

TOWN OF PATTERSON
ZONING BOARD OF APPEALS

September 16, 2015

AGENDA & MINUTES

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|--|--------|---|
| 1) Peter Ruisi Case #09-14 | 1 – 2 | Public hearing remained opened;
Applicant was not present – Application <u>tabled</u> pending
owners of Thunder Ridge filing a Use Variance application. |
| 2) Linda Cowan Case #16-15 | 2 – 11 | Public hearing opened and closed;
Resolution – Area Variance & Special Use Permit for
accessory apartment <u>granted.</u> |
| 3) Carino Holdings LLC Case #20-15 | 11 | Public hearing not yet opened;
Request to suspend application <u>granted.</u> |
| 4) Other Business | | |
| A) Bill Henry Tree Service: Lead Agency Notice | 11-12 | ZBA consented to Planning Board request to be lead agent. |
| B) Minutes: August 19, 2015 | 12-13 | <u>Approved</u> as submitted. |

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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

ZONING BOARD OF APPEALS

Lars Olenius, Chairman
Mary Bodor, Vice Chair
Marianne Burdick
Michael Carinha
Stephanie Fox

PLANNING BOARD

Thomas E. McNulty, Vice Chairman
Ron Taylor, Vice Chair
Michael Montesano
Edward J. Brady, Jr.
Robert F. Ladau

**Zoning Board of Appeals
September 16, 2015 Meeting Minutes**

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

Present were: Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Michael Carinha, Board Member Stephanie Fox, and Nancy Tagliafierro – Attorney with Town Attorney's Office.

Board Member Bodor called the meeting to order at 7:03 p.m.

There were approximately 2 members of the audience.

Mary Schartau was the secretary for this meeting and transcribed the following minutes.

Board Member Bodor led the salute to the flag.

Board Member Bodor: Can I have a roll call, please?

Roll Call:

Board Member Bodor	-	Here
Board Member Burdick	-	Here
Board Member Carinha	-	Here
Board Member Fox	-	Here

The Secretary: And Chairman Olenius is not in attendance tonight.

Board Member Bodor: Okay. May I have the [legal] notice, please?

1) Peter Ruisi (Liberty Paintball) Case #09-14

No one was present to represent the application.

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, September 16, 2015 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following applications:

Peter Ruisi (Liberty Paintball Games) Case #09-14 – Area Variance: Held over consecutively from the April 16, 2014 meeting

Board Member Bodor: Um, again, I believe we are going to be holding this case over. We haven't heard anything, um... a little chatter that some work may be being done, but, nothing official, so, we'll have to hold this over until we do hear something – one way or the other – officially. *[To the Secretary]* Next?

2) Linda Cowan Case #16-15

One person was present to represent the application.

The Secretary read the following legal notice:

Linda Cowan Case #16-15 – Special Use Permit & Area Variance

Applicant is requesting a special use permit and area variance for an accessory apartment pursuant to §154-105 of the Patterson Town Code; Accessory apartments. Patterson Town Code §154-105A(3) states that the floor area of the apartment must be greater than 400 sq. ft. and less than 600 sq. ft.; Applicant has 677 sq. ft.; *Variance requested is for 77 sq. ft.* This property is located at 85 Deacon Smith Hill Road (R-4 Zoning District).

Board Member Bodor: Okay. Is there someone here to represent this case?

[Rich Williams speaking in audience – Inaudible.]

Mrs. Cowan: Me.

Board Member Bodor: Please, step up to the mic?

Mrs. Cowan: Okay.

Board Member Bodor: Can I have an address please?

Mrs. Cowan: Uh, Linda Cowan. 85 Deacon Smith Hill Road. Patterson, New York.

Board Member Bodor: Okay, and raise your right hand. The testimony you are going to give you swear is the truth?

Mrs. Cowan: Yes.

Board Member Bodor: Thank you.

Mrs. Cowan: Thanks.

Board Member Bodor: Okay. So, what's going on here?

Mrs. Cowan: Okay, um... a lot's been going on. That apartment – we bought the house in 1993, and my parents had lived there. Nothing's been to do it. It's always been like that, and... I was not aware that we had to do, like, a refiling every so often, and... I'm going through a divorce. My husband was supposed to take care of it – he never took care of anything. Then my son got sick; we just did a kidney transplant, so... I'm here today to get this resolved so we can move forward. I mean, it's empty – there's nobody down there right now.

Board Member Bodor: Okay, so we're talking about an accessory apartment...

Mrs. Cowan: Yes.

Board Member Bodor: Within the building.

Mrs. Cowan: Correct.

Board Member Bodor: And it was there when you purchased...

Mrs. Cowan: Yes.

Board Member Bodor: The building?

Mrs. Cowan: Yes.

Board Member Bodor: Okay.

Mrs. Cowan: And I even was at the Department of Health, and I think they sent Cheryl [*Smith, Building Department Secretary*] a letter. It said that it's been grandfathered in, and there was no changes [sic] that are made to it. Like I said, my parents had lived there until they passed away, so...

Board Member Bodor: Alright, so it had been occupied. Your...

Mrs. Cowan: Yeah, my mother and father had lived there.

Board Member Bodor: They had lived there...

Mrs. Cowan: Yes.

Board Member Bodor: And how recently was that that they... left?

Mrs. Cowan: My mother died... uh, it'll be 4 years ago.

Board Member Bodor: 4 years ago?

Mrs. Cowan: Mm hmm.

Board Member Bodor: Okay. So, it's been vacant for the past 4 years.

Mrs. Cowan: Yes.

Board Member Bodor: Okay, and we're due to renew it...

Mrs. Cowan: Correct. Yes.

Board Member Bodor: However, apparently we need a variance first because of the size of the accessory apartment?

Mrs. Cowan: I guess. Yeah... and it's so funny because somebody was there when we did this originally and it was approved and nothing's been changed, but, I think whoever measured it that time was off a little bit, so... when the new guy [*Robert McCarthy, Building Inspector*] came, we did the new measuring, so...

Board Member Bodor: Okay...

Mrs. Cowan: But...

Board Member Bodor: What you're referring to is the, um... the checklist that we...

Mrs. Cowan: Yeah.

Nancy Tagliafierro: Mm hmm. Mm hmm.

Board Member Bodor: That – that you have...

Mrs. Cowan: Yes.

Board Member Bodor: [*Inaudible – papers shuffling*] Out there. Yeah. Okay.

Mrs. Cowan: Mm hmm.

Board Member Bodor: And did you receive, uh, approvement [sic] – approval from the Department of Health?

Mrs. Cowan: That's the funny story. I did go there – I paid them the \$100.00 and he said that they don't have to get involved.

Nancy Tagliafierro: They submitted a letter saying that...

Board Member Bodor: Where is that?

Mrs. Cowan: You have it, right?

Nancy Tagliafierro: Yeah.

Board Member Carinha: Yeah.

Nancy Tagliafierro: The parcel was approved...

Board Member Bodor: Oh, do we have it?

Board Member Burdick: Mm hmm.

Nancy Tagliafierro: For an addition in 2002...

Board Member Carinha: Yep.

Nancy Tagliafierro: And nothing's changed since then...

Board Member Bodor: Okay.

Nancy Tagliafierro: So, they don't need to, um, do anything.

Board Member Bodor: Alright, I had not picked up on that.

Mrs. Cowan: After I gave them \$100.00.

Nancy Tagliafierro: *[To Board Member Bodor]* Mary?

Board Member Bodor: Okay. Good. Thank you.

Board Member Fox: And, so, you said your parents have passed and that the house is vacant and the apartment is vacant.

Mrs. Cowan: Well, the house – I live upstairs.

Board Member Fox: Oh, you live upstairs?

Mrs. Cowan: I live upstairs with my son.

Board Member Fox: Oh, I'm sorry. I didn't realize that.

Mrs. Cowan: Yeah, I'm sorry...

Board Member Fox: Oh, okay.

Mrs. Cowan: And the downstairs is vacant...

Board Member Fox: Okay.

Mrs. Cowan: Yeah, and...

Board Member Fox: And, so, you're going to continue to live there, and then you're trying...

Mrs. Cowan: Well, actually, I'm trying to sell the house, and...

Board Member Fox: Oh, okay.

Mrs. Cowan: I have a contract hopefully signed this week, and...

Board Member Fox: Okay. So you just want...

Mrs. Cowan: It's just too much for me...

Board Member Fox: To legalize it? Okay.

Mrs. Cowan: It's 19 rooms. I – I can't do it. He's sick. I – I gave him my kidney. We can't – we can't take care of it. So, we're trying to get rid of it and do everything the right way and make every – you know...

Board Member Fox: Have everything clean for the sale.

Board Member Carinha: Yeah.

Mrs. Cowan: Right. Exactly. Exactly.

Board Member Fox: I understand.

Mrs. Cowan: Thank you.

Board Member Fox: So, it's really – you're not even doing it to benefit...

Mrs. Cowan: No.

Board Member Fox: Well, for the future. It's just to clean it up...

Mrs. Cowan: Yes.

Board Member Fox: So that you can sell it. Okay.

Mrs. Cowan: Yeah. I wouldn't have – I... I don't even want to rent. I did that once in the Bronx, and I don't want to do that again. Ever.

[Laughter.]

Board Member Bodor: Okay. Does anyone have any input from the audience? Any of the board members have something to question or... contribute?

Board Member Carinha: Nope, I'm good.

Board Member Bodor: You're good?

Board Member Burdick: I'm good.

Board Member Bodor: You're good? The Compliance Checklist looks like it was all, uh... it looks good. I'm seeing "Yes" and "No"...

Board Member Burdick: Yeah, it's good.

Board Member Bodor: In the appropriate places...

Board Member Carinha: Yep.

Board Member Bodor: And signatures, so... and I see where the measurements there, too, are of the, uh, floor area.

Mrs. Cowan: Well, my picture's not that great, but, I tried.

Board Member Bodor: Oh, the drawing? It looks fine.

Mrs. Cowan: Yeah. I tried. It's a little off.

Board Member Bodor: It looks good... well, no, it's – it's a rectangular apartment...

Mrs. Cowan: That's what it is.

Board Member Bodor: Right?

Mrs. Cowan: No, it's rectangular. Mm hmm.

Board Member Bodor: Okay. No, the floor plan looks... it looks fine.

Mrs. Cowan: Thank you.

Board Member Bodor: Um... it may not be to scale, but it's there.

Mrs. Cowan: Alright. Okay. Thanks.

Board Member Bodor: Thank you for your attempt.

Mrs. Cowan: You're welcome.

Board Member Bodor: Okay, if we are all satisfied, then I'll entertain a motion to close the public hearing.

Board Member Fox: Second.

Board Member Bodor: All in favor?

Motion passed by a vote of 4 – 0.

Board Member Bodor: Okay, the public hearing...

Board Member Burdick: Can I ask – can I ask one question?

Board Member Bodor: Yeah.

Board Member Burdick: I'm sorry.

Board Member Bodor: Mm hmm.

Board Member Burdick: Does the new owner know that they own, according the checklist, only have 90 days before this becomes...

Mrs. Cowan: Yes.

Board Member Burdick: Okay.

Mrs. Cowan: Mm hmm. Yes.

Board Member Burdick: Thank you.

Mrs. Cowan: Yes.

Board Member Bodor: Okay. We have two resolutions here. One for an area variance and one for a special use permit.

Board Member Bodor read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Linda Cowan, Case #16-15
For an Area Variance for an Accessory Apartment**

WHEREAS, *Linda & Michael Cowan* are the owners of real property located at 85 Deacon Smith Hill Road (R-4 Zoning District), also identified as ***Tax Map Parcel #23.10-1-7***, and

WHEREAS, *Linda Cowan* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §***154-105A(3)*** of the Patterson Town Code; Accessory apartments, in order to legalize an accessory apartment, and

WHEREAS, §154-105A(3) the Patterson Town Code states that the floor area of the apartment must be greater than 400 sq. ft. and less than 600 sq. ft.; Applicant has 677 sq. ft.; ***Variance requested is for 77 sq. ft., 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 *September 16, 2015*, 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 has been in existence for a good number of years.*
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *due to the fact that it is in existence and is not new construction.*
3. the variance requested *is not* substantial, um... *due to it only being 77 sq. ft., um... of relief being requested.*
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because of its preexistence.*
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 *Linda Cowan* for *an area variance* pursuant to §154-105A(3) of the Patterson Town Code; Accessory apartments, of *77 sq. ft. over the 600 sq. ft. maximum allowed in order to legalize a 677 sq. ft. accessory apartment.*

Board Member Burdick: Second.

Board Member Burdick	-	Yes
Board Member Carinha	-	Yes
Board Member Fox	-	Yes
Board Member Bodor	-	Yes

Motion passed by a vote of 4 – 0.

Board Member Bodor read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Linda Cowan, Case #16-15
For a Special Use Permit for an Accessory Apartment**

WHEREAS, *Linda & Michael Cowan* are the owners of real property located at 85 Deacon Smith Hill Road (R-4 Zoning District), also identified as *Tax Map Parcel #23.10-1-7*, and

WHEREAS, *Linda Cowan* has made application to the Patterson Zoning Board of Appeals for a Special Use Permit as set forth in §154-105 of the Patterson Town Code; Accessory apartments, in order to allow for an accessory apartment, and

WHEREAS, §154-105 of the Patterson Town Code states that an accessory apartment must be subordinate to a single-family dwelling, have no more than one bedroom, be greater than 400 sq. ft. but less than 600 sq. ft., have a floor area of no more than 35% of the entire livable floor area of the dwelling, have a proper entrance from the side or rear of the structure, and be

within the same structure as the principal unit, and

WHEREAS, the 677 sq. ft. apartment exists in the basement of the applicant's 3,670 sq. ft. single-family dwelling, which serves as her primary residence, and consists of one bedroom, one bathroom, a kitchen, dining room, and living room (as shown in submitted plans), with a separate rear entrance, and

WHEREAS, the Applicant has submitted the Compliance Checklist, which was in fact duly endorsed by a Code Enforcement Officer for the Town of Patterson, Robert McCarthy, and

WHEREAS, the Patterson Zoning Board of Appeals has granted an area variance from §154-105A(3) of the Patterson Town Code to permit a larger floor area of 77 sq. ft. above the maximum of 600 sq. ft. allowed, and

WHEREAS, the proposed action constitutes an unlisted action under 6 NYCRR Part 617, and

WHEREAS, a public hearing was held at the Patterson Town Hall, 1142 Route 311, Patterson, New York on *September 16, 2015* to consider the application; and

WHEREAS, The Patterson Zoning Board of Appeals finds that the Applicant *has* met the requirements and *has* received the appropriate area variances for the issuance of a Special Use Permit in accordance with §154-105 of the Patterson Zoning Code; Accessory apartments, subject to any conditions contained herein.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby determines that the proposed action *will not* have significant effects on the environment and issues a negative SEQRA declaration for the following reasons:

1. There *will not* be substantial change in existing air quality, ground or surface water quality or quantity, traffic or noise levels.
2. There *will not* be substantial increase in potential for erosion, flooding, leaching or drainage problems.
3. There *will not* be removal or destruction of large quantities of vegetation or fauna.
4. There *will not* be substantial increase in traffic or the use of existing infrastructure.
5. There *will not* be significant impairment of the character or quality of architectural or aesthetic resources of the existing neighborhood character, and

BE IT FURTHER RESOLVED, the Patterson Zoning Board of Appeals wishes to *grant* the request of *Linda Cowan* for a Special Use Permit *to allow for an accessory apartment in the R-4 Zoning District as set forth in §154-105* of the Patterson Zoning Code; Accessory Apartments, and

BE IT FURTHER RESOLVED, that the variance granted herein is subject to the following special conditions:

1. All of the provisions required for approval of a special use permit for an Accessory Apartment under §154-105 of the Patterson Zoning Code, which include a renewal in five years, are hereby incorporated as a condition applicable to the approval of this special use permit.

Board Member Burdick: Second.

Board Member Burdick	-	Yes
Board Member Carinha	-	Yes
Board Member Fox	-	Yes
Board Member Bodor	-	Yes

Motion passed by vote of 4 – 0.

Mrs. Cowan: That's it?

Board Member Bodor: Okay, it's all...

Mrs. Cowan: Okay.

Board Member Bodor: It's all fine then.

Mrs. Cowan: Thank you. So, I don't – do I get a copy...

The Secretary: You'll get a copy. It'll...

Mrs. Cowan: How does that work? Okay.

The Secretary: It'll come in the mail.

Mrs. Cowan: That's fine. That's fine. Thank you so much, everyone.

Board Member Bodor: You're welcome.

Mrs. Cowan: Have a good evening. Thank you.

Board Member Bodor: Good luck to you.

Mrs. Cowan: Thank you. I've got to get my sweater on.

[Laughter.]

Mrs. Cowan: Bye.

Board Member Bodor: Bye-bye now. *[To the Secretary]* Okay.

3) Carino Holdings LLC Case #20-15

No one was present to represent the application.

The Secretary read the following heading from the legal notice:

Carino Holdings LLC Case #20-15 – Area Variances

Board Member Bodor: Okay. It's our understanding that, um, the principals involved with this case have asked that it be suspended... at this time. And that completes the agenda.

4) Other Business

A) Bill Henry Tree Service: Lead Agency Notice

Board Member Bodor: We have other business, the first one being "Bill Henry Tree Service: Lead Agency Notice." Um... Rich [Williams, Town Planner], could you, um, enlighten the board on this, uh, situation?

Rich Williams: Sure.

Board Member Bodor: Thank you.

Rich Williams: The Planning Board has an application for Site Plan Approval for a new commercial building down on Route 22, just south of the, um... the, uh... [Putnam] Power... the... the lawnmower place, uh, just south of Noletti's, um... it is a new application under a, uh, section of code that was just recently adopted by the Town Board allowing commercial trade operations, um... in order to get access to the site – rather than come in off of Route 22 and have another road cut, there is a common drive already there that services the sporting goods store, as well as two additional commercial buildings – contractors' yards – to the rear of the, uh, Tri-County Sporting goods store. The, uh, applicant is proposing to use that common driveway for access, which necessitates a... a, uh, §280A variance from this board. So, as a precursor to that, the Planning Board that is currently reviewing the site plan has circulated their notice of their intent to assume lead agency status in the environmental review of the project under SEQR, um... and they are asking for your consent to do so.

Board Member Bodor: Having heard that information, I'd like to make a motion that we allow the Planning Board to go on as lead agency for this matter.

Board Member Burdick: Second.

Board Member Bodor: All in favor?

Motion passed by a vote of 4 – 0.

Board Member Bodor: They got it.

B) Minutes: August 19, 2015

Board Member Bodor: Okay, the minutes from August 19th?

Board Member Fox: They looked good.

Board Member Carinha: Yep. I didn't see anything.

Board Member Fox: I just skimmed all of those...

Board Member Bodor: Well, when you skimmed them, did they look okay?

[Laughter.]

Board Member Fox: They were *[inaudible – papers shuffling]*... *[To the Secretary]* I think you did a great job.

Board Member Carinha: Yeah.

Board Member Bodor: They're always very good, so...

[Laughter.]

Board Member Burdick: I'll make a motion to accept the minutes as is.

Board Member Bodor: A second, please.

Board Member Carinha: I second.

Board Member Bodor: All in favor?

Motion passed by vote of 4 -0.

Board Member Bodor: Okay. Approved as submitted. Uh... we don't need to talk about a site walk. We're not going anywhere, as far as I know. Is there any other business that we need to be *[inaudible – papers shuffling]*... at this time? Anyone want to talk about anything?

Board Member Carinha: Nope.

Board Member Fox: No.

Board Member Bodor: Okay. We missed Lars *[Olenius, Chairman]* tonight. I understand there's been a death in the family, and that's where he is today.

Nancy Tagliafierro: Oh, I'm sorry to hear that.

Board Member Bodor: Um... so, and having said that... thank you for being here and I make a motion to adjourn.

Board Member Burdick: Second.

Board Member Bodor: All in favor?

Motion passed by vote of 4 – 0.