated there's no application to do one on yet.

Board Member Burdick stated there's nothing...

Board Member Herbst stated yes, I know that. But I mean, we would have to wait for an application before we do the site walk...

Chairman Buzzutto stated yes.

Board Member Herbst stated but you can't make any decision until you've seen where it's going to go.

Rich Williams stated and generally you do a balloon test as well.

Board Member Bodor stated yes.

Board Member Burdick stated there's a lot that still needs to be done.

Board Member Herbst stated that's the other thing, too.

Rich Williams stated they've already done a balloon test and there are members of the community who witnessed the balloon test. They went looking for it.

Board Member Bodor stated this Quail Ridge site they've done it.

Rich Williams stated yes.

Board Member Bodor stated oh. Then they're going to have pictures for us.

Rich Williams stated I'm sure they will.

(Board Member laughs)

Chairman Buzzutto stated yes, but we can request our own balloon test, right.

Rich Williams stated I think for consistency you should.

Chairman Buzzutto stated yes.

Board Member Bodor stated we always have.

Chairman Buzzutto stated yes. We always have.

Board Member Bodor stated we're not going to stop now.

(Board Member laughs)

Chairman Buzzutto stated alright. So that's we'll do. We'll try to...

Board Member Bodor stated and they probably will try to get out of us, too, at the end of the meeting, what do you think. Do you think we should present this.

Board Member Burdick stated of course they're going to.

Board Member Bodor stated they're going hit us and... You know, well, should we make an application on this one.

Chairman Buzzutto stated we shouldn't ask for (inaudible).

Board Member Bodor stated but they will.

Board Member Burdick stated they're going to.

Board Member Bodor stated they certainly will.

Board Member Burdick stated that's what they're going to be expecting.

Board Member Bodor stated yes.

Board Member Burdick stated you know...

Laura Roberts stated they'll want to know.

Board Member Burdick stated a generally feeling from us...

Board Member Bodor stated yes.

Board Member Burdick stated as to whether we see this as favorable or not.

Board Member Bodor stated that's right.

Board Member Burdick stated and what happens if we give them that impression, and then as we get more information we don't like it, were we leading them astray by...I don't know. I feel very uncomfortable about the whole procedure of this.

Laura Roberts stated well, it's like I said. I'm going to propose to Tim and Carl, you know, and let me make sure I have the question right: Can you have an informational meeting without a formal application, is your first concern, correct.

Board Member Bodor stated yes.

Chairman Buzzutto stated right.

Laura Roberts stated and second: Should you allow the public to speak on an issue that isn't a formal application before you.

Chairman Buzzutto stated okay.

Board Member Burdick stated and the other one would be what we just said about giving them a feeling that this is...

Laura Roberts stated leading them on, so to speak.

Board Member Bodor stated yes.

Laura Roberts stated in Layman's terms.

Board Member Bodor stated yes.

Board Member Burdick stated right

Chairman Buzzutto stated leading the applicant on.

Board Member Burdick stated yes.

Laura Roberts stated right.

Chairman Buzzutto stated yes.

Board Member Bodor stated yes.

Laura Roberts stated on the second site.

Chairman Buzzutto stated right.

Board Member Burdick stated like you just said, you know, something may come up that we absolutely don't like that site, but if we've given them encouragement to move forward with it...

Chairman Buzzutto stated that's why I don't want that to happen, you know. But because they like it that don't mean... We may have to consider different legal things.

Board Member Bodor stated but the other thing is too, you know, it could look very good to begin with and it could look very favorable today. And if, you know, if you are giving them an indication one way or the other, we are going to be basing that upon what we know today.

Board Member Burdick stated yes.

Board Member Bodor stated not what we're going to find out two months down the road. So today it might be okay, and we say yeah, I like this. It looks good and to me it's probably preferable. But that's with the information I have now.

Laura Roberts stated without doing your own investigation.

Board Member Bodor stated right.

Laura Roberts stated that's with their information.

Board Member Bodor stated yes.

Board Member Burdick stated that's what we'd have to, I think, preface.

Board Member Bodor stated right.

Board Member Burdick stated we'd have to say, based on the information that we were given today, without further exploration, it looks...

Board Member Bodor stated it looks like something you could pursue.

Board Member Burdick stated but there's a lot more information that's needed...

Board Member Bodor stated oh yes.

Board Member Burdick stated before a decision can be made.

Board Member Olenius stated I have another question that just occurred to me. I was informed by someone that the, and I don't know if this is true or not, and I'm looking for clarification, the FCC has mandated the tower be built in the Putnam Lake area.

Rich Williams stated no.

Board Member Olenius stated no. Okay. I didn't think so. And it kind of caught me off guard.

Rich Williams stated they always go back to that line of seamless...

Board Member Bodor stated seamless.

Rich Williams stated coverage.

Board Member Burdick stated seamless coverage.

Board Member Bodor stated seamless coverage.

Rich Williams stated we have to have seamless coverage.

Chairman Buzzutto stated seamless coverage.

Rich Williams stated we have to have coverage everywhere. But somehow, they always seem to focus on transportation corridors.

Board Member Olenius stated okay.

Rich Williams stated have you noticed that.

Board Member Olenius stated I was just curious. It was a Town official that approached that to me that you got to get one somewhere. Whether you want to because the FCC has mandated it.

Rich Williams stated they have a lack of coverage and the FCC has mandated that they provide adequate coverage within their licensed area.

Board Member Olenius stated okay.

Chairman Buzzutto stated but then they say...

Board Member Burdick stated so it's a stretch, but it was accurate.

Board Member Olenius stated yes. Got you.

(Board Member laughs)

Board Member Olenius stated caught me off guard.

Chairman Buzzutto stated the application for the tower at Quail Ridge maybe be insufficient so we have to put up three Peter towers.

Rich Williams stated there's alternate technologies that...

Chairman Buzzutto stated they may want Peter towers in there...

Rich Williams stated sure.

Chairman Buzzutto stated coming down the lake or some place, which is going to get back to the south end of the lake or the west end of the lake.

Rich Williams stated yes, but rather than have one big tower and move everything, they can have multiple much smaller towers as long as you recognize there is a height limitation.

Chairman Buzzutto stated yes. Well, they may come back to us and say that, too.

Rich Williams stated that's much more costly which is why nobody's proposing it.

Board Member Herbst stated does the PLCC own everything around the lake.

Board Member Olenius stated the lake shore.

Board Member Herbst stated all around.

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

(Inaudible – too many talking).

Board Member Herbst stated it's back with PLCC.

Laura Roberts stated (inaudible – too distant) trees or...

Rich Williams stated oh god, no.

Board Member Olenius stated it's not near the lake edge.

Rich Williams stated you want a tree. You want to see a tower look like a tree.

Board Member Bodor stated oh my goodness no. They are really ugly. Really ugly. And you can, you know, they...

Laura Roberts stated when I was in Jersey I thought it was a tree.

Board Member Bodor stated they stand out.

Laura Roberts stated it was in New Jersey.

Board Member Bodor stated you can identify them.

Laura Roberts stated this attorney thought it was a tree when she was in New Jersey.

Board Member Olenius stated really.

Board Member Bodor stated well, she's not an outdoor person.

(Board Members laugh)

Laura Roberts stated no.

Rich Williams stated I think the Board's done a lot of work on trying to identify the least visually impactive, and generally that's the strict monopole.

Board Member Bodor stated the monopole, with no flag on top. Just the monopole.

Chairman Buzzutto stated you mean the stealth.

Rich Williams stated yes. We have one down the south end of Town.

Chairman Buzzutto stated well, that's what they wanted to put...

Laura Roberts stated is that like the one they have in front of Carmel Fire Department.

Board Member Bodor stated that's one.

Laura Roberts stated with a ball.

Board Member Bodor stated that's one.

Rich Williams stated but they put a flag...

Board Member Bodor stated but they put a huge flag on it.

Rich Williams stated yes.

Laura Roberts stated but it works with the area because you've got the fire department and the ambulance corps right there.

Board Member Bodor stated maybe.

Rich Williams stated but we put one in down south end of Town, and nobody realizes it's there.

Laura Roberts stated okay.

Rich Williams stated it's very visual when you know it's there.

Board Member Bodor stated you know it's there.

Rich Williams stated when you look. But when you're driving by, nobody ever sees it.

Board Member Olenius stated actually after it was up, I drove by it several times and I said I needed to look for that thing. And finally I remembered and looked and I was like oh, that is good.

Board Member Bodor stated that looks good, yes.

Board Member Olenius stated yes. Because you know, otherwise I wouldn't know it.

Chairman Buzzutto stated I know Brookfield has...Connecticut has tower...not a tower. One of those high tension towers. They have...

Rich Williams stated microwave towers.

Chairman Buzzutto stated yes. No, it's a high...

Board Member Olenius stated there's a transmission line that runs through there that they put...

Chairman Buzzutto stated they put...

Board Member Olenius stated cell antennas on.

Chairman Buzzutto stated cell antennas on.

Board Member Olenius stated I saw it, too.

Chairman Buzzutto stated yes.

Board Member Olenius stated it's the one on Route 7, right.

Chairman Buzzutto stated Route 7, yes.

Board Member Olenius stated yes. I saw it.

Rich Williams stated interesting.

Chairman Buzzutto stated very interesting.

Board Member Olenius stated I thought that that was a...

Chairman Buzzutto stated I thought that...

Rich Williams stated well, I always wondered how the electromagnetic...

Chairman Buzzutto stated that's what I'm saying; the magnetic fields setup...

Rich Williams stated interfere with the radio...

Chairman Buzzutto stated but they got it there. I've seen it a couple of times.

Board Member Olenius stated yes.

Board Member Bodor stated okay...

Board Member Olenius stated they're not close to the voltage.

Chairman Buzzutto stated okay. What's this...

Board Member Bodor stated are we set.

Chairman Buzzutto stated yes.

Board Member Bodor stated okay, good. You're going to make the big announcement how we're going to run the meeting. We're not...

Chairman Buzzutto stated you are.

(Board Members laugh)

Rich Williams stated I think there's one last thing just to clarify, I think you would be more comfortable having an attorney there.

Chairman Buzzutto stated I would think so.

Rich Williams stated yes. So you might want to convey that to Tim.

Chairman Buzzutto stated yes.

Laura Roberts stated when is that meeting.

Board Member Bodor stated next Tuesday.

Board Member Olenius stated Tuesday at 7:00.

Board Member Herbst stated Tuesday.

Laura Roberts stated Tuesday.

Board Member Bodor stated at 7:00 p.m. And it's at the Rec Hall.

Chairman Buzzutto stated at the Rec.

Laura Roberts stated I'm busy that day. At 7:00 p.m.

Board Member Bodor stated yes. At the Rec Hall.

Laura Roberts stated okay.

Rich Williams stated it is not Monday, so there is no excuse for being at Kent. Tell Tim.

Laura Roberts stated yes.

Chairman Buzzutto stated I think...

Laura Roberts stated is it Carl that usually covers.

Rich Williams stated yes, but I'm not sure... Tim was saying that he was on vacation or...

Laura Roberts stated yes. I don't know when he comes back.

Rich Williams stated I don't know either.

Laura Roberts stated I will definitely relay that information tomorrow.

Chairman Buzzutto stated well, as long as I got the whole Board behind me. I mean, in front of me.

(Board Members laugh).

d) Minutes

Board Member Herbst stated okay. Can I make my favorite motion now.

Board Member Bodor stated we have minutes.

Board Member Herbst stated oh, we have minutes to do. Right.

Board Member Bodor stated would you like to make that motion.

Board Member Herbst stated yes. I'll make a motion that we...I got to get them out again [referring to the minutes].

Board Member Bodor stated no, you don't have to.

Board Member Herbst stated alright. I make a motion that we accept the minutes of July 21, 2009...

Board Member Bodor stated as written.

Board Member Herbst stated as written.

Board Member Bodor stated I'll second it.

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

Chairman Buzzutto stated okay.

Board Member Herbst stated that's it.

Board Member Bodor stated now you can do the other one.

Board Member Herbst stated okay. I make a motion we adjourn.

Chairman Buzzutto stated okay.

Board Member Bodor stated I'll second it.

Chairman Buzzutto stated but before that, I would like to request that we do have an attorney there.

Board Member Olenius stated yes.

Board Member Bodor stated yes.

Meeting was adjourned at 8:34 p.m.