

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS
August 24, 2011**

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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

**ZONING BOARD OF
APPEALS**

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

PLANNING BOARD

Shawn Rogan, Chairman
Charles Cook, Vice Chairman
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**Zoning Board of Appeals
August 24, 2011 Meeting Minutes**

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

Present were: Chairman Lars Olenius, Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Howard Buzzutto, Board Member Gerald Herbst, Jay Hogan, Attorney with Town Attorney's Office, Rich Williams, Town Planner.

Chairman Olenius called the meeting to order at 7:02 p.m.

There were approximately 4 members of the audience.

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

Chairman Olenius led the salute to the flag.

Roll Call:

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

1) PATRICIA TANZI CASE #03-11

Applicant was not present.

Chairman Olenius stated we received a letter from the Building Inspector regarding the first case, Patricia Tanzi. Waiting to hear back from the Health Department still on this, so I guess we'll put it off for one more month again. Hope there's some resolution by then.

Board Member Buzzutto stated been a long time. Okay.

2) **DINO RENTOULIS CASE #09-11 – Area Variance**

Mr. Dino Rentoulis and Mr. David Pierro, Houlihan Lawrence, were present.

Chairman Olenius stated why don't you read the...

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 24, 2011 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following application:

Dino Rentoulis Case #09-11 – Area Variance; Held over from the July 12, 2011 meeting

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

Chairman Olenius stated you don't have to.

Mr. David Pierro stated if I might (inaudible) to review the use variance first.

Chairman Olenius stated I don't see why not.

The Secretary stated okay. So...

3) **DINO RENTOULIS CASE #10-11 – Use Variance**

Mr. Dino Rentoulis and Mr. David Pierro, Houlihan Lawrence, were present.

The Secretary read the following notice:

Dino Rentoulis Case #10-11 – Use Variance; Held over from the July 12, 2011 meeting.

Chairman Olenius stated come on up.

Mr. Pierro stated back at our last meeting, we had...

Board Member Bodor stated you have to speak into...

Board Member Buzzutto stated wait, wait.

Board Member Bodor stated the mic, very clearly.

Mr. Pierro stated back at our last meeting, we had requested the reissuance of a use variance for the residential dwelling at the Alpine restaurant. I'm handing out a photograph circa 1949 or '50 that I showed

you at the site walk, which shows the original Alpine...what is now the Alpine Restaurant, the original cow barn. And behind that cow barn is a single family residence, and this is...That building may be 50 years there...or fifty years earlier than that.

Board Member Buzzutto stated do you have one more of these, Dave [referring to the photograph].

Mr. Pierro stated I thought I had plenty. Would you check the ones I gave out. There's another one on my seat over there, Dino. Sorry.

Board Member Buzzutto stated oh, I see. You don't have one (inaudible – papers shuffling). Alright.

Mr. Pierro stated here, I have to hand out papers so put that back [referring to Dino handing him the cordless microphone]. Thank you. I can speak into this one. So this photograph shows the former Mallory Stevens Farm. It may have even been the Buechel Farm prior to that. And that building, I will point it out to you if you don't recall, is what is now the Alpine restaurant. And if you look immediately to the rear of that, is where the residence was. The residence that is there now is on the same footprint. It's on the same slab. It has always been a residence. It has never been a commercial property. In, on or about, I believe it was 1951 or two, Mallory Stevens created the easement through the center of this property to continue access to the cow building but also to get access to the ski area; what was a rope tow at that time. And that is when the cow barn was converted to a restaurant. And many of you may remember it as a Chinese restaurant. As a child, I remember driving by it. Ming Hoy, I think, was the name. And then it became the Birch Hill Inn. When Mr. Rentoulis purchased the property, it was a residential dwelling. It may have been used by the Ming Hoy people as evidence by Mrs. Bodor, but currently it is vacant. It was destroyed...

Board Member Buzzutto stated what year was that purchased.

Mr. Dino Rentoulis stated sorry.

Mr. Pierro stated what year did your father purchase.

Mr. Rentoulis stated in 2000.

Mr. Pierro stated so it was a residence from the '50s to 2000. May have been different shapes or forms because it may have been destroyed by fire prior to Mr. Rentoulis owning that building. But in any event, it was always rebuilt as a residential structure. And it enjoyed the variance...Once the cow barn became a commercial use, it enjoyed a variance...it enjoyed the residential use. And as of today, as you well know, you saw it, it is vacant. And here's a survey from 2000 when Mr. Rentoulis and his folks purchased this property. You'll notice that in the rear of the two-story framed building there is a building that's marked...

Board Member Burdick stated you could just pass these down, Dave [referring to passing out the surveys].

Mr. Pierro stated okay. There's a building that's marked a one-story building, and that one-story building in 2000 had three entrances. This building is a modular raised ranch. And modular ranches have a front door, a rear door, and a side door. But because this building is mated up to the restaurant, they put a side door on either end. So there's a kitchen door, the back door and the front door, as most houses are today. What I'm going to hand you now, this building was destroyed by fire some five years ago. This is a truss plan that was provided to the Building Department for the renovation and rebuild of their unit. And as you...If you look closely, I know it's a little light, but if you look closely at it, you will see that that is

exactly what you looked at at the site walk; it is a two bedroom apartment with a kitchen, a living room, a den or an office and two bathrooms. And Mr. Rentoulis will speak to as...speak about the financial problems he's having right now. But I have to caution him, again, there is litigation ongoing with former tenants and even current tenants. So he is limited to what he can say about that active litigation. But this property has not had income in two...The restaurant has not had income in over two years. The building has been...The residential structure that we're seeking the variance for has not had...has not been occupied in over five years. There have been open building permits in place. The building...The whole roof and truss structure has been rebuilt as per Code, as per State Code, it is all inspected. The only thing, as you can tell from your walk through the other evening, the only thing that needs to be completed is the finishing of the floors, the trim work and the installation of cabinets in the bathroom and in the kitchen, and the final electrical. Final electrical is light switches and outlets and bathroom lights, and kitchen lights. And I will, at this point, let Mr. Rentoulis speak to you about the financial problems he is having with this particular property.

The Secretary stated Dave, do you have copies for the record.

Mr. Pierro stated excuse me.

The Secretary stated do you have copies for the record.

Mr. Pierro stated sure.

Board Member Bodor stated let me give her the ones that I've used.

Mr. Pierro stated this is in the Building Department file, the truss plan. And surveys are here, ad nauseam. They're all over the place. And the photograph is also in Rich's file in PDF, or you can take one of those.

Board Member Bodor stated take this.

Mr. Pierro stated (inaudible – too distant).

Board Member Bodor stated so you have hard copies.

The Secretary stated thank you.

Board Member Bodor stated did you want to see any of this.

Jay Hogan stated yeah. I didn't get any copies, which I'd like.

Board Member Bodor stated here. And get the photograph from somebody there. Here's a copy of the photograph, Jay.

Jay Hogan stated thank you.

Mr. Pierro stated you have any other questions regarding my presentation.

Board Member Buzzutto stated this was going down. And this here would be into the garage [referring to the photograph].

Board Member Bodor stated please identify yourself for the record.

Mr. Dino Rentoulis stated yes. My name is Dino Rentoulis, owner of 2970 Route 22, Patterson, New York; The Alpine. Ladies and gentlemen, Dave made a very, you know, history of the premises and of the, you know, the residence in the back. Basically what I'm here to say is, the bottom line is, I'm losing money, a lot of money. Not only from the restaurant but from this residence. And it's year after year, loss and expenses and costs. I have to pay my taxes; Nothing in life is certain but death and taxes. So that I have to do. And my work in Westchester pays those taxes here in Putnam [County] because you can see, and I'm glad, you know, that the site walk was successful, that the restaurant's vacant. This is public knowledge. Judge King was the judge two years ago; had an eviction. The tenants with back rent and back taxes owed us close to \$100,000.00. And, like Dave [Pierro] instructed me, I just don't want to mention names, specific names. Former and current. But the economy's not at the greatest shape, and yes, people even to do this day, are having difficulties keeping up current with their rents. And it's just one expense after the other. The summer's done. I had guys...I had a crew working here in July to clear up site plan issues to get the C of O for the restaurant and I was hoping, actually, at the last meeting to get all of this squared away. I was under the impression that, you know, you folks knew about the restaurant or the condition of it, that it's closed for some time now. For the restaurant and the residence. Actually, I have here you can see that I've been coming up and I have renewals and I wasn't notified until these bullets. Yesterday I received a call from Sarah. I knew that we had the meeting and I was just very busy so I did not have time to make copies for everyone. But this is the copy of building permits that I get out every year. And you can see that's from the Town of Patterson Building Department, you know, 2 bedroom residence. And I just need the use for this so I can fix it and hopefully before the winter time comes, when I have to heat the place that I can pay my taxes and my heating costs. And in terms of money, I have spent, just this past month, I have spent almost \$20,000.00 fixing the decks around that were pointed out by Dave. Fixing...Placing item 4. Rearranging the traffic arrows. Installing, which was once there but moved over time, cement wheel stops. Cutting the grass area in which the sign is located and paving that over. You know, the labor and materials close to \$20,000.00. And before that, two years ago, I had to do the electrical. Everyone saw the rough inspection done, and for those of you who don't know the business, electrical's not cheap. It's not a one-bedroom, you know, that you just connect it from the fuse box or the circuit box and you run the wire. This is doing everything from scratch. So just the electrical alone costs about \$14,000.00. And I had people that, you know, that delayed me in my tracks, people that wanted to purchase the place. They said, Dino, please, no this looks great. I want to buy it but we don't have this in mind. Anyways, I'm side tracking a little bit with that, but the money wasn't there to complete the house and unfortunately later that winter I had an emergency boiler installation. So not only did I spend money on the house during the summer and fall time, but that winter I had another \$10,000.00 hit because I had to emergency install a boiler. One of the big snowstorms that we had, shut the power off, power went off on the burner, the lines froze and the boiler cracked. Okay, and I have all the documents for that, too. Nick Lamberti was aware of that. I used John's Burner Service, he's a local guy. Basically ladies and gentlemen, I need this place. I need the use variance so I can finish with the residence, rent it, and get some sort of an income. And that is the bottom line. I don't...This place has been there for over forty years. Fifty years plus. I just don't understand, you know...I know there's, you know, technicalities and a whole process, but it was there. I'm just asking that it be granted back to me so I can finish up and like I said, get someone in there and help ease the expenses.

Board Member Buzzutto stated well, don't all these expenses have to be documented in...on paper and send it to us.

Mr. Rentoulis stated yes, Sir. I didn't do that. Like I said, I was...

Board Member Buzzutto stated well, I mean you could...

Mr. Rentoulis stated not...

Board Member Buzzutto stated that's for... You have to, really.

Board Member Bodor stated yes. I believe, you know, in the past, what we have accepted as a requirement is, not that we don't believe you, but we need to see the paper that says you've spent \$14,000.00 on this.

Board Member Buzzutto stated yes, but that's all got to be documented.

Board Member Bodor stated a bill from this one that you've paid.

Mr. Rentoulis stated I just...

Board Member Bodor stated documented expenses.

Mr. Rentoulis stated right. I understand, ladies and gentlemen. Like I said, I was notified about these bullets, these points...I had a pretty bad emergency down in Westchester, you know, concerning ConEd and some gas lines, and I've been really occupied with that. And like I said, Sarah contacted me yesterday and said Dino, you're going to need, you know, so and so, I just did not have time to find that.

Board Member Bodor stated okay. Alright, that will be forthcoming then, all of these expenses documented for us.

Mr. Rentoulis stated right, but...

Mr. Pierro stated Dino, could you provide those via fax tomorrow.

Mr. Rentoulis stated I will try. We're talking about, you know, three or four years ago.

Mr. Pierro stated you have to, Dino, because the other alternative is we have to wait until September where there is another meeting.

Board Member Bodor stated you're still going to have to wait.

Mr. Rentoulis stated Ma'am, why do we have to wait.

Board Member Bodor stated because we...

Mr. Rentoulis stated the place was there.

Board Member Bodor stated okay, we don't...

Mr. Rentoulis stated I don't understand.

Board Member Bodor stated we don't have the documentation. We can't make a decision without it.

Mr. Rentoulis stated right. Well...

Board Member Bodor stated and we're not meeting tomorrow with your documentation.

Mr. Rentoulis stated but even just, I mean, visually. Forget the expenses. You can see that work was put into the place. Materials and labor are not free.

Board Member Bodor stated one of the requirements for the issuance of a use variance is, and I'll read it to you, that you cannot realize a reasonable return which is substantiated as shown by competent, financial evidence that's documented.

Mr. Rentoulis stated right.

Board Member Bodor stated I didn't make that up. That's in our Code.

Mr. Rentoulis stated I understand.

Board Member Bodor stated and I, you know, it's right there. It's a use variance, and it's not just Patterson. It's a use variance all over New York.

Mr. Rentoulis stated okay.

Board Member Bodor stated and there are four important bullets that must be fulfilled by the applicant.

Mr. Rentoulis stated well, maybe that's why...

Board Member Bodor stated a use variance is very, very restrictive, and it's very, you know, it's...

Mr. Rentoulis stated Ma'am, yes. That is why I explained the situation I was in and, you know, I thought coming in before the Board that you guys could show me some leniency on this because like I said, it's going to delay me again. I had momentum building, and then it was stopped. And then if we stop even more it's...The weather's still good. I had a lot of times where I had to stop people working because it got cold up here; it wouldn't...Workers would just not work. They wouldn't. And I need this. I'm...I apologize but I really need this today.

Board Member Buzzutto stated but that stipulation is one of the few stipulations that they emphasis to us that you have to have. I'm surprised, Dave, that you weren't aware of that.

Mr. Pierro stated I was not on the Zoning Board, Sir, I was on the Planning Board.

Board Member Buzzutto stated well, I'm sure you would be, with the Planning Board.

Mr. Pierro stated we'll tell you this though, Sir...

Board Member Buzzutto stated these things are available, Dave [referring to New York Planning Federation summary of variance criteria cards].

Mr. Pierro stated I'll tell you this.

Board Member Buzzutto stated you must have had them.

Mr. Pierro stated I'll tell you this. This particular site, as stated in my testimony and as produced in the photographs and the original surveys, has always been a residential structure. This never changed. The barn that was there became a commercial structure. It has always been, and always will be, a residential structure.

Board Member Buzzutto stated but when you come...

Mr. Pierro stated to be honest with you, I don't see that they even need this variance because it was constructed as a residential structure.

Mr. Rentoulis stated and a few years back, folks, and again, it all comes down to the money and the economics and the funding. I mean, I cannot force any single one of you to build something in a timeframe, in a limit, when...if you do not have the means...if you do not have the funding. And it was about two to three years ago when I received a call from Mr. Lamberti in Building saying, listen, Dino, please come here. This is when the interior was set. But the exterior of the house still had burnt vinyl siding. And I met up with Mr. Lamberti at the site and I said, Nick, I would love to finish this but I just don't have the money. And I was told, verbatim, Dino, I'm getting a lot of heat from the Town's people. I'm getting a lot of heat from the Town members that...Just fix the outsides so that when you drive by on [Route] 22 you don't see the burnt and damaged siding. And he told me, ladies and gentlemen, it does not matter, Dino, I don't care how long you take to fix the inside, because Nick Lamberti knew that it was a residence. He's seen it many times. Many, many times, over and over again. I understand, Sir, that, you know, the documentation I should have provided. And again, I'll repeat, I was notified this yesterday. Luckily Sarah did contact me. I have a lot of things on my plate and it's just mind boggling how this is going to happen.

Board Member Buzzutto stated yes, but when you...

Mr. Rentoulis stated I'm really asking that you, you know...

Board Member Buzzutto stated when you come to the...

Mr. Rentoulis stated show leniency, Sir.

Board Member Buzzutto stated when you come to the Board and put an application for a use variance, a use variance is what's on the green card there [referring to the New York Planning Federation variance summary card].

Mr. Rentoulis stated right. And...

Board Member Buzzutto stated this is what we have to abide by.

Mr. Rentoulis stated and then...

Board Member Buzzutto stated we don't make these up.

Mr. Rentoulis stated even before that, why was that taken away from me.

Board Member Buzzutto stated because the permits expired; lack of occupancy and so forth, at one time.

Mr. Rentoulis stated so then why would the Building Department allow me to renew my permit every year. I'm sorry, but there's a lack of communication between, you know, myself and between people in different departments. No one seems to guide me in the right direction. Just like when my father was operating the restaurant, he was given the green light by a lot of people, okay. John, you could do this. Oh, don't worry about it. No, you don't have to do this. Don't worry, I'll take care of you. He was instructed by a lot of people. He was instructed wrong, but he was not guided in the right direction just like I have not been guided in the right direction in the past three years. And it's very unfortunate. And there's just no communication. Horrible, horrible. And it just...It's very upsetting and a little discouraging that I'm sitting up here pleading to you. I'm not that kind of person. When I want something done, I make sure I work hard and I get it done. And I'm just asking for this use variance so I can finish the property and collect some sort of a rent. And not because of some documentation you're not giving it to me. And it hasn't been used, how come I was never informed before about the use variance. But, no, I did the routine...Dino, you have to renew your permit. I would come up here, renew my permit. Gather whatever money I had, put it into the place. Dino, your permit's expired, please come to renew. I would do that, whatever money I had, I'd put into the place.

Mr. Pierro stated and there's no documentation in the Building Department files that he was going to lose the use of the residential structure.

Mr. Rentoulis stated no. I was never, ever, ever informed...

Mr. Pierro stated zero. We have researched this.

Mr. Rentoulis stated never informed, ladies and gentlemen. I mean, please. I just beg, show some leniency on this matter. I have lost a lot of money, and not even that, I'm going to lose money in costs finishing the place, paying my taxes and trying to get through this winter. It is not fair. It's not just.

Board Member Buzzutto stated well, how can we make a resolution on something that comes to the Board tonight for a use variance and we have no affidavits on expenses, no nothing, and make a decision on it tonight.

Mr. Rentoulis stated I...

Board Member Buzzutto stated without any documentation.

Mr. Rentoulis stated I...Sir, I understand.

Board Member Buzzutto stated I mean, where do we go from here. I mean, how would we word this.

Mr. Rentoulis stated Sir, I understand if we...Even putting that aside, I don't know why that was taken away from me and my father. I don't know why.

Board Member Buzzutto stated because lack of occupancy. Is that one of the reasons why...

Jay Hogan stated well, it was a...If you don't reconstruct, and I think the issue, Richie, is if you don't reconstruct the pre-existing nonconforming portion of the premises within one year, you lose the use.

Rich Williams stated if you don't use a pre-existing nonconforming for a one year period, you lose that. If you're undergoing an active construction in furtherance of that, that time can be extended out. I believe the issue is...

(Inaudible – too many talking)

Mr. Rentoulis stated can you please explain to the Board that we've...(inaudible – too distant) that these things are not cheap and...

Rich Williams stated they're certainly not cheap, I understand that, but Dino, everybody here is bound by a certain set of rules, and nobody's trying to be unfair to you. They're just trying to follow the rules as they're presented to them, as they're presented to me, as they're presented to Nick. The immediate issue is...

Mr. Rentoulis stated I understand...

Rich Williams stated alright. If you have a pre-existing, nonconforming use, a use that's not permitted by zoning but it's been there for a very long time, and you stop using it for more than a year, you lose that right. If you have a fire, you're actively constructing it, well, that suspends the timeframe. Correct me when I throw a foul here, Jay.

Jay Hogan stated I think you're right.

Rich Williams stated that kind of suspends the timeframe. But, you know, after it's reconstructed you continue not to use it or you take too long in the reconstruction for whatever reason, the Town can then make a determination that you've lost your vested rights...

Mr. Rentoulis stated right...

Rich Williams stated with a use that's not permitted under zoning.

Mr. Rentoulis stated absolutely.

Rich Williams stated and...

Mr. Pierro stated but for the most part, Rich, the permits were active.

Mr. Rentoulis stated yes, absolutely.

Rich Williams stated but I think...

Mr. Pierro stated the permits were active.

Rich Williams stated the Building permits were active, but was there active construction. Was there continuous flow of work to...

Mr. Rentoulis stated absolutely.

Rich Williams stated reconstruct that. Well, that...If you can prove that to Nick, then...

Mr. Rentoulis stated Nick is gone for the day.

Rich Williams stated yes, Nick is gone for the day. You know, Nick is the one that ultimately made the determination that there was a cessation of activity at the site in furtherance of trying to repair the building for a fire and that had occurred for a duration of more than a year. And I'm assuming some things here, but I think that's...

Jay Hogan stated it's just one issue. It's...The difficulty is the law provides for criteria in which to obtain a use variance, and the Board is bound by...they have to follow that law in reaching that determination. And I think what the Board's trying to say is, look. There's an element we're looking for. There's an element we'd like you to provide, please provide it. The Board hasn't denied you anything right now. The Board's saying get me the information I need so I can have an application that...depending on how the Board wants to act on this, they can have an application that can be defended in court.

Mr. Rentoulis stated right. Sir, I understand that, but again...

Jay Hogan stated oh, you've repeated it a bunch of times.

Mr. Rentoulis stated timing. I would like it now so I can finish it in, you know, hopefully in the next month. Whatever monies I have, fix it, get someone to rent it. I just...I need it.

Board Member Burdick stated I think our attorney was very clear: We are bound by law that we can't rule on this without that documentation. We can't give consideration in the direction that you want without that documentation.

Board Member Buzzutto stated this is typical of a gas station, if you don't operate a gas station (inaudible – too many talking)...

Board Member Burdick stated the other option, what Rich said is if you can show...

Board Member Buzzutto stated you lose that right.

Board Member Burdick stated the consistent building on the property to Nick, Nick can decide that you didn't lose it. So if you feel you can prove that to him, that can be resolved, if I understood what Rich said, that can be resolved tomorrow, if you can bring that documentation into Nick, this can all go away. So if you have that that would be your best solution.

Rich Williams stated and again, understand, you know, just so we're all clear, we want to be clear, that Nick has already determined that you haven't been doing that based on his series of inspections out there. So I don't know if...

Mr. Rentoulis stated but also, Nick was very confused as, you know, between fixing the house. I think that he took the whole property as a whole.

Rich Williams stated mhm.

Mr. Rentoulis stated restaurant with house.

Rich Williams stated right.

Mr. Rentoulis stated not just house. Right now, we're using...a use variance of a house, and you can see between the diagrams, between the demoing, between the restructuring, you know, the house it was on fire in what, '05, '06. The next year was demoing...planning, demoing. The next year was rebuilding. Putting the modular roof on time. The next year was fixing the vinyl siding and then running the...And right now, only five years have passed...

Rich Williams stated I'm going to stop you right there. This is the conversation you need to have with Nick.

Mr. Rentoulis stated okay.

Rich Williams stated this Board can't...Everything you're saying here, means nothing to this Board, means nothing to me, because that's outside of our realm of things that we look at. Right now what you need to do, what the Board is looking for, what is a requirement of a use variance, is that you have to show that whatever you have, that structure...

Mr. Rentoulis stated I understand.

Rich Williams stated can't be used for anything else because of it's structure, because of its configuration, because of how it's constructed, you know...

Mr. Rentoulis stated so if Nick...

Rich Williams stated if you tried to rent it to somebody else for some commercial use which is permitted under zoning, and they said no, we don't want to do that.

Mr. Rentoulis stated so tomorrow, ladies and gentlemen, if I resolve this with Nick and then get a copy to each one of you, would that suffice.

Mr. Pierro stated all you have to do...

Chairman Olenius stated if you resolve it with Nick, you won't require the variance anymore.

Jay Hogan stated and you withdraw your application for a variance if you're going to resolve it with the Building Inspector.

Rich Williams stated if you can't, then we're back to the next step which is that economic...

Board Member Burdick stated providing us the documentation...

Rich Williams stated yes.

Board Member Burdick stated we're looking for.

Rich Williams stated and it's not necessarily showing that you're not getting any rent on the building but that you can't rent the building for say a retail area, a barber shop, some sort of personal use. If you can get

a real estate agent to say no way I could rent it for that, and that you've tried for a few months to do that, that probably, Jay, would suffice as the burden.

Jay Hogan stated mhm.

Mr. Rentoulis stated I mean, how many retail spots are not rented.

Mr. Pierro stated Dino, that's... We have not, obviously... John and I are brokers of record and have been trying to find an occupant for both the restaurant and this apartment for the last 7 or 8 months. It doesn't fit as a office structure obviously because there's only two parking spaces dedicated to that residential structure. Anything further than that will take away from the seating capacity that we already enjoy for the restaurant, which will diminish the value of the restaurant even further in this economic times... because of this economic time. The only thing that I could suggest is renovating the whole building or tearing it down, and that is an extreme financial hardship.

Mr. Rentoulis stated but Dave I can't even do that because then they're going to say, oh, now you can't build anything on that.

Mr. Pierro stated that's right.

Mr. Rentoulis stated so, it's a lose-lose. Okay, so even with that said, ladies and gentlemen, that it's been a house, a residential, for fifty plus years, and that I can't even get someone in the restaurant, let alone the house in the back with a kitchen and the bathrooms and the two bedrooms and the den. Even with that said, I mean, it's still not persuading you to believe that it is a residential unit and that's the use that I am going for, upon termination.

Board Member Buzzutto stated no, but the thing is if we don't have this documentation and something happens court wise, and we go to court and we don't have anything to show, they'll say, well, what kind of a resolution did you make. You know, it's...

Mr. Pierro stated nothing has happened in the last fifty years when it's been... when it's been a residential structure.

Board Member Buzzutto stated well, when it was a residential structure, it had the variance at that time, possibly.

Mr. Pierro stated it was always a residential structure. The only reason for this variance...

Board Member Buzzutto stated but then you lost it because lack of occupancy for a year...

Mr. Pierro stated the only reason the variance came into play was because the barn was converted to a restaurant.

Rich Williams stated let's be clear on it all: there was never a variance.

Board Member Bodor stated that's right.

Rich Williams stated there was never a variance on the structure. It was constructed at a time when it was permitted by zoning. It was a pre-existing, nonconforming use, but it never had a variance. It didn't lose a

variance. It lost it's pre-existing, nonconforming status under our Zoning Code. So we didn't take a variance away. It's just a slight little technicality. Okay.

Mr. Pierro stated okay, Dino, let's go to the next issue.

Mr. Rentoulis stated I'm going to get some water. Excuse me.

Mr. Pierro stated go ahead.

Board Member Buzzutto stated what are you going to do on it. Are you going to bring us the...

Mr. Rentoulis stated Sir, like I said...

Board Member Buzzutto stated documentation for the expenses and so forth.

Mr. Rentoulis stated I'm going to start gathering that...

Board Member Buzzutto stated okay.

Mr. Rentoulis stated and...but, first thing's first...

Board Member Buzzutto stated right.

Mr. Rentoulis stated I'm going to speak to Nick Lamberti.

Board Member Buzzutto stated okay.

Mr. Rentoulis stated first thing in the morning and ask, Nick, please draft me a letter stating that since the time that the place was burned down...

Board Member Buzzutto stated okay.

Mr. Rentoulis stated him and David Raines have passed by there multiple times to see construction being done on the premises, to extend that period and not link the building with the...the restaurant with the residence.

Board Member Buzzutto stated okay.

Mr. Rentoulis stated to focus solely on the residence that work was being performed, okay, continuously, and just a drafted letter.

Board Member Buzzutto stated okay, just so we know we got it coming to us. So I don't feel that the ball is just dropped and we don't know what you were going to do. So now we know, okay. Alright, that's all I wanted to know.

Board Member Bodor stated I'd like to make a motion that the use variance request be put over till next month unless Mr. Rentoulis...

Mr. Rentoulis stated yes [referring to the pronunciation of his last name].

Board Member Bodor stated is able to resolve the issue with the Building Inspector.

Chairman Olenius stated I'll...

Board Member Burdick stated second.

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

Board Member Buzzutto stated now the next issue was a...Did you need this permit back [referring to the building permit Mr. Rentoulis passed around to the Board].

Board Member Herbst stated you don't need any of this back.

Board Member Buzzutto stated no, I like that picture. I like that. I like this. This is a collector.

Mr. Pierro stated you'll see that again in the future when you go for the site plan approval for a parking lot in the (inaudible – papers shuffling).

Board Member Buzzutto stated okay. So the next one will be the area variance. Is that what you want, the area variance.

Chairman Olenius stated no. The...

Board Member Buzzutto stated oh, the...

Chairman Olenius stated no, yes. I'm sorry, the area variance.

Board Member Buzzutto stated the area, yeah.

Board Member Bodor stated the area variance for the sign.

Board Member Buzzutto stated okay.

Mr. Pierro stated do you need to read, Sarah. Do you need to read the intro.

The Secretary stated I already read it.

Mr. Pierro stated okay, fine.

Chairman Olenius stated hold on.

DINO RENTOULIS CASE #09-11 continued

Mr. Pierro stated Mr. Rentoulis had filed an application to obtain the variance, the area variance, for the fifty year old sign that was in front of Alpine Inn. Now that you guys have had a chance to be out on the

parking...on the site and look at the photographs that I provided for you, I'm sure you now have a better recollection of what was there. And this was what was there as of two weeks ago. Mister...

Board Member Buzzutto stated is that the same one I have of...oh, no. It's a little different.

Board Member Bodor stated no it's a different one.

Mr. Pierro stated no. The one you have may have said Jimmy...may have said Alpine...

Board Member Buzzutto stated yeah.

Mr. Pierro stated but there was a vinyl covering over the Jimmy O's sign that said Alpine. Here you go, dear. We applied for the variance because...

The Secretary stated can I have one for the record.

Mr. Pierro stated okay. I have to go back to my chair.

Board Member Burdick stated here. Just give it to her.

Mr. Pierro stated that's also in PDF in Rich's computer somewhere. We applied for the variance to utilize the existing sign, and we came before this Board and the Board decided that it didn't remember the sign and it wanted to do a site walk. So, in July, we waited until August 22nd for you guys to do a site walk. And I might add that during that timeframe, we were not able to provide a CO for the building, although we did receive it after...a few days after we lost our buyer. We were not able to provide for an approval for the sign, so we lost a very viable buyer for this. I don't want to speak for Mr. Rentoulis about that issue, but Mr. Rentoulis had a meeting with Michael Griffin and Nick Lamberti. I'm sure they can hear me [referring to the fact he was not speaking into the microphone]. Thank you.

Board Member Bodor stated we're not sure.

Mr. Pierro stated thank you.

Board Member Bodor stated so we need it on there.

Mr. Pierro stated no.

Mr. Rentoulis stated Mr. Griffin and Edmond O'Connor...

Mr. Pierro stated Mr. Griffin and Ed O'Connor, and they discussed the existing sign. And their interpretation to Dino was that they never wanted the sign to be torn down, they just wanted the advertisement to be removed. So we did that. We pulled down the advertisement. All of the writing on the sign, except for...The only thing that was evident, except for that, was this photograph that I'm showing you now that has the imprint of a former sign that was there underneath the Alpine sign that said Birch Hill Inn. Nick Lamberti was with me on site when we pulled the sign down. I offered to immediately bring in a crew and paint it over so it was a blank slate. And Nick Lamberti forcefully told me that my client had agreed to pull the sign down. And at that...at this point, I'm going to walk away and allow you to speak with Mr. Rentoulis.

The Secretary stated Dave, can I have one for the record [referring to pictures Mr. Pierro passed out to the Board].

Mr. Rentoulis stated so, Dave pretty much setup the meeting I had because I was...I wanted to be on the same page as the Building Inspector, Nick Lamberti, and also I invited Supervisor Griffin into the meeting as well, and it just so happened Mr. O'Connor was there. And this was on a Thursday. And we spoke in the Building Department Office, and I said, listen, you know, guys, there's other signs the same size as my sign; neighbors, I'm not going to mention any names. You know, why am I being forced to after, again, fifty years, take it down. And, you know, we brainstormed for awhile and then we decided to remove all the guts in the middle of the sign between pole to pole, okay. It's on the (inaudible) picture and then the diagram as well, and it was...The Supervisor Griffin's understanding, and mine as well, that a sign is advertising, labeling logos of a business/premises, so they informed me keep the shell of the sign and just remove the labeling. I said, that sounds fantastic. I will do that tomorrow. I called my guys up Thursday night, I sent them there Friday, okay. They went, they removed all of the center. That was the beginning part. They removed all the labeling. They started unscrewing the metal frames in the middle and they had removed the top portion where it said The Alpine. Like Dave said, he wanted to maybe, you know, just paint that. No labeling, no nothing. I kind of jumped the gun and I said, hey Nick, you know that...did you happen to pass by to see the sign. You know, my guys are working now. And then he just totally chopped me at my knees and said, well, you know, weren't you at the meeting. I said, of course I was at the meeting. Well, we discussed that you would remove the entire sign on top and just leave the poles. And I said, no, Nick. We discussed that I would just remove all the advertisement, which amounted to over the now current 24...25 square feet, I believe, legal. And he said, no, Dino. That is not what we discussed. I want you to take that sign down. And I said, Nick, I mean, this just is not fair. That's not what we discussed. Long story short, I needed to get my C of O and in order to do so I said, you know what, I'm not going to fight with anybody, I'm just going to go and take it down. And I said, let me ask you something Nick, if I take this down, will I have my C of O. He says you'll have your C of O on Monday. So I send my guys up again Saturday, completely remove the top, and right now as you see it it's two standing posts, after fifty something years. I buckled. I was forced, pushed, whatever. We had buyers. They were discouraged; the place didn't have a C of O yet. I didn't want them to wait until today's date, which I probably should have, even though maybe nothing would have even gotten accomplished then, and I come on Monday, I get my C of O. And then I went down to speak to Supervisor Griffin and he told me, wow, Dino. I can't believe that...

Board Member Herbst stated hold it. That was the...

The Secretary stated no, that's the elevator [referring to the beeping noise].

Board Member Bodor stated it was the elevator.

Mr. Rentoulis stated and he's like...that's okay. He said, Dino I can't believe that you went far and beyond and you took down even the top. And I said what. I said, you know, Mr. Griffin, I spoke to Nick on Friday and he told me that's not what...He made me think I was losing my mind and that's not what we agreed upon. That I had to take down the whole (inaudible). And he said, no. The understanding was you can have the posts, just the top advertisement, leave the shelf. If you see the little triangular form, that was all metal. Part of that...of those two posts. And everything that was filled in, that was the sign, which exceeded the 24 square feet, okay. But, I mean, with all of this said and done, again, another hit. Maybe it might be detrimental to the business in the future if someone can't get, you know, a nice sign there, or whatever, but they....John [Ravetto], what would we do. Dave left.

Mr. John Ravetto stated he's coming back.

Mr. Rentoulis stated right. Would you like us to maybe, perhaps, use that same diagram which was of the sign outer shell and ask that the Board grant that to the future tenant, whoever leases it or purchaser. Would that be fair.

Chairman Olenius stated so, my understanding is, you want to go with the initial application for...

Board Member Buzzutto stated it would be 132 square feet.

Chairman Olenius stated 132 square feet. The variance requested is for 107 square feet. Is that correct.

Mr. Rentoulis stated right. And please let's make it clear that when they mean sign and it was unclear to me and, again, I was misguided and misdirected that at first I was told to...and I think...Oh, Rich Williams left. I even spoke to Rich Williams about this. He told me, Dino, I thought my understanding was that they would make you cut down the entire thing, post to post, base ground up to the top of the shell. But, again, at that meeting, it was clarified and I was told that by Nick Lamberti, too. But at that meeting the Supervisor, they said no. You can have your freestanding posts, no problem. Just the stuff in the middle, that's considered signage, and the advertisement lettering on top. So, Dave, you were away [referring to the fact that Dave Pierro had left the room]. What I'm asking the Board is to...What I had to sacrifice and give up is to maybe approve and grant to the future tenant or purchaser of the business and he could have the advertisement, just like everyone else who has it now, can keep it.

Mr. Pierro stated they're going to want to see a design, Dino. As I told you on the phone, they're going to want to see a design. I suggested 100 square feet, which would give you the size of the old Jimmy O's sign and a couple of the white placards that were the light boxes underneath. They're going to need a design. We didn't have the time to do a design or drawing. We hung the tarp...We hung the tarping as an example.

Mr. Rentoulis stated so pretty much what I'm proposing, since we do have a diagram of what was there...Yes, that and that diagram, Sir, the one that you're holding there, the architectural sketch...the drawing. Since we do have those, maybe we can just use those as the guidelines minus the lettering where it says Alpine, and that's going to be filled in by whichever tenant comes in, in the future.

Board Member Buzzutto stated but the size of that would be what, 100 square feet.

Mr. Rentoulis stated no.

Board Member Buzzutto stated 132 [square feet].

Mr. Pierro stated the total signage, using this [referring to a picture/diagram of the original sign] the total area in between here and these four light boxes...

Board Member Buzzutto stated oh, I see.

Mr. Pierro stated were 132 square feet.

Board Member Buzzutto stated the whole thing.

Mr. Pierro stated the whole thing. The total. It was actually 124 [square feet]. The numbers that were on file were wrong because I measured it again. The...

Mr. Rentoulis stated Sir, what I was informed is they took the whole thing, is what they told and what the sign was. But, what we're just looking is this top portion.

Board Member Buzzutto stated just the top portion.

Mr. Rentoulis stated the two posts are there. So I'm looking at the top portion and since it's a restaurant, to have a few, you know, catering specials, or you know, special whatever: Early bird, Mother's Day, Valentine's Day specials. To have a few of those...

Board Member Buzzutto stated well, you have the sign there but it will all be blank...

Mr. Rentoulis stated yes.

Board Member Buzzutto stated for the new tenant.

Mr. Rentoulis stated yes.

Mr. Pierro stated yes.

Board Member Buzzutto stated or whatever.

Mr. Pierro stated but these...And obviously a new owner would have to come in and...

Board Member Buzzutto stated yeah.

Mr. Pierro stated abide by the current Town Code for colors. I don't know if that's part of the (inaudible) but, it would be certain color requirements that have to be done. But these two individual...these light boxes are 16 square feet. I think it's overkill. I think two of them would be fine. This main section here where it says Birch Hill Inn is the identical size of that yellow trap that I hung up, which is 5.5' x 11', we'll call that 66 square feet. So, if we have 32 [square feet] and 66 [square feet], that would get us about 100 square feet which I think would be adequate. But Mr. Rentoulis went through...The cost of removing that sign was one thing, the value of that sign was another because of a miscommunication. A serious miscommunication. It bordering, as far as I'm concerned, and I'm not speaking for Mr. Rentoulis, but it's bordering on malfeasance. And your attorney will quote you...will speak to you about malfeasance in this kind of matter when I'm not around.

Chairman Olenius stated so again, I'm confused. Mr. Rentoulis...

Jay Hogan stated is it 132 [square] feet or 100 [square] feet.

Chairman Olenius stated yeah. What are you looking...

Mr. Pierro stated I'm suggesting that 102 feet...100 square feet would be adequate.

Board Member Burdick stated so you need to amend the application.

Mr. Pierro stated if we have an application I will amend it right here, right now.

Board Member Burdick stated and you need to provide a...

Mr. Rentoulis stated Sir, it's 132...

Board Member Burdick stated picture of the sign.

Mr. Rentoulis stated with the...With adding two more of the center blocks between the post to post. And what Dave was suggesting that, you know, not to alter it and amend it an extra 32 square feet. We can just eliminate the four and put the two so it lessens that amount of square footage. It lessens the variance that we have to do, which...

Board Member Bodor stated you're talking 132 [square feet] and he's talking 100 [square feet] and...

Mr. Pierro stated no. I'm talking 100. I think 100 would be adequate.

Mr. Rentoulis stated may I just explain...

Board Member Bodor stated you're talking 132, though.

Mr. Rentoulis stated I was explaining to the attorney that extra 32 [square feet] comes from two extra blocks that were in the center you see...

Board Member Bodor stated alright, Dave, you're just talking about the main part then being 100.

Mr. Pierro stated no.

Board Member Bodor stated no. I didn't think so.

Mr. Pierro stated this being 66 square feet.

Board Member Bodor stated that's what I thought. Okay.

Mr. Pierro stated and two of these being 32 square feet.

Board Member Bodor stated okay. Alright.

Mr. Pierro stated okay.

Board Member Burdick stated you know how you had a miscommunication when you were in the Building Department because you didn't get anything in writing. Right, basically that's... There was a miscommunication. That's why we need everything in writing to make sure that what we're doing and voting on is exactly what you want and what you're presenting to us.

Mr. Rentoulis stated right, right, right.

Board Member Burdick stated so I can't, any other way...

Mr. Rentoulis stated Ma'am, I...

Board Member Burdick stated drive that point home...

Mr. Rentoulis stated can even tell you that even stuff in writing is...I would still have to call and ask what does this mean. Are you sure...

Board Member Burdick stated but what I'm saying is...

Mr. Rentoulis stated that the most important thing is...

Board Member Burdick stated we need it in writing.

Mr. Rentoulis stated right. And the most important thing is I would meet on site and it would be pointed out and directed what to do. And I would do it the next day.

Mr. Pierro stated I will amend it. I will amend it right now. This is simple. The bulk sign on top is 66 square feet. Two of those light boxes are 8 x 11, 16 square feet. Or 32 [square feet] for the total. I will amend the application.

Board Member Buzzutto stated well, lessening the variance is a plus, really, for us.

Board Member Bodor stated so your total will be 100.

Chairman Olenius stated I kept looking to you, Sir, because I wanted to make sure you were on the same page because you kept saying 132. You're alright with 100 square feet.

Mr. Rentoulis stated I kept mentioning 132 because I was just explaining to the gentleman...

Chairman Olenius stated but you're okay with 100 square feet.

Mr. Rentoulis stated 100%.

Chairman Olenius stated okay.

Board Member Bodor stated and it's two boxes down below the main sign.

Mr. Rentoulis stated the top...The big one on top and the two little ones.

Board Member Burdick stated do you mind going back where you're suppose to be [referring to Dave Pierro standing up at the dais right next to her]. What do you need.

Mr. Pierro stated I just wanted to make sure we were on the same page. Smile, it doesn't hurt.

Mr. Rentoulis stated folks, last month, you know, you asked that I do, you know, you do perform your site walk because you weren't sure what we were talking about and you didn't even know...I guess you were just so used to the sign being there after so many years that it's not an obstruction. It's not a monstrosity on [Route] 22. And, like I said, I was...I don't want to say forced, but I was...my arm was a little twisted to

remove the old sign. And I'm just asking that this is granted so that my future buyers or tenants can have an easier process than this.

Board Member Buzzutto stated do you want to close the public hearing on it now, or...

Chairman Olenius stated is there any further input from the audience before I do. Hearing none.

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

Board Member Bodor stated I'll second.

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

Board Member Buzzutto stated okay.

Board Member Bodor stated do you need a sworn statement or what Dave said about amending the application.

TAPE ENDED

Board Member Burdick stated how do you want them to amend the application.

Jay Hogan stated they've done it verbally.

Board Member Bodor stated that's sufficient.

Jay Hogan stated if it's in your resolution...

Board Member Bodor stated that's sufficient. Okay.

Jay Hogan stated that's all that counts.

Board Member Burdick stated okay.

Jay Hogan stated you got to change a couple numbers. I think it's 100 and it's...

Board Member Burdick stated yeah.

Jay Hogan stated 75.

Board Member Burdick stated Lars is working on it.

Chairman Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Dino Rentoulis, Case #09-11
*For an Area Variance for a Freestanding Sign***

WHEREAS, John Rentoulis is the owner of real property located at 2970-2974 Route 22 (C-1 Zoning District), also identified as **Tax Map Parcel #14.-1-45, and**

WHEREAS, Dino Rentoulis has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-67 A(2) of the Patterson Town Code; Signs in business districts, in order to legalize a freestanding business sign, and

WHEREAS, §154-67 A(2) of the Patterson Town Code states that only one freestanding sign advertising the use or uses of the premises on which it is located shall be permitted, and it shall not exceed 25 square feet in area, and

WHEREAS, Applicant's sign has been removed but is requesting to be replaced for a total of 100 square feet; ***Variance requested will be for 75 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 ***July 12, 2011 and August 24, 2011,*** and a site walk was conducted on ***August 22, 2011,*** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***because this sign in question has been in existence for a very lengthy time.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***because the main pole supporting structures are still in place, locked into a grass island in a poured concrete base.***
3. the variance requested ***is*** substantial ***however not so much as to cause a denial of the requested variance.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***because as previously stated, the poles are already in place. The pre-existing sign had been there for many, many years.***
5. the alleged difficulty necessitating the variance ***was not self-created and is not sufficient*** so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby ***grants*** the application of ***Dino Rentoulis*** for ***an area variance*** pursuant to §154-67 A(2) of the Patterson Town Code; signs in business districts, ***of 75 square feet in addition to the maximum 25 square feet permitted in the C-1 Zoning District,*** in order to legalize a replacement, freestanding business sign with a total mass of 100 square feet.

Board Member Herbst stated second.

Board Member Bodor -

Board Member Bodor stated I'm not sure the numbers are adding up right. Twenty-five square feet is what is allowed and in reality, we are...they're asking for 132 [square feet]. It's 100 for the top and thirty...sixteen...

Chairman Olenius stated no.

Board Member Burdick stated total of 100 [square feet]. Sixty-six and thirty-two.

Board Member Bodor stated oh, okay. See, I'm still confused.

Board Member Burdick stated yeah.

Chairman Olenius stated this is 66 [square feet]. This existing is 66.

Board Member Bodor stated okay.

Chairman Olenius stated this is thirty...

Board Member Burdick stated yeah.

Chairman Olenius stated sixteen and sixteen. For a total of 32.

Board Member Burdick stated yeah.

Board Member Bodor stated they're not asking for 100 on the top.

Board Member Burdick stated no.

Chairman Olenius stated no, it's 100 total.

Jay Hogan stated no.

Board Member Burdick stated 100 total.

Board Member Bodor stated 100 total. Okay.

Board Member Burdick stated yup.

Board Member Bodor stated yes.

The Secretary continued to take the vote:

Board Member Burdick	-	yes
Board Member Buzzutto	-	yes
Board Member Herbst	-	yes

Chairman Olenius - yes

Resolution carried by a vote of 5 to 0.

Board Member Bodor stated okay.

Mr. Pierro stated thank you.

Board Member Buzzutto stated good luck with that.

Board Member Bodor stated okay.

Chairman Olenius stated and you can...

Board Member Bodor stated too many numbers.

Chairman Olenius stated just try and keep Sarah up-to-date with how you make out with the Building Inspector tomorrow on the other issue. Let us know if you should be on the agenda for next month, and get that out of the way, too.

Mr. Rentoulis stated I definitely will let (inaudible – too distant) if I get any documentation from Nick Lamberti it would be immediate, I guess (inaudible). But thank you very much.

Chairman Olenius stated thank you.

4) CONSORTIUM PROPERTIES/BALLYHACK ROAD, LLC CASE #14-11

Mrs. Theresa Ryan, Insite Engineering, was present.

The Secretary read the following legal notice:

Consortium Properties/Ballyhack Road, LLC Case #14-11 – Area Variances

Applicant is requesting an area variance pursuant to §154-7 of the Patterson Town Code; Schedule of Regulations in order to allow for the existing barn to remain in the proposed subdivision. The Patterson Town Code requires there to be a front yard setback of 40'; Currently exists is 42'; Proposed is 29.5'; Variance requested for is 10.5'. The Applicant is also requesting area variances pursuant to §154-27 A(9) (a) and (c) of the Town Code; Permitted accessory uses, in order to allow for the barn to be forward of the rear corners of the proposed principal dwelling on the lot and exceed in size a floor area ratio of 50% of the principal dwelling. The barn floor area will be 110% the principal dwelling floor area; Variance requested is for 60%. This property is located on Ballyhack Road (R-4 Zoning District).

Mrs. Theresa Ryan stated good evening.

Chairman Olenius stated good evening.

Mrs. Ryan stated Theresa Ryan from Insite Engineering. I represent Consortium Properties on the application, and as Sarah said, we're asking for three separate variances. We're in front of the Planning Board; we're a twelve lot subdivision. As part of that subdivision, we created Lot 3, which is highlighted in green there [referring to the plans on the board]. And I also have an enlargement of it. Lot 3 contains an existing stone and wood barn; it's in very nice condition. And Planning Board did a site walk, saw the barn and made a positive referral to your Board to keep the barn so that we could possibly get some variances for that achievement. Right now the barn is conforming with regard to front yard; we're required to have 40' front yard, it's 42' from the front yard but as part of the subdivision we're offering 25' from the centerline of Ballyhack Road to the Town so that they will have a 20foot...25 foot right-of-way on our side of the...

Board Member Buzzutto stated would it be possible to take the mic over to the...

Mrs. Ryan stated sure.

Board Member Buzzutto stated board and point out on the...

Mrs. Ryan stated that's a good idea.

Board Member Buzzutto stated is that working, that mic.

Mrs. Ryan stated it is.

Board Member Herbst stated it doesn't sound like it is.

Jay Hogan stated it's not working.

The Secretary stated it's low battery.

Mrs. Ryan stated can you hear me.

The Secretary stated maybe you can take this one [hands Mrs. Ryan a microphone with a cord].

Mrs. Ryan stated thank you. Okay. This is the lot in question. This is proposed Lot 3. This is an enlargement of it. This is where the existing barn is located. Right now, the property line is right along here. And 25' from the centerline of Ballyhack Road would put the property line back where the pinkish color is [referring to the plans]. And that's what would make it nonconforming, if and when the Town accepted the offer of dedication. And this is standard for a subdivision; to offer that...to widening. So right now it's 42' and when we...If they accept the offer of dedication it will make it 29.5' from the front property line. So that's why we would require a variance of 10.5' for that. Also, it would...Because it would be within the front yard setback, it would have to fall with...in front of the principal dwelling. We're showing the principal dwelling a lot further back, but even if we put it right up on the front yard setback, the barn would still be in front of it. So that's a second variance. And then...

Board Member Burdick stated excuse me, Theresa. Dave, I'm sorry. I'm having a really hard time listening to Theresa with your conversation [referring to Dave Pierro sitting in the back of the room talking with Rich Williams].

Mr. Pierro stated I apologize.

Board Member Burdick stated thank you.

Mrs. Ryan stated and then the third variance would be for the square footage...the floor area ratio of the barn in relation to the house. It's...The barn is supposed to be 50% of the square footage, the total square footage, of the principal dwelling. And it's pretty much almost the same size as what we're proposing as a principal dwelling. It's 3,320 square feet for both floors, and we're anticipating that the principal dwelling will be about 3,000 square feet. And we could only guess at this point, once the house is actually constructed or a building permit is pulled for that residence, when that lot is sold, the owner of that lot would probably have to come back and have that zoning variance amended if it's more.

Chairman Olenius stated I'm going to start at the beginning, Theresa, because...You mentioned the Planning Board had issued a positive recommendation to us.

Mrs. Ryan stated (inaudible – papers shuffling).

Chairman Olenius stated I don't have it in my packet, so.

The Secretary stated (inaudible – papers shuffling) from before.

Chairman Olenius stated okay. Oh, it didn't come with the packet. It came...I'm sorry. I did see it then. I didn't know what it was in...

Mrs. Ryan stated it was some time ago.

Chairman Olenius stated yeah. I think I have it back in...

Mrs. Ryan stated it may have even been last year.

The Secretary stated it was this...

Mrs. Ryan stated it was this year. Okay.

The Secretary stated here [handing Chairman Olenius a copy of the positive recommendation].

Chairman Olenius stated I do remember that. I remember that now. Sorry.

Board Member Buzzutto stated what is the nature of the barn. Is it a barn-barn for...was it for livestock. Or is it...

Mrs. Ryan stated it looks like it. It's really not finished inside. It's got a stone foundation. It's two stories. You can access the upper level from the front and then the lower level there's a door on the side and then there's overhead doors here, but it's really not finished inside.

Chairman Olenius stated is it relatively new, or is it...

Mrs. Ryan stated no. It's not new.

Chairman Olenius stated it's just maintained.

Mrs. Ryan stated it's been there awhile. Yeah.

Chairman Olenius stated and you said it was about 3,300 square feet.

Mrs. Ryan stated right.

Chairman Olenius stated and what size home were you proposing to put on the lot.

Mrs. Ryan stated well, we're showing about 1,500 square foot footprint, so if that's two stories it will be about 3,000 square feet.

Chairman Olenius stated that was approved for...

Mrs. Ryan stated that's 110%...

Chairman Olenius stated septic. Alright.

Mrs. Ryan stated of the...what's, you know, of the principal dwelling.

Chairman Olenius stated that's the size house that was approved by the Health Department for the sewer, or...

Mrs. Ryan stated well, that's what...just what we're showing.

Chairman Olenius stated okay.

Mrs. Ryan stated we show basic footprints because we don't know what people are going to build.

Chairman Olenius stated got you.

Board Member Buzzutto stated what is this one here.

Board Member Bodor stated so is that...no actual plan for the residence at this current...

Mrs. Ryan stated correct.

Board Member Bodor stated time.

Mrs. Ryan stated whoever buys the lot will decide what they will build on it.

Board Member Burdick stated after the subdivision gets approved, an individual lot approval has to be done and that's when...

Chairman Olenius stated okay.

Board Member Burdick stated it would be more specific.

Mrs. Ryan stated right. Thank you.

Board Member Bodor stated is there a big, old farmhouse that that barn belong to right there somewhere.

Mrs. Ryan stated well, there is...There was a house on this property which burned down a number of years ago, and that was torn down to the ground. That may have been the original one, I'm not sure. There are other structures on the properties, too. There's a garage here. The main house that burned down was right here. This is the garage that's going to be removed. It's not in very good condition and it's also interfering with sight distance. There's another residence on this lot that has it's own access. We're showing it to be removed, but it's really up to, again, whoever buys this lot, they can either renovate that house and keep it or tear it down and build a new one. We show it to be torn down. It's a raised ranch and I guess somebody was living in it without...and that the owner's didn't know it. And they left garbage in and...So now it's all boarded up.

Board Member Bodor stated right.

Mrs. Ryan stated and I guess it would need a lot of work to fix it. But we do think the barn is pretty special.

Board Member Bodor stated worthy of saving, apparently.

[Laughter]

Mrs. Ryan stated we think.

Chairman Olenius stated could the barn, itself, be converted into living quarters, in your opinion. Or is it solely for machinery.

Mrs. Ryan stated um, I suppose...

Chairman Olenius stated I'm asking if it would become the primary structure and they'd come for variances for that as opposed to an accessory structure, you know.

Mrs. Ryan stated they might have...That's a possibility, too.

Chairman Olenius stated okay.

Mrs. Ryan stated I think that's what I would do.

Chairman Olenius stated it sounds like it's...

Mrs. Ryan stated it's really nice.

Chairman Olenius stated a good size.

Mrs. Ryan stated yeah.

Board Member Buzzutto stated well, the barn is as big as the primary...Is that what you're saying.

Mrs. Ryan stated yeah, it's slightly larger than what we anticipate the principal dwelling would be.

Board Member Bodor stated about 300 square feet larger than their proposed...

Board Member Buzzutto stated yeah. Well, how could they put two primaries...

Mrs. Ryan stated no. It wouldn't be.

Board Member Bodor stated it wouldn't be.

Board Member Buzzutto stated it wouldn't be.

Mrs. Ryan stated it would be an accessory...The barn would remain an accessory structure.

Board Member Buzzutto stated okay, an accessory.

Mrs. Ryan stated yes.

Chairman Olenius stated my question was if somebody purchased the property, could the barn be converted into a residence...

Board Member Buzzutto stated yeah.

Chairman Olenius stated as opposed to an accessory structure.

Board Member Buzzutto stated I get it.

Chairman Olenius stated you know...

Board Member Bodor stated and that become...

Chairman Olenius stated instead of.

Board Member Bodor stated that become the primary and the residence, or the...

Board Member Buzzutto stated I see.

Board Member Bodor stated new structure become the accessory.

Board Member Buzzutto stated yeah.

Board Member Bodor stated how large is that lot.

Mrs. Ryan stated they're all a minimum of 4 acres.

Jay Hogan stated yeah, it's 4.4 [acres].

Board Member Buzzutto stated is this a C of O type of thing, before we... Want to site see this piece of property or is it...

Board Member Bodor stated what.

Chairman Olenius stated he's asking if we want to see it.

Board Member Bodor stated I don't think so.

Chairman Olenius stated I don't feel we do, personally.

Board Member Buzzutto stated okay, fine. Okay.

Chairman Olenius stated your packet, as usual, is very thorough. That's why there's a lack of questions tonight.

[Laughter]

Mrs. Ryan stated thank you.

Chairman Olenius stated basically everything is answered.

Mrs. Ryan stated thank you very much.

Chairman Olenius stated I love these packets because I kind of know all the answers before.

Mrs. Ryan stated thank you.

Board Member Buzzutto stated it's just an area variance anyway, right.

Chairman Olenius stated yeah. I don't know, I think it's pretty cut and dry...

Board Member Buzzutto stated yeah.

Chairman Olenius stated personally. I don't have anything further.

Board Member Buzzutto stated yeah.

Chairman Olenius stated there's nobody in the audience to ask, so...

Board Member Bodor stated it looks good.

Board Member Buzzutto stated alright. We can close the public hearing.

Rich Williams stated I don't count.

[Laughter].

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

Board Member Buzzutto stated closing the public hearing.

Board Member Herbst stated hm.

Board Member Buzzutto stated closing the public hearing.

Board Member Herbst stated yeah. I said yeah.

Board Member Buzzutto stated yeah, okay.

Board Member Herbst stated you didn't hear me.

Board Member Buzzutto stated no.

Board Member Herbst stated oh.

Chairman Olenius read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Consortium Properties/Ballyhack Road, LLC, Case #14-11
For Area Variances for an Existing Barn

WHEREAS, *Consortium Properties/Ballyhack Road, LLC* is the owner of real property located
on
Ballyhack Road (R-4 Zoning District), also identified as **Tax Map Parcel #35.-5-36 & 35.-5-37**, and

WHEREAS, *Consortium Properties/Ballyhack Road, LLC* has made application to the Patterson Zoning Board of Appeals for area variances pursuant to §154-7 of the Patterson Town Code, Schedule of regulations, and §154-27 A(9)(a) of the Patterson Town Code; Permitted accessory uses, in order to allow for the existing barn structure to remain in the proposed subdivision.

Chairman Olenius stated I'm going to stop myself for one second. Do you have any idea the age of the barn.

Mrs. Ryan stated no.

Chairman Olenius stated no.

Mrs. Ryan stated (inaudible – papers shuffling). It used to be called the Sealy Farm. That was some time ago, right. Early 1900s.

Rich Williams stated later on.

Chairman Olenius stated in your estimation Mr. Williams, is that barn over fifty years old or...

Rich Williams stated the barn is probably over 50 years old but not over 100 years old.

Chairman Olenius stated okay, thank you.

Chairman Olenius continued to read the following resolution:

WHEREAS, §154-7 of the Patterson Town Code requires a 40' front yard setback for accessory structures; Currently exists is 42'; Proposed is 29.5'; ***Variance requested is for 10.5'***, and

WHEREAS, §154-27 A(9)(a) of the Patterson Town Code states that the barn shall not be located forward of the rear corners of the principal dwelling; Existing barn is proposed to be in front of the principal dwelling, and

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

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on ***August 24, 2011*** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***because said structure has been in existence for approximately fifty years.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***because of the age of the barn in question; relocating it would not be cost effective or feasible with the age of the structure.***
3. the variance requested ***is not*** substantial ***being that it is only 10.5' and due to a road relocation, to come in line with offer of dedication.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***because as previously stated, said barn has been in existence for a considerable amount of time.***
5. the alleged difficulty necessitating the variance ***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 ***Consortium Properties/Ballyhack Road, LLC*** for ***an area variance*** pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, ***for a variance of 10.5' from the 40' required for a front yard setback in the R-4 Zoning District***, in order to allow for the existing barn to remain on the proposed Lot 3 in the proposed subdivision, and

BE IT FURTHER RESOLVED, that the Patterson Zoning Board of Appeals hereby ***grants*** application of ***Consortium Properties/Ballyhack Road, LLC*** for ***an area variance*** pursuant to §154-27 A(9)(a) of the Patterson Town Code, Permitted accessory uses, to allow for the existing barn to be located forward of the rear corners of the proposed principal dwelling.

Board Member Buzzutto stated the (inaudible) you say is proposed to be in front of the...

Mrs. Ryan stated is that all of them [referring to the variances being requested].

Board Member Buzzutto stated is that right.

The Secretary stated that was two [variances].

Board Member Buzzutto stated the existing barn is proposed to be in front of the principal dwelling.

Chairman Olenius stated yeah.

Board Member Bodor stated yes.

Board Member Buzzutto stated yeah. That's the way it's written.

Chairman Olenius stated yes.

Board Member Bodor stated I'll second it.

Board Member Buzzutto stated okay.

Chairman Olenius stated all in favor. I'm sorry. Because I'm reading and writing at the same time. [referring to The Secretary taking the vote].

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

Resolution carried by a vote of 5 to 0.

Chairman Olenius stated sorry.

Board Member Buzzutto stated good luck.

Mrs. Ryan stated thank you so much.

The Secretary stated you have one more.

Board Member Bodor stated we have another one to go.

Board Member Burdick stated you want me to do this one, Lars.

Chairman Olenius stated yeah. As you can tell I'm getting tongue tied now.

Board Member Burdick read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Consortium Properties/Ballyhack Road, LLC, Case #14-11
*For an Area Variance for an Existing Barn***

WHEREAS, *Consortium Properties/Ballyhack Road, LLC* is the owner of real property located on Ballyhack Road (R-4 Zoning District), also identified as **Tax Map Parcel #35.-5-36 & 35.-5-37**, and

WHEREAS, *Consortium Properties/Ballyhack Road, LLC* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-27 A(9)(c) of the Patterson Town Code; Permitted accessory uses, in order to allow for the existing barn structure to remain in the proposed subdivision.

WHEREAS, §154-27 A(9)(c) states that the barn cannot exceed in size a floor area ratio of 50% of the principal dwelling on the proposed lot, and

WHEREAS, the proposed principal dwelling floor area is anticipated to be 3,000 square feet; The existing barn floor area is 3,320 square feet, 110% of the estimated principal dwelling floor area; ***Variance requested is for 60%***, 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 24, 2011** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***because the existing barn is approximately fifty years old.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***because the barn cannot be relocated; it has existed for fifty years in that location.***
3. the variance requested ***is*** substantial ***but not sufficient to cause a 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 as stated before, the barn has existed for approximately fifty years.***
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 *Consortium Properties/Ballyhack Road, LLC* for ***an area variance*** pursuant to §154-27 A(9)(c) of the Patterson Town Code, Permitted accessory uses, for an additional 60% for the floor area ratio of the barn.

Board Member Bodor stated second.

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

Resolution carried by a vote of 5 to 0.

Mrs. Ryan stated thank you very much.

Board Member Burdick stated you're welcome.

Chairman Olenius stated good luck.

Mrs. Ryan stated be safe this weekend [referring to a tropical storm].

Board Member Burdick stated thank you. You, too.

5) OTHER BUSINESS

a) Joseph Downey Case #13-11

Chairman Olenius stated Joseph Downey's application was withdrawn. Other business. Is there anything else. We don't have to do a site walk.

b) Minutes

The Secretary stated no. The minutes and...

Chairman Olenius stated I'll make a motion to approve the minutes from July 12th.

Board Member Bodor stated I'll second it.

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

Chairman Olenius stated is that it. Is there anything else.

Board Member Bodor stated I make a motion to adjourn.

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

Meeting was adjourned at 8:25 p.m.