

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS**

September 17, 2014

AGENDA & MINUTES

| | Page | |
|---|---------|---|
| 1) Linda Cowan Case #07-14 | 1 – 3 | Public hearing opened and closed; Applicant was not present – Denied Special Use Permit: Renewal for an Accessory Apartment. |
| 2) Peter Ruisi Case #09-14 | 3 – 4 | Public hearing remained opened; Applicant was not present – Application tabled pending future of Thunder Ridge. |
| 3) Frog Hill LLC Case #15-14 | 4 – 9 | Public hearing opened and closed; Granted – Special Use Permit: Light Manufacturing. |
| 4) Luis Roman Case #16-14 | 9 – 27 | Public hearing remained opened; Application tabled pending a site walk of applicant’s property and adjacent neighbor’s property. |
| 5) Bonnie Daleo Case #17-14 | 27 – 38 | Public hearing opened and closed; Granted – Area Variance: Enlargement of Nonconforming Buildings; Area Variance: Side Yard Setback of 11.4 ft. (to legalize existing deck); Area Variance: Side Yard Setback of 4.88 ft. (to legalize existing shed); Area Variance: Rear Yard Setback of 3.52 ft. (to legalize existing shed). |
| 6) Cody Barticciotto Case #18-14 | 38 – 42 | Public hearing opened and closed; Granted – Special Use Permit: Accessory Apartment. |
| 7) Other Business | | |
| A) Luis Roman Case #16-14: Request to Waive Application Fees | 42 – 43 | Request held over pending case resolution. |
| B) Minutes | 43 | Minutes from August 20, 2014 ZBA Meeting Approved. |
| C) Site Walk | 43 – 49 | Site Walk for Luis Roman Scheduled: 10/7/14 at 5:15 PM Site Walk for Scott Heller Scheduled: 10/7/14 at 5:45 PM |
| D) Review: Board Policies | 49 – 53 | Rich Williams reviewed the Open Meetings Law with Board; Nancy Tagliafierro reviewed policy of document submission into the record at ZBA meetings. |

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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
Michael Carinha

PLANNING BOARD

Shawn Rogan, Chairman
Thomas E. McNulty, Vice Chairman
Michael Montesano
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**Zoning Board of Appeals
September 17, 2014 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 Michael Carinha, Board Member Stephanie Fox, Nancy Tagliaferro, Attorney with Town Attorney's Office, Robert (Bob) McCarthy, Town Building Inspector, and Richard Williams Sr., Town Planner.

Chairman Olenius called the meeting to order at 7:01 p.m.

There were approximately 15 members of the audience.

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

Chairman Olenius led the salute to the flag.

Roll Call:

| | | |
|----------------------|---|------|
| Board Member Burdick | - | Here |
| Board Member Bodor | - | Here |
| Board Member Carinha | - | Here |
| Board Member Fox | - | Here |
| Chairman Olenius | - | Here |

1) LINDA COWAN CASE #07-14

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, 2014 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following applications:

Linda Cowan Case #07-14 – Special Use Permit Renewal: Held over from the March 19, 2014, April 16, 2014, May 21, 2014, June 18, 2014, July 16, 2014, and August 20, 2014 meetings

Chairman Olenius stated is anybody here for the Cowan case. We sent a letter...

The Secretary stated certified mail...

Chairman Olenius stated requesting input.

The Secretary stated yes. To both Linda and her husband.

Chairman Olenius stated how long is too long, counselor.

Nancy Tagliafierro stated I think we've given them more than a reasonable amount of time. Did the letter advise them that if they didn't communicate with us, then...

The Secretary stated the letter advised them that a decision was going to be made tonight.

Chairman Olenius stated very well. And we were waiting – as I recall, we didn't have the Health Department approval for this, right...

Nancy Tagliafierro stated right.

Chairman Olenius stated so, it's not like – okay, so, I've got to make a motion to close the public hearing.

Board Member Bodor stated second.

Board Member Burdick stated second.

Chairman Olenius stated all in favor.

Motion carried by a vote of five to zero.

Chairman Olenius stated okay.

Chairman Olenius read the following resolution.

**IN THE MATTER OF THE APPLICATION OF
Linda Cowan, Case #07-14
For an a Renewal for an Accessory Apartment**

WHEREAS, Linda Cowan and 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, the Zoning Board of Appeals approved a special use permit to allow an accessory apartment in the principal residence on August 27, 2002 (Case #24-01), and

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

WHEREAS, the said application was reviewed by the Zoning Board of Appeals *on March 19, 2014, April 16, 2014, May 21, 2014, June 18, 2014, July 16, 2014, August 20, 2014, and September 17, 2014* and

WHEREAS, the conditions of the original permit are *not* satisfied *due to the lack of the Health Department approval for renewal*, and

WHEREAS, The Patterson Zoning Board of Appeals has given careful consideration to the facts presented in the application and at the public hearing and finds that the applicant *does not* comply with the requirements set forth in §154-105 of the Patterson Town Code for Renewal for an Accessory Apartment, and

WHEREAS, the proposed action is considered a Type II Action pursuant to the State Environmental Review Act, 6NYCRR Part 617.5(26)

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *denies* the application of *Linda Cowan for a renewal for an Accessory Apartment* as set forth in §154-105 of the Patterson Town Code; Accessory apartments.

Board Member Burdick stated second.

| | | |
|----------------------|---|-----|
| Board Member Bodor | - | Yes |
| Board Member Burdick | - | Yes |
| Board Member Carinha | - | Yes |
| Board Member Fox | - | Yes |
| Chairman Olenius | - | Yes |

VOTE: Resolution carried by a vote of 5 to 0.

Chairman Olenius stated another one off the books. You can read the next one [to the secretary].

2) PETER RUISI (LIBERTY PAINTBALL GAMES) CASE #09-14

No one was present to represent the application.

The Secretary stated:

**Peter Ruisi (Liberty Paintball Games) Case #09-14 – Area Variance:
Held over from the April 16, 2014, May 21, 2014, June 18, 2014, July
16, 2014, and August 20, 2014 meetings**

Chairman Olenius stated is anybody here for Mr. Ruisi. Is Rich here. I mean...

Richard Williams stated what I would ask you to do on this is just hold it off one more month. There's been a lot of activity at Thunder Ridge right now trying to straighten out some of the issues that were up there.

Chairman Olenius stated that was my understanding. That's what I was going to say...

Richard Williams stated yeah...

Chairman Olenius stated I just wanted your input on it, because...

Richard Williams stated so hopefully...

Chairman Olenius stated I understood that the bank came in, and...

Richard Williams stated Bob's been instrumental in working with the writers and some of the other players trying to, um, straighten out some of the issues and get the ski area open this year, which is their intent. So, hopefully within a month or so we'll have a better idea about, you know, how this is going to be moving forward, and hopefully they'll be back in at that... at that juncture.

Chairman Olenius stated yeah, I have no problem with that. I know it's an unusual situation, and it's continuing to go on, so, we'll hold that over until October. At least. Go ahead [to the secretary].

3) FROG HILL LCC CASE #15-14

One person was present to represent the application.

The Secretary stated:

Frog Hill, LLC Case #15-14 – Special Use Permit:

Applicant is requesting a special use permit pursuant to §154-108 of the Patterson Town Code: Light Manufacturing. This property is located at 3165 NYS Route 22 (C-1 Zoning District).

Chairman Olenius stated is somebody here for Frog Hill.

Mr. Nichols stated yes.

Chairman Olenius stated please, come up to the mic and state your name for the record please.

Mr. Nichols stated good evening. My name is Harry Nichols. I'm the engineer for the project.

Chairman Olenius stated so you're speaking on behalf of the applicant.

Mr. Nichols stated yes, I am.

Chairman Olenius stated okay. I know I saw your name in the packet somewhere, I just didn't...

Mr. Nichols stated yeah, he couldn't be here tonight. He had another commitment.

Chairman Olenius stated so what can you tell us about.

Mr. Nichols stated well, we have been before the Planning Board, and I believe we have, uh, I believe settled, uh, almost all of the issues with the Planning Board for this project. It is required that we get a special use permit for any light manufacturing. The, uh, tenant that is proposed to go in here, he makes countertops from manmade stone and from natural stone. And this building would also house a sales area where people could – could look at the wears before they make their decision. We have had extensive meetings with not only the Planning Board – we've had a field walk, we have met with the New York State DEC. Also, uh, Ted Kozlowski, the local wetlands inspector, and we do have intrusion into the wetland buffer. But, most of that was already built when the building was erected several years ago.

Chairman Olenius stated pre-existing.

Mr. Nichols stated pre-existing. Our proposal is to minimize land disturbance as best as we can. Uh, the existing building has a gravel or a stone path around, uh, basically, three sides. Our intention is to use that area that has already been stoned, and we are going to mark off with visible markers, mainly large boulders, where the hundred foot adjacent area is. We are not in the wetland areas. We are in the hundred foot adjacent.

Chairman Olenius stated right. So by placing the boulders...

Mr. Nichols stated boulders...

Chairman Olenius stated you limit any...

Mr. Nichols stated boulders will be placed 25 feet apart.

Chairman Olenius stated okay.

Mr. Nichols stated there may be some landscaping just to soften, uh, the view of them, uh, which would be put in by the applicant. We are proposing some paving around the west side and the south side of the building where we're going to have the parking area and the service area. Currently the access road going in there is made of what they call tailings, for the most part. These are, uh, existing pavement areas that were removed. Today they can, they can grind them up into smaller particles and in the case of this site, they had been placed there over the greater part of the access road coming in, and through the years and the traffic on them they have solidified to the point where it's almost a blacktop. Our disturbance to this is – uh, additional disturbance, I should say – is slightly over half an acre, and we are proposing to improve the entrance from Route 22, and it will be done with, uh, asphalt paving to a point where the grade flattens out and then any widening to the existing roadway going in would be done with the same

tailoring We are also proposing a septic system to be installed. There is not one currently there for the existing building, which basically has been used for storage over the last several years.

Chairman Olenius stated and that doesn't interfere with the wetlands buffer from what I see from your...

Mr. Nichols stated well...

Chairman Olenius stated submitted plans.

Mr. Nichols stated actually a corner of the building is into the wetland buffer.

Chairman Olenius stated I'm talking about the – where you're proposing to put the septic system.

Mr. Nichols stated no...

Chairman Olenius stated that's from...

Mr. Nichols stated that has to be out of the hundred foot...

Chairman Olenius stated right.

Mr. Nichols stated adjacent area, and there are New York State wetlands and local wetlands, which are on the north side, the west side, and some to the south. We will require an approval from the Health Department for the septic system going in. We have done our soil testing out there. It will meet the requirements of, uh, Putnam County Health Department. Um, we have – the wetland was flagged by New York State DEC, and we will be obtaining their approval to, uh, infringe slightly into the adjacent area. It's mainly where the existing stone, uh, gravel areas were previously constructed and I believe that they will require us to obtain an easement from them, even though it's pre-existing. We have done this in the past, and that's basically been their, um, forte. With that, any questions that the Board might have?

Chairman Olenius stated what type of noise would this manufacturing...

Mr. Nichols stated it really does not make a lot of noise...

Chairman Olenius stated produce.

Mr. Nichols stated but the good thing is the building is considerable distance back from Route 22, and there is a buffer between the building and the, uh, Danby Lane residents. And I don't believe the noise would be – would have any impact on the adjacent residential [area].

Chairman Olenius stated okay.

Board Member Fox stated and I'm assuming that you've worked out whether the Health Department or DEC or whoever it is that whatever – when you cut stone you have to have water and things like that – whatever waste or, is produced from the cutting of the stone...

Mr. Nichols stated yes...

Board Member Fox stated that's not an issue or anything like that.

Mr. Nichols stated no, what he has is a recycling system that we put in there. There'll be a trough where the cuttings will go into a trough. The water that's used to keep the, uh, to cool it down while it's being cut will be filtered and recycled.

Board Member Fox stated oh.

Mr. Nichols stated and, periodically, a collection of the tailings will be disposed of appropriately.

Chairman Olenius stated okay.

Board Member Carinha stated now that cutting, that's going to be inside of the building.

Mr. Nichols stated it's inside the building.

Board Member Carinha stated okay.

Board Member Bodor stated now this access road, um, has a surface on it almost like macadam at this point in time. Will it need any further dressing?

Mr. Nichols stated there will be some widening...

Board Member Bodor stated some widening.

Mr. Nichols stated we're trying to make it, uh, compliant with the town standards for a two way road...

Board Member Bodor stated mm hmm.

Mr. Nichols stated so we will be widening a few feet on either side, and, uh, if necessary, we would put more – we will be putting more tailings down for the portion that's beyond the steep entrance coming in. Anything that's been over six or seven percent [grade], we are paving. And it will be a new entrance which will be better defined than the one that's there now.

Board Member Bodor stated but the entrance will remain in the same location.

Mr. Nichols stated same location...

Board Member Bodor stated just...

Mr. Nichols stated yes...

Board Member Bodor stated improved upon.

Mr. Nichols stated yes.

Chairman Olenius stated I just want to state for the record, too, that we got a memo from the

Planning Department who are lead agencies for the SEQRA determination, they, uh, issued a negative SEQRA determination on September 4, 2014 for this project. Anybody from the audience have anything on this project? Hearing not?

Chairman Olenius stated I don't have anything else, so...

Board Member Fox stated you okay.

Board Member Carinha stated let's close.

Chairman Olenius stated I make a motion to close. Oh, did you.

Board Member Carinha stated yes.

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

Board Member Burdick stated second.

Chairman Olenius stated all in favor.

Motion carried by a vote of five to zero.

Chairman Olenius read the following resolution.

**IN THE MATTER OF THE APPLICATION OF
Frog Hill, LLC Tax Map #4.-1-42
For a Special Use Permit for Light Manufacturing**

WHEREAS, *Adrian Maxwell* is the owner of real property located at 3165 NYS Route 22 (C-1 Zoning District), also identified as **Tax Map Parcel #4.-1-42, and**

WHEREAS, *Frog Hill LLC* has made an application to the Patterson Zoning Board of Appeals for a special use permit pursuant to §154-108 of the Patterson Town Code; Light manufacturing, in order to manufacture stone and manmade stone countertops, and to operate a showroom for the finished products, in an existing 50' x 100' metal building on the property, and

WHEREAS, the Patterson Planning Board acting as lead agent issued a negative SEQRA determination on September 4, 2014, and

WHEREAS, a public hearing was held at the Patterson Town Hall, 1142 Route 311, Patterson, New York on *September 17, 2014* to consider the application; and

WHEREAS, The Patterson Zoning Board of Appeals finds that the Applicant *has* met the standards for the issuance of a special use as set forth in §154-108 of the Patterson Zoning Code;

- A. The Zoning requirements of the district relative to frontage, property line setbacks and building coverage have all been met.
- B. The applicant has provided a seventy-five-foot densely vegetated buffer along the

adjacent residential zoning district, and there are no aboveground or below-ground utilities or structures placed in the buffer.

- C. Access is from a county or state road.
- D. The building permit to reconstruct the building in its current form was issued on June 8, 2000, and as such, the exposed metal-siding on the building having been constructed prior to November 15, 2006 is considered a pre-existing, non-conforming condition of the building.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *grants* the application of *Frog Hill LLC* for a special use permit as set forth in §154-108 of the Patterson Town Code; Light manufacturing, to permit the manufacturing of stone and manmade countertops in an existing 50' x 100' metal building on the property.

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

- 1. Only that all town standards are met with regards the roadways and that you [the applicant] keep in touch with the town.

| | | |
|----------------------|---|-----|
| Board Member Bodor | - | Yes |
| Board Member Burdick | - | Yes |
| Board Member Carinha | - | Yes |
| Board Member Fox | - | Yes |
| Chairman Olenius | - | Yes |

Board Member Bodor stated second.

VOTE: Resolution carried by a vote of 5 to 0.

Chairman Olenius stated good luck with that. It's good to see more businesses coming into town.

Board Member Carinha stated yes.

Mr. Nichols stated, oh, thank you very much.

Chairman Olenius stated thank you. Alright, Mary, when you're ready [to the secretary].

4) Luis Roman Case #16-14

Four people were present to represent the application.

The secretary stated:

Luis Roman Case #16-14 – Area Variance

Applicant is requesting an area variance pursuant to §154-27 A(9)(c) of the Patterson Town Code; Permitted accessory uses, in order to allow for a 16'x20' existing accessory structure to remain on the property. A building permit was issued to the applicant prior to the construction of the accessory

structure; Patterson Town Code requires that accessory structures not exceed in height the height of the principal structure; Applicant's accessory structure is 9" higher than the principal structure; Applicant is requesting a height variance of 9". This property is located at 425 Mooney Hill Rd (R-4 Zoning District).

Chairman Olenius stated Mr. Roman.

Mr. Roman stated good evening...

Chairman Olenius stated just state your name and address for the record.

Mr. Roman stated good evening Mr. Chairman and members of the Board. My name is Luis Roman and I reside at 425 Mooney Hill Rd.

Chairman Olenius stated do you swear that the testimony you provide tonight will be the truth and the whole truth.

Mr. Roman stated I do, sir.

Chairman Olenius stated thank you. Can you explain to us a little bit about your predicament here.

Mr. Roman stated sure. We put up, a, um, the pre-existing structure that's on my property. It's a 16 [feet] x 20 [feet] accessory building that I put in as additional supplement to the garage that I have now, because I don't have enough space to park and whatnot. It was brought to by attention by the Building Department that the building was 9 inches higher than it should be. I had a, uh, I applied for a building permit, which I obtained. I went through the struggle to – through the proper inspections to make sure that everything was right. I passed the footing, I passed the foundations, the framing, and recently the electrical. I've complied with the building department to make sure that everything is within code. I went as far as getting a survey. The setbacks of my property on both sides, uh, were in the standards that they're supposed to be, and... I'm just here to work with the building department and do whatever I have to do to remedy the situation. I have gone to great lengths to make sure that this building matches the look of my house. I'm in my property approximately 7 to 8 years. I've done extensive repairs to my property to make it look good, both in the form of landscaping and upgrades to the house, and I made sure that this structure also matches the cosmetic features of my house, both from the asphalt shingles on the roofs, to the siding.

Chairman Olenius stated so when – I'm just curious about one thing because I haven't seen your property and I don't know what the elevations are like there. Is it, is it 9 inches taller because of an increase in grade or is it 9 inches taller than if you were on...

Mr. Roman stated I think – if the Board allows me to show you a couple of pictures...

Chairman Olenius stated that would be great.

Mr. Roman stated I live on Mooney Hill Road at probably one of the steepest points...

Chairman Olenius stated okay.

Mr. Roman stated so grade is a great factor.

Chairman Olenius stated okay.

Mr. Roman stated okay, that definitely needs to be taken into account. I built the, uh, the accessory building to the specs of the architectural plans that I have, which I also have copies of if anybody wants to review. Okay, and I actually kept it shorter than what the, um, plans called for on purpose to avoid any problems. Unfortunately, because of writing, upgrading, as far as I'm concerned, is why I'm over the 9 inches, but, you know, with your permission, I'd like to show you some pictures.

Chairman Olenius stated yes, absolutely. Please.

Mr. Roman stated thank you. May I [to secretary]. Pictures of the building from four different angles and the difference in elevations and the grading, the way it looks. My property is on the upside.

Board Member Fox stated are these the, uh, plans that were submitted to the Building Department and approved.

Mr. Roman stated yes, ma'am.

Board Member Carinha stated now with these plans, are these the ones where you said you kept it shorter compared to what the – the original plans you got.

Mr. Roman stated yes, sir.

Board Member Carinha stated okay.

Mr. Roman stated low pitch roof. I did it on purpose to match the, um, the slope on my existing roof right now.

Chairman Olenius stated I'm looking at the sloop of your property right now...

Mr. Roman stated yes, it's – not to exaggerate but it's a big, uh, big difference there. When we were pouring the, um, the footings, I had elevation differences for the footings of almost 7 feet in some spots.

Board Member Fox stated oh.

Chairman Olenius stated wow.

Mr. Roman stated yeah. I think the concern here is, um, for my neighbor. There's an issue that it might be intrusive, and that it might be able to see into the, um, my neighbor's property. That is, by no means, the intention here. Uh, the pictures will the story. You cannot see into any of my neighbors' properties, including the neighbor with the setback of, um, 25 feet, which would be to the right of my property as you face the, um, the accessory building. So you really don't need –

you don't see his house, which is only 25 feet, like I said, from the setback and the other property is a little bit of, uh, a little bit under 100 feet, as far as the setback goes. Also, just a little more history on the building: I put four, I put four windows on the top floor and I put three build – three windows on the bottom. We are very eco-friendly in my house. I wanted to minimize the amount of, well, electricity fixtures that went into this building to get as much natural light as possible.

Board Member Bodor stated what's planned for the upper floor in this building...

Mr. Roman stated my...

Board Member Bodor stated just storage, or...

Mr. Roman stated storage, yes. And my son is a train buff, and we enjoy, you know, the train hobbying [sic]. And we're going to – do need to store some of that stuff up there as well.

Board Member Bodor okay...

Mr. Roman stated items that need to be kept dry.

Board Member Bodor stated it's not going to be used for anyone to reside in.

Mr. Roman stated in no form or way. No plumbing is – there's not plumbing in there of any sort.

Board Member Bodor stated thank you.

Mr. Roman stated thank you very much.

Chairman Olenius stated can I ask for [the photograph]...

Mr. Roman stated yes.

Chairman Olenius stated I'm going – I want to refer a question in a moment. Mr. McCarthy, could you come forward for me for a second, please.

Bob McCarthy stated sure.

Chairman Olenius stated I'm going to refer to this – well, let me start with the question on – are you aware how this engineer or whatever measured the elevations of these two buildings?

Bob McCarthy stated did I see him actually do it, no.

Chairman Olenius stated okay. My curiosity is the way this building is constructed from this photo here...

Bob McCarthy stated yep.

Chairman Olenius stated you can see the slope of the land and I'm wondering where, if they took an average of...

Bob McCarthy stated how...

Chairman Olenius stated that change in slope, or...

Bob McCarthy stated I was out there in July, and so I actually, if you look at the other side of it, okay, that's the back.

Chairman Olenius stated okay.

Bob McCarthy stated okay, I took it actually from the far side, because if you take the average from each side, I determined that that was actually the height – the tallest height.

Chairman Olenius stated okay.

Bob McCarthy stated okay. And so that's how we got the – because an elevation I'm seeing as a set point. Like sea level in an elevation.

Chairman Olenius stated right.

Bob McCarthy stated we're talking height. So that's, there's a problem, it's actually that there's a height difference. Elevation is totally different because they are on two different grades. So there's a difference within elevation compared to height, and the height is the issue right here.

Board Member Fox stated is there a slab in the lower portion.

Mr. Roman stated yes.

Bob McCarthy stated is there a picture on the other side that will show them where the garage door is.

Board Member Carinha stated yeah.

Mr. Roman stated yes.

Bob McCarthy stated because that's where I actually took, uh, I took a measurement there, and I also took a measurement of the house.

Chairman Olenius stated yeah, you know what, the – that picture doesn't come all the way down...

Board Member Bodor stated to the ground.

Chairman Olenius stated to grade, unfortunately...

Bob McCarthy stated you might even be able to see there...

Chairman Olenius stated it's like up a little bit, but...

Bob McCarthy stated yeah...

Board Member Fox stated my first concern is about his roof... [Inaudible – too many speaking]

Bob McCarthy stated because it actually does look towards Mooney Hill.

Chairman Olenius stated just this picture jumped out at me when I saw...

Bob McCarthy stated yep...

Chairman Olenius stated the way that...

Bob McCarthy stated right...

Board Member Bodor stated yeah.

Chairman Olenius stated you know, I didn't know if it was an average or where it was taken from...

Board Member Fox stated how it's determined correctly.

Chairman Olenius yeah. Sorry, I just wanted to...

Mr. Roman stated thank you.

Chairman Olenius stated use that for reference for that question. So, explain to me the difference between elevation and height right now, because...

Bob McCarthy stated well, elevation is actually a fixed point. What's called sea-level is elevation.

Chairman Olenius stated right.

Bob McCarthy stated okay, so I think it even indicates on your – on the survey – 93.3 [feet]...

Chairman Olenius stated mm hmm...

Bob McCarthy stated and that's actually an elevation point, okay.

Chairman Olenius stated right.

Bob McCarthy stated so what we did is actually we took an average of the actual height is, took an average from the four – the two corners...

Chairman Olenius stated okay.

Bob McCarthy stated okay, determined what side is actually the large – the tallest...

Chairman Olenius stated okay.

Bob McCarthy stated okay, we measured from there to the peak.

Chairman Olenius stated okay.

Bob McCarthy stated okay. So, obviously the house, the north side is the tallest side...

Chairman Olenius stated okay.

Bob McCarthy stated so, if you want to consider an elevation, we'll consider an elevation, okay. So, that elevation of the house is four inches shorter. But I consider an elevation as like sea-level.

Chairman Olenius stated okay.

Bob McCarthy stated okay. So a height is different from ground up compared to elevation. And elevations are obviously done on that, so that's where you see the difference.

Chairman Olenius stated right.

Bob McCarthy stated 93 [feet] and 112 [feet], or something like that. So there's your difference in the elevation. So, that's because of the slope. So – and I actually, I did take measurements of the north side and also the west side, the west side of the accessory structure and north side of the house, which, that was the tallest side...

Chairman Olenius stated okay.

Bob McCarthy stated of his house, so – and we don't actually take an average of all four corners, just for the fact that it's going to make the house taller.

Chairman Olenius stated we've been through this before, too, with...

Bob McCarthy stated right...

Chairman Olenius stated and, you know, each building inspector averages a little bit differently...

Bob McCarthy stated right...

Chairman Olenius stated you know...

Bob McCarthy stated well, according to – you know, you've got four sides and you've got to average it and whatever's the longest, that's the actual size...

Chairman Olenius I've got you.

Bob McCarthy stated and I understand that because of obviously walkouts, or, you know, they can cause a problem...

Chairman Olenius stated right.

Bob McCarthy stated you know, for other applications...

Chairman Olenius stated right.

Bob McCarthy and stuff like that so, that's how we determined it.

Chairman Olenius stated oh boy. Thank you, I just wanted you to...

Bob McCarthy stated okie doke.

Chairman Olenius stated enlighten us on that a little bit. Does anyone in the audience have a comment on this case.

Mr. Heller stated there's a couple that do. There is. I'd like to...

Chairman Olenius stated I need you to approach, please...

Mr. Heller stated yeah, I'd like the opportunity to address, so...

Chairman Olenius stated it...

Mr. Heller stated this isn't just questions...

Chairman Olenius stated well...

Mr. Heller stated it's actually to...

Chairman Olenius stated please...

Mr. Heller stated good evening. My name is Scott Heller. I am the adjacent property...

Chairman Olenius stated okay.

Mr. Heller stated I live at 433 Mooney Hill Rd, um, and I'm here to talk to you. I have some very serious reservations about, um, how this was calculated and I want to share with you the impact on my property. Um, and I'm going to keep it mostly to – if I get off, please, you know, please move me back to the subject matter – I want to stick to the code. Okay. And I know you guys want me to stick to the code, and when I say “guys”, you know, I mean. Um, the first thing I want to address is we're here about a 9 inch variance, okay, at least superficially. It's not 9 inches. It's 9 inches on one side. The way that they calculate this is that they take the tallest side, they take the side that, essentially the east face of Mr. Roman's residence, where the grade has removed all the soil, alright. There's no soil there, so you're looking at – you're including the entire basement in this. You're not averaging. You're taking the average of that one east face, okay, and you're coming up with 19.7 feet. So, literally what's happening here, I should stick to my script, is a one story residence is begetting a subordinate structure that's 2 stories high. It's almost, it is 2 stories high, okay. If you look at the variance, it's 9 inches on this eastern face. It's almost 5 feet on the western face because as the grade comes up, okay, it's only 15.6 feet. So if you were to put this structure behind – directly behind – the existing primary, the primary that we determined the height from, it's 9 inches out here, but if you were to put it right behind the other face, the opposite face, okay, it's almost 5 feet. It's 4.77 [feet]. Now, you can't – you're going to have to

take my word for it, I've got the calculations right here. So I blew this up, and I'll let you take a look at my math, it could be wrong...

Board Member Bodor stated we need...

Mr. Heller stated but I've got...

Board Member Bodor stated excuse me, sir, we need you to take the mic with you.

Mr. Heller stated oh, that would be hard, but...

Board Member Bodor stated no, it comes...

Nancy Tagliaferro stated it comes out.

Board Member Bodor stated it comes out.

Chairman Olenius stated it comes out. Just so we can get everything on the record.

Mr. Heller stated got you. Okay. So this is – this is the survey that Mr. Roman had done [survey submitted to file for TM #13.-1-41]. Okay. I'm using his data, okay, But we've only – we only evaluate one side. And my understanding is it's very commonly done that you try to take out the extremes, right. You wouldn't want to use the face that I'm going to talk about. Or this one that's, that's the highest, right. You'd probably take the median, right. So that you take out extremes. Because this is a little bit crazy, that a one-story structure has a subordinate structure that's two stories, right. So anyway, here's how I did it. I just used their data. Because 113 [feet], the ground on this side is 97.4 [feet], the difference is 15.6 feet. That's what this side is. So I just took an average, because I think this is really what we should be considering... I took the average of those 2 numbers, I summed them together, divided by 2. Simple average, 17.7 [feet]. The real, the real variance that we're looking at if we use a median is 32 inches. That's big, this is big. When people look at this, and I think one of my neighbors may come up and talk about that, there's no doubt that it's bigger, and I'm going to share with you a picture [photographs submitted to file for TM #13.-1-41]. And this is, this is one picture just of the structure. You've seen one of those. But this is, this is the subordinate structure down here, okay. This is the primary. Now, the grade has allowed them to actually pump up – and the way they evaluate in Patterson is they use the highest wall, okay – so he gets to pump up the, the elevation, or the height of the structure, and then use that, that elevation again by placing the structure on one of the highest parts of this property. So now, it isn't, it isn't – it towers over his primary residence. It kind of makes a mockery. You know, I want to talk about what the general, the intent of the code is, right, is that it stay in harmony. The, that it not be intrusive, right. That's the reason. It's not a game. It really is, you know, we want to keep things, we don't want the Eiffel Tower built in somebody's backyard. Now I want you to look at what it looks like from my house. And I – all of this is introduced into the record. That, that stone structure you see is my built in swimming pool, okay. That forsythia that you see is probably, I don't know, uh, 10 feet tall. I mean, there's a fair amount of barrier in between it. It doesn't even touch the window on the first floor, you know, before the forsythia comes out, the foliage on it. So the point I'm making here, this absolutely dominates my backyard. I've invested heavily in it. It was my private heaven. It's gardens. I've invested a huge amount of money, okay. Um, and, and now we're going to talk about – the intent is smash that height requirement. Did you want the survey, my notes, or is just my record enough. I'm going to

talk now about what the damages are. I mean, surely you must realize by looking at that that that would affect the value of my property. It also affects, you know, my lifestyle. You know, the things that I can do. The utility, the function of my backyard. We live out in Patterson. I have two acres, okay. That backyard was largely private, okay. I've lived there 26 years, never been before you before. But I have to be here today. You've got to understand this. This is huge. I just can't sit back. I've got to fight. So, I've spoken about the mess and the intent of the code. And now I want to talk about, you know, something that you guys can help me with. Uh, you know, there is an undesirable change here in the character of the neighborhood. There is a detriment to an adjacent property. And I really, I implore you, please evaluate this. For this, I'm going to submit – I'm not going to give you my opinion – I'm going to submit an appraisal of my property that was done post-construction whose purpose is to evaluate the possible monetary impact caused by that said structure. It was performed by Mr. Peter A. Fluchere, Fluchere Appraisal Services in Carmel. He's been in the business for 30 years. I was referred to him by a noted attorney, however, I had never met him before, and I have not spoke since this, okay, since this appraisal was rendered. In Mr. Fluchere's professional opinion, the apparent loss in value is between \$43,125 and \$54,750. While we could debate what the real value is...

Nancy Tagliafierro stated can I just ask you to clarify...

Mr. Heller stated sure...

Nancy Tagliafierro stated is that just because of the difference in the height over what's permitted, or just because of the existence of the structure. Is that – what is the appraisal addressing...

Mr. Heller stated it...

Nancy Tagliafierro stated the height distinction...

Mr. Heller stated no...

Nancy Tagliafierro stated or the existence of the building itself.

Mr. Heller stated the appraisal, he's, he's addressing – I'm going to turn this in as record – but, what he is saying in the loss in utility and function, so...

Nancy Tagliafierro stated as a result of the whole building being there.

Mr. Heller stated right, right...

Nancy Tagliafierro stated okay.

Mr. Heller stated exactly.

Nancy Tagliafierro stated thank you.

Mr. Heller stated sometimes it takes me a few minutes to process. Uh, we can debate the size of this, and I don't want to get into that and that's what, you know, there's a court system to do that. Um. It is real, and it is significant and ask that you please, please put yourself in my place, okay. The fact that you – whether you can or can't see into my pool area based on the health of my

forsythia or where it is bloom – is immaterial. It is, perception is reality, and when people come in that backyard, they are under the gaze of those windows constantly, okay. So, I respectfully ask you to carefully weigh this in the decision of the variance, and the Board use the authority to impose conditions that will provide me relief from significant loss. I've been powerless to address this over the past 5 months. This includes three attempts to negotiate with Mr. Roman, including one to buy a single second floor window that overlooks my property for \$2,000. Now 3 large windows would remain. I get it, he wants a low carbon footprint. Hey, who doesn't, right. But, you know, I think that that's reasonable. Uh, he rescinded that offer. I'll remind the Board that this is a two-story toolshed. That's what its stated use is. I've lost for a two-story toolshed the utility and function of my entire backyard. It's insane, it really is. I understand the Board can impose conditions on this variance consistent with the spirit and intent of the Zoning Code, and can – and they can be imposed – minimizing any adverse impact that the variance would have on the neighborhood and the community. So, I will now submit the appraisal to you [appraisal submitted to file for TM #13.-1-41].

Board Member Carinha stated thank you.

Mr. Heller stated I would like to take a couple of hacks, if I could, at other parts of the Code. I'm a layman, so, I ask you to respectfully, you know, give me some, some leeway here, but I think the Code is there to protect us. I think the Code also should be accessible, understandable, okay. It's there so we know how to build things and we know what our rights are. So I'm going to take, you know, there's four things in the code that are germane to this accessory building. One is the height that it specifies. Another is architecture, okay. The Roman residence is a single-story structure approximately 60 feet in length. Its roof height is approximately 1/3 of that length. Alright. It's about – well, we can debate that – but, it's around 17, or 15 to 20 feet. But it's a third. So it's relatively low to the ground – long, and low to the ground – relative to, you know, to the height of its roof. Okay. The new structure is a two-story toolshed that is 20 feet in length yet stand 20 feet in height. It really represents itself more as a tower, okay. It is not consistent with the architecture. You can paint them the same, but that's not architecture. The differences both in the number of stories and the geometric shape, and, and to characterize the structures as substantially resembling each other, um, I disagree with. It is inconsistent with my property – my adjacent property – and, I believe, the four properties then ascending Mooney Hill. I'm going to also refer to Mr. Fluchere's assessment, uh, I think it's on Page 1. I didn't tell him what to write in here. Uh, but – and at first I thought it was inflammatory and I was going to ask him could he rewrite it, and now I'm glad I didn't – in the first sentence, he says the privacy of the backyard is compromised by a seeming Peeping-Tom fire tower. Okay, not my words, but tower. And it comes up repeatedly, okay. It is not consistent, okay. I know the architectural people say it's fuzzy. It's fuzzy if you want it to be, maybe, but it doesn't fit in there. The pictures are there. I think, I think that there's – it's certainly something in the Code that should be considered. Okay. I'll take another shot, too. Um, the third thing I can address, the offset. I can't disagree with the survey. Um, but I do disagree – or, I don't disagree, I just haven't had it proved to me on the actual size – that the building will not exceed in size a floor ratio of 50% of the principle dwelling on the lot. I asked a number of people how this is calculated. I got a number of answers, okay. Which made me think, you'd better go check this out, right. So, since April my attorney and I have looked for the formal calculation used for evaluating the floor ratio of the two-story toolshed to see it did not exceed 50%, uh, of the primary structure. As of last Monday when I asked to receive the document on how to calculate – uh, the document – I received a document on how to calculate area variances percentages, which, of course, isn't what I was looking for, and, frankly, was a little dry. The calculation for floor area is not particularly well-defined, and I'm going to

actually – it's going to be easier if I give you the two pieces of the Code §154-27 and §154-106 that I'm going to be referring to. And, there's – I've made multiple copies, okay. If you look at §154-27 the building will not exceed in size the floor ratio area of 50% of the principle dwelling on the lot. Okay, so what is floor area ratio. I don't know where it's defined. Anybody. Okay, let me take a shot at it – it's not defined there, but I can tell you what it's not. Okay, look at accessory building by special permit for residential. So it, it is, I have to say, a fairly closely associated building type. The maximum size of the accessory building shall be 1/3 the size of the principle building as measured by total floor area. So, it's not like length times width. That was one of the answers I got. And if it was length times width, if it was total floor area, it would be specified. It's not. Also, it says, here it explicitly says including non-habitable space. So I'm going to tell you this: if you explicitly call it in one, and you don't in the other, it ain't in there. Okay. So it doesn't contain – it doesn't contain non-habitable space. So, what is it. Well, the other thing I want to point you to is that in no case the building shall exceed 1,250 [square feet] in livable floor space. So, what sets the upper limit as livable floor space. So, if the goal – and that's what they're doing here – is to set the size of the maximum structure, what would you look to. Living space. Alright, okay. So here's the calculation. And I will give you from the, uh, the tax assessor's records, he has 1,120 [square feet] in the living area. 1,120 [square feet] times 50% is 560 [feet]. The total area of the two-story toolshed is 640 square feet. Right. It's 320 [square feet] on the first floor and 320 [square feet] on the second. It's 640 [square feet]. Based on my calculation – now somebody will try to prove me wrong, but they have not yet – um, it's, the toolshed is too big for the principle structure. [To the Secretary] I don't know if you want this or just my audio is good enough... it's good enough...

Chairman Olenius stated it's up to you. She'll...we're going to get in the minutes anyway...

Mr. Heller stated okay...

Chairman Olenius stated [to secretary] do you want it submitted...

Mr. Heller stated alright...

Chairman Olenius stated [to secretary] is it easier?

The Secretary stated sure.

Mr. Heller so I've taken a whack and I think I've made a pretty good case in three out of the four. Certainly on the first one. The one that we're here, you know, to ascribe a variance to, I think it blows it out of the water. It's between 9 inches and almost 5 five. It doesn't meet the letter, it doesn't meet the spirit, it doesn't meet the intent. And, I think, without a doubt, I've imparted with you the fact that I have a substantial and real loss that needs to be addressed. And I sincerely ask you to, to consider it and to, to help alleviate the burden, okay. You know, I don't want to play the victim, but what I'll, you know, what I was going to say, I didn't choose this. I'm sitting on my back porch and all of the sudden – on my back deck – and all of the sudden this thing rises up. It doesn't look right. And let me tell you, when things don't look right, a lot of times they're not. You just know it's wrong. Okay. And, and pretty much every – well, everyone, with the exception of two people, and I'll talk about that in a second, are – their jaws drop, okay. Why are we here. I don't know how this happened. I'm not going to talk about, or even begin to talk about, process, with what went wrong. But, I just want to show the building – the initial building permit, it's for a 16 x 20 shed. Okay, now you have to keep in mind that a 16 x 20 shed that is really two-

stories, right, so that doesn't really tell the story, okay. It does point out that it's 22 feet, so it's not really a shed. It's too big for a shed, okay. But the – that looks like \$2,500 to me [referencing writing on original building permit]. It looks like it was eventually crossed out, or it was crossed out with \$6,000, but it looked like \$2,500. So me, that's a \$2,500 shed at Home Depot [referencing a Home Depot product photo]. You have pictures of the shed, it is well-built. There's no doubt about it. It's not a \$2,500 shed. What I found a little disturbing was there's a disconnect between these plans and that building permit. I was a little shocked when I saw it, you know. I just bring that up to your attention that, that maybe something in the process broke down and that's why we're here tonight to discuss this, but I'll leave it at that. I think there's some either people that want to talk and I've used enough of your time.

Chairman Olenius stated thank you.

Board Member Carinha stated thank you.

Mr. Heller stated and thank you for listening to me this evening. I appreciate it.

[Inaudible – paperwork shuffling]

Nancy Tagliafierro stated Mary, do you need any of that stuff into the record.

The Secretary stated is it alright if I... Mr. Heller, can I...

Mr. Heller stated oh absolutely.

The Secretary stated keep these for the file. Okay. [Referencing the photographs]

[Inaudible – too many speaking.]

The Secretary stated got it all. Thank you.

Board Member Carinha stated Lars...

[Inaudible – too many speaking.]

Chairman Olenius stated do you have the appraisal.

The Secretary stated thank you.

Chairman Olenius stated anyone else have a comment. Come on up, sir. Please.

Mr. Jaffey stated my name is Michael Jaffey. My wife and I live one property removed from the, uh, from the property under discussion.

Chairman Olenius stated okay.

Mr. Jaffey stated so I'm one – I'm adjacent to the property of the gentleman who just spoke, Heller.

Chairman Olenius stated okay.

Mr. Jaffey stated but from my property, I can see the Heller house, I can see Mr. Roman's house, and I can, of course, see this new structure. And when this was going up my wife and I would walk on our property and see this new building rising, and at first it looked, you know, in scale and then it started to gain in height and higher and higher and higher and – at one point, we didn't know whether this was going to be a fire tower, a windmill, or a lighthouse. I mean, it's just – it seemed tremendously out of scale with the other buildings around, and certainly dwarfs not only Heller's house, but the owner's house, as well. So, it's definitely not in scale with the surrounding architecture, and, although doesn't impact me the way it does Heller because Heller is immediately adjacent to this new building, it is, uh, you know, when we walk on our property, you see this imposing structure and it seems like it's the principle structure in the immediate vicinity. So to describe it as a shed or an accessory building seems totally out of place – it, uh, it isn't. And, um, that's all I have to say. I don't know, really, anything about all the technical things, about exactly how the heights were measured or the square footage. But, I can tell you that just looking at it as a neighbor, it doesn't make any sense in the landscape, so I thought you'd like to know that.

Chairman Olenius stated thank you, Mr. Jaffey.

Mr. Jaffey stated thank you.

Board Member Fox stated thank you.

Chairman Olenius stated anyone else.

Bob McCarthy stated in defense of the Building Department, because obviously...

Chairman Olenius stated sure...

Bob McCarthy stated um – want to go first [to Mr. Bumgarner].

Mr. Bumgarner no, go ahead.

Bob McCarthy stated you can go, I've got a lot a people behind me.

Mr. Bumgarner stated okay.

[Inaudible – speakers located in audience.]

Bob McCarthy stated I'm here for Building Department.

Mr. Bumgarner stated good evening. My name is Craig Bumgarner, and I'm an attorney who was hired by the Heller's to review this project. Um, Mr. Heller went through, obviously, the nooks and crannies and the factual part of this application, and what I'd like to do is just talk to you a little bit about the legal aspects of it and the balancing test that is set forth in the town law. Um, before I get into that, though, I know that the Board sometimes performs site walks, and if that's something the Board is considering or would consider on this project, the Heller's would absolutely love you to maybe take a look at the structure from their property, because, you know,

walking into the backyard, even of the applicant, and taking a look around I don't know if you can get the full effect of it. When Mr. Heller first contacted me and I went over to this house to meet with him, it was before the leaves were on the trees and I think, in fact, around the time that one photo that he submitted into the record was taken. And, it is glaring. Okay. I mean, I don't know how it looks now with the leaves on the trees, and, you know, the bushes and everything blocking some of that view, but, you know, remember that the leaves are on the trees here in the Northeast what, 6 months out of the year. Okay, so for the other 6 months, someone is going to be sitting in, at the Heller residence looking, you know, right up at this structure. Um, now, Town Law 267B sets forth the balancing test that the Board is supposed to employ when considering granting an area variance, and I know that the Board is familiar with it. But, what I'd like to do is just talk about it a little, you know, a little bit, and also talk about it as it relates to this application. Um, the balancing test that they set forth is the benefit to the applicant versus the detriment to the health, safety, and welfare of the neighborhood or community by such grant. Okay. And then it goes on to list the five factors that the Board is to consider when deciding or figuring out this balancing test. And I think four of the five factors really need to be taken into serious consideration here with this application, because the first one is whether an undesirable change in the character of the neighborhood or detriment to nearby properties, and you can stress the last section of that: or detriment to nearby properties. You've heard Mr. Heller speak and one of his neighbors, as well, as to how this structure just looms over top of them, okay. Now, I understand that the manner in which the height of these structures is set forth in the town code, but as Mr. Heller indicated, you know, there is – you know, you may look at this and say okay, it's a 9 inch variance. Is 9 inches such a big deal? Well, you take into consideration what the code is trying to do by eliminating the height, and you take into consideration where this particular structure sits on the property and where it's been cited and it's a lot, okay. It's a lot. It really does look that much taller. And, as Mr. Heller has indicated, you know, he's got an appraisal. He's submitted the appraisal to the Board and maybe if the structure was built in conformance with the zoning, the appraiser would've come back and still had the exact same opinion. But what we do know is that an appraiser who he's never had contact with before, okay – it wasn't his uncle, his friend, his buddy, alright – he called this guy independently. He was recommended to him, and he came out and looked at this structure and said this is going to impact the value of your property. And when an appraiser who comes in independently like that makes a statement such as this, I think the Board has to take a good hard look at it and make sure that, you know, the variance is really required, because the second factor is whether the benefit sought can be achieved by some other method. Okay, now, certainly, there were alternatives here. This could have been a one-story structure. It could have been a structure that met the code to start with and we may not even be here. But the fact is, this structure can be lowered, alright. Um, it's my understanding, in fact, that the applicant's a contractor. Maybe reducing the height of this is not such a big deal for him as it would be for me or some other people here in the audience. The third factor to consider is whether the request to an area variance is substantial. And, again, you can just do a simple mathematical calculation and say oh, it's 9 inches. This is the percent, or whatever the case may be. But, the code doesn't tell you, okay. 267B of the town law doesn't tell you that you're supposed to do a mathematical calculation in order to get this. It's saying is it substantial. In this case, it is substantial, because of the height—the height of the structure to start with and where it is. I don't believe the fourth factor really does play into this application because it's saying is there an adverse effect on the environmental conditions of the neighborhood. We could argue that it's, you know, impacting the view shed and so forth, but it's not like it's going to affect the runoff in the area or, or anything of that nature. But the fifth factor to be considered is whether this was a self-created condition. Alright. Now, again, if we've got a contractor here, this is not a layperson coming before you. This is somebody who is supposed to take a look at the code, talk to the

Building Department, make sure that everything is done right. He's charged with a little bit more knowledge than the average person, okay. And in light of that fact, how did this happen. How did it happen. You know, here we stand. We've got this structure that was built too tall, and he comes in and says yeah, sorry. You know, maybe you can give me a variance, and I'll go home and everything will be fine. Well, you know what, while self-created is not the only factor to consider – and in fact the town law says that – it's something to be taken into consideration, that's all. But shouldn't somebody who is in this business be charged with a little bit more knowledge here. In the same regard, we've got a building application, okay, that was filled out and said \$2,500. With those plans, wouldn't somebody in the building trade know that there's no way that structure was being built for \$2,500. Now, it's been amended to say \$6,000 or \$6,500 or whatever it is. Could that even still be the case. I mean, I don't know if the intent was to minimize the structure so that, you know, it underwent less scrutiny. And I don't want to, you know, guess what it was. Maybe we were just trying to pay a lesser building permit fee. But what I do know is when a builder walked into the Building Department with that set of plans and filled out a building permit application, they didn't think it was going to cost \$2,500. They didn't think it was going to cost \$6,500. At the time that my client was speaking to the applicant about removing that window, alright, so that maybe there was some more privacy in the backyard, my client was told it was going to cost \$2,000 to remove that window. Alright, so, if there's a \$2,000 window in that structure, how did we get to \$2,500 on the application. How did we get to \$6,500 on the application. So, I think in light of the factors in the balancing test that's set forth in the town law, I don't think this application should be granted, and I hope the Board will give serious consideration to it, and I hope the Board also will consider doing a site walk and, uh, taking a view of this from where my client, you know, will be looking at it in the future. Thank you for your time.

Chairman Olenius stated thank you.

Bob McCarthy stated um, in regards to the height. How, basically, how we establish the height, is how we actually did it was right here. Okay. This is actually enlarged point. We measured here to here, and basically this is the determination that that was actually – we took an average, and that made that height. Over here, the west side. We made the actual height difference, that's where we actually went this height measurement right here. Um, and basically, it's not supposed to actually be taller, and it was an error, and maybe in the building department that actually the permit was issued, and stuff like that. It is 9 inches according to the survey. Um, and then that's how we actually got the height. I think there was also another consideration about the area. What we do with the area is the footprint of the house is 1,120 [square feet], so if you do a footprint of first floor and then basement, okay it's still floor living area, that's 2,240 [square feet]. How – my determination was that I actually took, since it was a garage underneath it, excuse me, um, I took the 1,120 [square feet] plus the 560 [square feet], and that'll, that'll give you 1,680 [square feet], right. I took the 320 [square feet] times 2, it's 640 [square feet], which equals less than 50%. So, this is how I actually determined the height and the area, and, obviously, how this happened, I don't know, this was before my time. And, with the application, um, right now, we actually don't ask you what the fair market value is for any type of job that actually goes on. I am starting to question how can you do this, how can you do that, you know, basically putting up a fair fight. Um, there's really not much of a difference with what you can actually charge. It's a nominal fee, anything over \$10,000. So, basically, \$225 for \$10,000 and under. Um, a lot of these fees, basically, we're just taking their word for it. And, I'm not really questioning – you know, it was never questioned. I've been in the trade for almost 30 years. I'm starting to question how do you get this number, you know, and it's really not much of a difference, so basically it's actually a fee,

and what it was, and it's anything from \$10,000 and under is basically all the same, so – these are how I determined how this applicant can come through.

Board Member Carinha stated thank you.

Bob McCarthy let me give you that information.

Chairman Olenius stated thank you very much.

Bob McCarthy stated thank you.

Mr. Roman stated I'd just like to be able to say a few more things...

Chairman Olenius stated absolutely.

Mr. Roman stated referencing Mr. Bumgarner, with all due respect, uh, I am not a contractor. I am a police officer by trade. Police officer for 15 years. I am not a contractor. I dabble in construction in order to make some extra dollars to supplement my family. I have several friends that are in the business and I do that several times a week, again, as a supplement. Consequently, as the result of some jobs, there are materials left over sometimes. Some materials left over for this job. And I was actually able to build this shed with my hands the help of some friends, close friends, I was able to build this shed, and the materials actually came out to a little bit less than \$6,000, but that's the number – the projected number – that we came out with. But, Mr. Heller saw the way that went up. It was myself and two other guys that, for the most part, put up this structure. Um, as far as Mr. Jaffey, this is the first time I meet him. I apologize to you, sir. I wish I would have spoken to you before, um, I'm sure we could have worked something out because my intention is not to offend anybody in the audience or especially, uh, my neighbors. Uh... I welcome the Board to please come over and take a look at the structure that I put up. Whether you're driving up Mooney Hill or you're driving down, you cannot see the structure going up or going down. And if you're driving up my driveway, you don't see it at all. So the ridge of the house – the ridge of my house actually exceeds, because of the grade, that of the shed. The only time you see it – if you're looking for it – coming up Mooney Hill, if you looked through the trees to Mr. Heller's property, you'll see it. And, yes, you do see – you do see the shed from Mr. Heller's property, but that's the grade. And the intent wasn't to take away value from his house. I can't see how this structure is going to take away, you know, value from his house, mine, or my adjoining neighbors. Again, I welcome the Board to come over and look at it. It's actually a very nice-looking structure, and my assumption would be that this going to add value to my property, as well as my adjoining neighbors. But this was in no form or way meant as an, uh, an intent to offend any of my neighbors. I'm just looking for extra storage. I did it by the books. I went out and got an architect's rendering, I submitted it. I passed all of, the, uh, the inspections as we went for—you, know, as the project went on, and I'm pleading to you now. I have a 9" difference here for this variance. I would very much like to have this settled. Uh, this shed, as we speak right now, is 100% completed. The electrical inspector came out and approved the, uh, the electrical on it, as well. Thank you for your time.

Chairman Olenius stated no, thank you...

Board Member Burdick stated thank you.

Mr. Roman stated yeah.

Chairman Olenius stated I can pretty much assure you we're going to have to site walk this...

Mr. Roman stated sure...

Chairman Olenius stated because we need to see it for ourselves, and, uh...

Mr. Roman stated please, yes.

Chairman Olenius stated are there any certain times, days of the week, or whatnot that are better for you.

Mr. Roman stated I work midnights so I'm available during the day for...

Chairman Olenius stated okay.

Mr. Roman stated any time, any day that you choose I can be there.

Chairman Olenius stated okay...

Mr. Roman stated okay...

Chairman Olenius stated in that case the secretary will be in touch with you, um...

Mr. Roman stated absolutely, yeah...

Chairman Olenius stated for when we'll, when we'll be out...

Mr. Roman stated my source of income comes from my night time job, not during the day...

Chairman Olenius stated okay.

Mr. Roman stated so I can be there whenever time you want me to be there.

Chairman Olenius stated alright.

Mr. Roman stated okay.

Chairman Olenius stated very good.

Mr. Roman stated thank you so very much.

Chairman Olenius stated no, thank you.

Board Member Bodor stated thank you.

Chairman Olenius stated alright, so we're going to hold this over pending a site walk.

Mr. Heller stated now can I ask one question please.

Board Member Carinha stated go ahead.

Mr. Heller stated will the site walk be also in the cards for me – a site walk.

Nancy Tagliafierro stated I think he wants you to walk his property, too, to see the impact on his property.

Chairman Olenius stated you're requesting us to...

Mr. Heller stated oh yeah.

Chairman Olenius stated walk your property.

Mr. Heller stated yeah.

Chairman Olenius stated okay. I think we can probably do that.

The Secretary stated mm hmm.

Mr. Heller stated thank you.

Chairman Olenius stated if you – if you give us permission.

Mr. Heller stated oh, absolutely.

Chairman Olenius stated okay. Thank you very much.

Nancy Tagliafierro stated do you have his contact information [to the secretary].

The Secretary stated no, but I can get it.

Chairman Olenius stated can you just provide the secretary with your contact information...

Mr. Heller stated oh, sure.

Chairman Olenius stated so she can reach out to you. Okay, so we're going to table that application pending a site walk prior to the next meeting. Go ahead [to the secretary].

5) BONNIE DALEO CASE #17-14

Two people were present to represent the application.

The Secretary stated:

Bonnie Daleo Case #17-14 – Area Variances

Applicant is requesting area variances pursuant to §154-7 of the Patterson Town Code; Schedule of regulations and §154-58 of the Patterson Town

Code; Enlargement of nonconforming buildings, in order to legalize an addition and deck that were constructed to a pre-existing, nonconforming dwelling, and to legalize an existing shed on the property. The Patterson Town Code requires a minimum side yard setback of 15'; Applicant's existing deck is 3.6'; Applicant is requesting a side yard variance of 11.6'. An 8'x12' addition was constructed in order to square off the dwelling; Patterson Town Code requires a minimum side yard setback of 15'; Applicant's dwelling is 9'; Applicant is requesting a variance for enlarging a nonconforming structure. The Patterson Town Code requires a minimum rear yard setback of 5' for accessory structures 120 square feet or less; the existing shed is 1.48' from the rear yard property line; Applicant is requesting a rear yard variance of 3.52'. Patterson Town Code requires a minimum side yard setback of 5' for accessory structures 120 square feet or less; the existing shed is 0.12' from the side property line; Applicant is requesting a side yard variance of 4.88'. This property is located at 64 Slater Rd (RPL-10 Zoning District).

The Secretary stated additionally, I would like it read into record that the application had initially listed 11.6' as the requested side yard variance for the existing deck. The legal notices were sent out with those measurements. The variance required is only 11.4'. However, the required variance is actually only 11.4'. But, because the required variance is less than the variance that had been published in the legal notice, the case is still okay to go before the board.

Chairman Olenius good. Mrs. Daleo... just state your name and address for the record, please.

Mrs. Daleo stated Bonnie Daleo, 64 Slater Rd.

Chairman Olenius stated just promise the testimony you give will be the truth and the whole truth.

Mrs. Daleo stated absolutely.

Chairman Olenius stated thank you very much. So explain to us your predicament here.

Mrs. Daleo stated okay. We've been residing at this property for 3 years. We are not the owners. We were supposed to purchase this property April 15th, but the lawyer did the municipal search and all of this came back. The three issues here: the shed, the deck, and the boiler room. Um, I took pictures from, as far as I can tell, every angle of the property, um, going clockwise, so you could – you could really see what we're talking about here. I also included a statement from the rear neighbor that he had no issues of any sort with the shed, or the, uh – or the deck. You know, unfortunately, we didn't construct any of this, but we're looking to buy this property. Um, the, uh, the deck is just – is something I use constantly, I'm always sitting on the deck, so for us – you know, the landlord's option here is if this doesn't pass, he'll tear the structures down. The shed and the deck. You know, we were ready to buy this property on August 15th, so, you know, I'm hoping that that's not, you know, the, um, the result here. But, to move the shed and to get it within the guidelines – moving it up closer to the house and over – would really set it right by where the, uh, septic tank lid is, so that's not really a possibility aesthetically or, uh, practically. Um, you know, and, sure, I guess you can tear down the deck and, you know, at some point we'd have to come before you and ask for, um, permission to create a smaller deck, but we'd love to keep the one that exists. And the boiler room, um – I have no idea how they heated this house

prior to adding this little boiler room and squaring off that house, but, um, I mean, aesthetically, I think it – I can't imagine it any other way, and it's, you know, certainly practical, so, I have limited history here because I'm not the homeowner, unfortunately.

Chairman Olenius stated how long has the homeowner owned the property.

Mrs. Daleo stated probably since the '70s.

Chairman Olenius stated okay.

Mrs. Daleo stated Larry Engler. He gave me power of attorney to speak on this matter.

Chairman Olenius stated yes, I see. It's all enclosed here, thank you.

Board Member Carinha stated yeah.

[Inaudible – Mr. Artibani & Mrs. Daleo speaking to one another away from the microphone.]

Board Member Carinha stated is this, the boiler room, like, behind the deck...

Mr. Artibani stated no...

Board Member Carinha stated I'm just trying to get an idea looking at the pictures.

Mr. Artibani stated no it's not.

Board Member Fox stated it's where the oil tank...

Mrs. Daleo stated no, it's on the opposite corner of the rear house. If you're facing the house, right rear corner.

Mr. Artibani stated yeah.

Mrs. Daleo stated the deck is on the...

Mr. Artibani stated you can't really tell...

Mrs. Daleo stated left side.

Board Member Carinha stated oh, so it's on the other side of the oil tank, basically.

Mrs. Daleo stated I'm sorry.

Board Member Carinha stated where the oil tank is.

Mrs. Daleo stated yes, mm hmm.

Mr. Artibani stated the oil tank is in the back and it's, like, right there...

Board Member Carinha stated okay.

Mr. Artibani stated yeah.

Chairman Olenius stated could you state your name for the record, sir, please.

Mr. Artibani stated it's Walter Artibani. I'm, uh...

Mrs. Daleo stated he's my husband.

Mr. Artibani stated her husband.

Chairman Olenius stated thank you, just so...

Mr. Artibani stated yeah...

Chairman Olenius stated for the record...

Mr. Artibani no, no problem.

Chairman Olenius stated so we know who you are.

Mr. Artibani stated yeah, basically, right there is where the, uh, the boiler room is [referring to photographs submitted with application]. Where the back of the tank is...

Chairman Olenius stated so this – this home was L-shaped at some point in time?

Mr. Artibani stated yes. That's what we found out later, of course.

Chairman Olenius stated that's the shed...

Board Member Bodor stated what's that, uh, concrete or whatever pad next to the...

Mr. Artibani stated that's where the, uh, to go downstairs to the crawlspace.

Board Member Bodor stated oh, okay, a stairway...

Mr. Artibani stated right, it's just concrete...

Board Member Bodor stated a staircase...

Mr. Artibani stated there's no, no stairs, just underneath...

Board Member Bodor stated just a hole...

Mrs. Daleo stated it's a two-foot section, so...

Mr. Artibani stated yeah, you have to crawl...

Board Member Bodor stated okay.

Mr. Artibani stated crawl through there.

Chairman Olenius stated so the neighbor that submitted the letter on your behalf in your packet here, they live...

Mr. Artibani stated behind us.

Chairman Olenius stated behind you.

Mr. Artibani stated yes.

Mrs. Daleo stated yes, directly behind.

Board Member Fox stated here [referring to submitted photos].

Mrs. Daleo stated um, Mike who lives right next door, and is probably...

Mr. Artibani stated uh, I would say behind the shed.

Board Member Fox stated oh, here.

Mr. Artibani stated yes.

Board Member Fox stated okay.

Mrs. Daleo stated mm hmm.

Mr. Artibani stated right.

Mrs. Daleo stated yes.

Chairman Olenius stated okay.

Mr. Artibani stated that's our house.

Mrs. Daleo stated okay, the house right next door to us in most of the pictures...

Mr. Artibani stated yes.

Mrs. Daleo stated that you can see, Mike, um, they must have a summer house so I have – I really haven't seen him lately. But, I'm sure he has no problem with this. Um, I just didn't happen to run into him to get a letter from him.

Mr. Artibani stated yeah, and I'd like to add, I mean, there is no problem because, if you look at the yards, the yards are very close together, and there's many times that, you know, I'll mow their lawn, they'll mow our lawn. It's basically, it's all our – it's our lawn, you know. It's – nobody is

saying that it's their lawn, my lawn. There's no division, you know, so, he has no problem. He knows the patio's there, his house is there, it's not a problem.

Mrs. Daleo stated I actually took the liberty of going to the neighbor behind with that letter asking him to sign that, um, just to kind of back us up here. I just didn't happen to see Mike, but I think it was not mandatory that we did that, I think, it was just...

Mr. Artibani stated right.

Chairman Olenius stated no, it's not...

Mrs. Daleo stated a good idea.

Chairman Olenius stated not at all.

Mr. Artibani stated right, right.

Chairman Olenius stated does anybody in the audience have a comment on this case. I'm hearing none.

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

Board Member Bodor stated I second.

Chairman Olenius stated all in favor.

Motion carried by a vote of 5-0.

Chairman Olenius stated okay.

Chairman Olenius read the following resolution.

**IN THE MATTER OF THE APPLICATION OF
Bonnie Daleo Case #17-14
For Enlargement of a Nonconforming Building**

WHEREAS, *Lawrence Engler* is the owner of real property located at 64 Slater Road (RPL-10 Zoning District), also identified as **Tax Map Parcel #25.47-1-67, and**

WHEREAS, §154-7 of the Patterson Town Code requires a 15' side yard setback; Applicant has 9'; and

WHEREAS, prior to the submission of this application the property owner constructed an addition onto the right rear corner of the principal residence, thereby enlarging the nonconforming condition of the structure, and

WHEREAS, *Bonnie Daleo* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-58 of the Patterson Town Code; Enlargement of a nonconforming building, in order to legalize an existing addition to the dwelling, and

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

WHEREAS, 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 17, 2014*, 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 *due to the fact that it has been a part of the neighborhood for some fifty years or so*.
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *due to the fact that this portion of the structure has been in place for quite some time*.
3. the variance requested *is not* substantial *in light of the size – the minimal lot size the applicant has*.
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, it has been in existence for a considerable amount of time already with no adverse impacts*.
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 *Bonnie Daleo* for *an area variance* pursuant to §154-58 of the Patterson Town Code; Enlargement of nonconforming buildings, in order to legalize an existing addition to the dwelling.

| | | |
|----------------------|---|-----|
| Board Member Bodor | - | Yes |
| Board Member Burdick | - | Yes |
| Board Member Carinha | - | Yes |
| Board Member Fox | - | Yes |
| Chairman Olenius | - | Yes |

Board Member Burdick stated second.

VOTE: Resolution carried by a vote of 5 to 0.

Chairman Olenius read the following resolution.

**IN THE MATTER OF THE APPLICATION OF
Bonnie Daleo Case #17-14
For an Area Variance for a 10' x 16' Side Deck**

WHEREAS, *Lawrence Engler* is the owner of real property located at 64 Slater Road (RPL-10 Zoning District), also identified as **Tax Map Parcel #25.47-1-67, and**

WHEREAS, *Bonnie Daleo* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code, Schedule of regulations, in order to legalize an existing 10' x 16' side deck, and

WHEREAS, §154-7 of the Patterson Town Code requires a 15' side yard setback; Applicant currently has 3.6'; ***Variance requested is for 11.4'***, and

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

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on ***September 17, 2014*** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***in light of the fact that said deck has been in existence for twenty-five some-odd years.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***due to the limited size of the existing property.***
3. the variance requested ***is*** substantial, ***however not so much so as to cause a denial of the requested variance.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***because, as previously stated, it has been in existence for some twenty-five 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 ***Bonnie Daleo*** for ***an area variance*** pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, ***of 11.4' from the 15' required for a side yard setback,*** in order legalize her existing 10' x 16' deck.

| | | |
|----------------------|---|-----|
| Board Member Burdick | - | Yes |
| Board Member Carinha | - | Yes |
| Board Member Fox | - | Yes |
| Chairman Olenius | - | Yes |

Board Member Carinha stated second.

Board Member Burdick stated second.

VOTE: Resolution carried by a vote of 5 to 0.

Chairman Olenius stated alright, we're whittling away here.

[Laughter]

Chairman Olenius read the following resolution.

IN THE MATTER OF THE APPLICATION OF
Bonnie Daleo Case #17-14
For an Area Variance for an Existing 6.17' x 6.33' Shed

WHEREAS, *Lawrence Engler* is the owner of real property located at 64 Slater Rd (RPL-10 Zoning District), also identified as **Tax Map Parcel #25.47-1-67, and**

WHEREAS, *Bonnie Daleo* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, in order to legalize an existing 6.17' x 6.33' shed 0.12' from the side yard property line, and

WHEREAS, §154-7 of the Patterson Town Code requires a side yard setback of 5'; Applicant has 0.12'; ***Variance requested is for 4.88', 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 17, 2014,*** 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 ***due to the fact that the shed appears to be well-screened with some shrubs and greenery.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***due to the location of the existing septic system.***
3. the variance requested ***is*** substantial, ***however not so much so as to cause a***

denial of the requested variance.

4. the proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district **due to the shed's very small size to begin with.**
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 or denies** the application of **Bonnie Daleo** for **an area variance** pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, **of 4.88' from the 5' required for a side yard setback**, in order to allow for the existing 6.17' x 6.33' shed to remain 0.12' from the side property line.

| | | |
|----------------------|---|-----|
| Board Member Bodor | - | Yes |
| Board Member Burdick | - | Yes |
| Board Member Carinha | - | Yes |
| Board Member Fox | - | Yes |
| Chairman Olenius | - | Yes |

Board Member Fox stated second.

VOTE: Resolution carried by a vote of 5 to 0.

Chairman Olenius stated last one.

Chairman Olenius read the following resolution.

**IN THE MATTER OF THE APPLICATION OF
Bonnie Daleo Case #17-14
For an Area Variance for an Existing 6.17' x 6.33' Shed**

WHEREAS, Lawrence Engler is the owner of real property located at 64 Slater Rd (RPL-10 Zoning District), also identified as **Tax Map Parcel #25.47-1-67, and**

WHEREAS, Bonnie Daleo has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, in order to legalize an existing 6.17' x 6.33' shed 1.48' from the rear yard property line, and

WHEREAS, §154-7 of the Patterson Town Code requires a rear yard setback of 5'; Applicant has 1.48'; **Variance requested is for 3.52', 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 17, 2014**, 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, *as supported by a letter from the neighbor directly adjacent on the rear side.*
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *due to the location of their existing septic system.*
3. the variance requested *is* substantial, *however not so much so as to cause a denial of the requested variance.*
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *due to the shed's small size.*
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 *Bonnie Daleo* for *an area variance* pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, *of 3.52' from the 5' required for a rear yard setback*, in order to allow for the existing 6.17' x 6.33' shed to remain 1.48' from the rear property line.

| | | |
|----------------------|---|-----|
| Board Member Bodor | - | Yes |
| Board Member Burdick | - | Yes |
| Board Member Carinha | - | Yes |
| Board Member Fox | - | Yes |
| Chairman Olenius | - | Yes |

Board Member Fox stated second.

VOTE: Resolution carried by a vote of 5 to 0.

Chairman Olenius stated you're all set.

Mrs. Daleo stated thank you very much. Appreciate it. Thank you for your time.

[Inaudible – too many speaking at once.]

Board Member Carinha stated good luck.

Mr. Artibani stated thank you.

Chairman Olenius stated good luck.

Mrs. Daleo stated thank you.

Chairman Olenius stated good luck being a homeowner.

Board Member Fox stated yes.

[Laughter]

Chairman Olenius stated fire away [to the secretary].

6) CODY BARTICCIOTTO CASE #18-14

There was one person present to represent the application.

The Secretary stated:

Cody Barticciotto Case #18-14 – Special Use Permit

Applicant is requesting a special use permit for an accessory apartment pursuant to §154-105 of the Patterson Town Code; Accessory Apartments. This property is located at 547 Lake Shore Drive (RPL-10 Zoning District).

Chairman Olenius stated come on up.

Mr. Barticciotto stated hi, ladies and gentlemen. My name is Cody Barticciotto. I'm from 547 Lake Shore Drive, Patterson, New York.

Chairman Olenius stated do you swear the testimony you provide tonight will be the truth and the whole truth.

Mr. Barticciotto stated yes, sir.

Chairman Olenius stated thank you. So, what are we doing? Did we have this accessory apartment before? Is this the first time?

Mr. Barticciotto stated no, I just bought the house. I bought the house in January.

Chairman Olenius stated okay.

Mr. Barticciotto um, basically, what I'm trying to do is make an accessory apartment for my mother. Um, the only thing that needs to be done is put a lock on a door. Everything is pre-existing, everything is there. It's just – I want to do everything right, so, I want to apply for...

Chairman Olenius stated we appreciate you wanting to do everything right, because that makes our jobs a lot easier. I see the compliance checklist is here, and being that Mr. McCarthy is here...

Bob McCarthy stated yep.

Chairman Olenius stated and he will vouch for the – it looked to me that everything was checked off properly. You didn't find any issues with it...

Bob McCarthy stated nope.

Chairman Olenius stated more so regarding to the size. I saw your measurements, everything was good.

Bob McCarthy stated no, yeah it is. It was measured for...

Chairman Olenius stated especially because it's the first time.

Bob McCarthy stated yeah. No, they, uh, they match, they're 428 [square feet] I believe it was...

Chairman Olenius stated something like that.

Bob McCarthy stated okay.

Chairman Olenius stated the renewals are a lot easier because...

The Secretary stated 424 [square feet].

Chairman Olenius stated there's been numerous visits, but...

Bob McCarthy stated right.

Chairman Olenius stated the first time ones I'm always concerned to some degree. 424 [square feet], yes.

Board Member Fox stated are we...

Chairman Olenius stated oh, so it's 26.2%, so it's not exceeding the 35%, sorry...

Bob McCarthy stated right.

Chairman Olenius stated I was having trouble reading...

Board Member Fox stated is the laundry room going to be shared, I'm assuming...

Mr. Barticciotto shared, yes.

Chairman Olenius stated you had the water test done. The Health Department said they have no jurisdiction, and your house is in compliance with the town code.

Board Member Bodor stated and this is planned for the lower level of the existing structure.

Mr. Barticciotto stated correct.

Board Member Bodor stated and you'll be residing...

Mr. Barticciotto stated in the upstairs.

Board Member Bodor stated in the upstairs level. And the entrance is off the sunroom.

Mr. Barticciotto stated off the sunroom, yes.

Board Member Bodor stated okay.

Mr. Barticciotto stated I know it might look a little funny because I didn't draw it just right, but the staircase actually inside the house. It doesn't go outside. There's a – that's this, inside of the house.

Board Member Bodor stated that's the staircase for the lower level of two...

Mr. Barticciotto stated right, correct...

Board Member Bodor stated that's [inaudible]...

Mr. Barticciotto I didn't put a landing there. I'm not very good at drawing plans.

Chairman Olenius stated this is basically a walk-out basement...

Mr. Barticciotto correct.

Chairman Olenius stated there on the side.

Board Member Bodor stated the packet looks very complete.

Board Member Carinha stated yeah.

Chairman Olenius stated I'm going to make a motion to, uh, close the public hearing.

Board Member Bodor stated and I second.

Chairman Olenius stated all in favor.

Motion carried by a vote of 5 – 0.

Chairman Olenius read the following resolution.

**IN THE MATTER OF THE APPLICATION OF
Cody Barticciotto Case #18-14
For a Special Use Permit for an Accessory Apartment**

WHEREAS, Cody Barticciotto the owner of real property located at 547 Lake Shore Drive (RPL-10 Zoning District), also identified as ***Tax Map Parcel #36.40-1-13***, and

WHEREAS, Cody Barticciotto 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 principle unit, and

WHEREAS, the 424 sq. ft. apartment exists in the basement of the applicant's 1,618 sq. ft. single-family dwelling, which serves as his primary residence, and consists of one bedroom, one bathroom, a kitchen, dining room, and living room (as shown in the submitted plans), with a separate side entrance, and

WHEREAS, the Applicant has lived in the dwelling for less than one year but has provided sufficient evidence to demonstrate that a unique hardship exists for the relative intending to occupy the accessory apartment, and pursuant to §154-105A(17)(a) of the Patterson Zoning Code, the Zoning Board of Appeals may grant an exception for an owner-applicant who has occupied the dwelling for less than one year if the accessory apartment will be used for a person related by blood or marriage and that a special or unique hardship exists, and

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

WHEREAS, that the Patterson Zoning Board of Appeals has reviewed the environmental assessment form and other documentation, and

WHEREAS, a public hearing was held at the Patterson Town Hall, 1142 Route 311, Patterson, New York on *September 17, 2014* to consider the application; 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 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 and finds the proposed action *will not* have significant effects on the environment 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 that the Patterson Zoning Board of Appeals issues a *negative* SEQRA declaration, and

BE IT FURTHER RESOLVED, the Patterson Zoning Board of Appeals wishes to *grant* the request of *Cody Barticciotto* for a Special Use Permit *to allow for an accessory apartment in the RPL-10 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 conditions applicable to the approval of this special use permit.

| | | |
|----------------------|---|-----|
| Board Member Bodor | - | Yes |
| Board Member Burdick | - | Yes |
| Board Member Carinha | - | Yes |
| Board Member Fox | - | Yes |
| Chairman Olenius | - | Yes |

Board Member Burdick stated second.

VOTE: Resolution carried by a vote of 5 to 0.

Chairman Olenius stated good luck with that...

Mr. Barticciotto stated thank you very much.

Chairman Olenius stated and welcome to Patterson...

Mr. Barticciotto stated thank you.

Chairman Olenius stated and we'll see you in five years.

[Laughter.]

Chairman Olenius stated I haven't done one of those in a long time, so I've started to freewheel. I forgot to flip the page.

[Laughter.]

7) OTHER BUSINESS

Chairman Olenius stated well, part of the other business was a request to waive fees for, um, Mr. Roman. Case #16-14. I want to hold off on that just until the site walk is complete, and, um, you know, we've got resolution to this case...

Mr. Roman stated thank you.

Chairman Olenius stated but at that point, once we've seen it and everything, we'll decide whether we're going to make a recommendation to the Town Board for that.

Mr. Roman stated okay. Thank you very much, everybody.

Chairman Olenius stated thank you, and we'll see you before next month and we'll see you next month.

Mr. Roman stated you betcha.

Chairman Olenius stated next month is October 15th, just so you know. The meeting date. We'll be out before that to view your property and meet with you.

Mr. Roman stated somebody will call up to make an appointment to come...

Chairman Olenius stated absolutely. Yep.

Mr. Roman stated have a good night...

Chairman Olenius stated once we get our schedules together.

Mr. Roman stated thank you everybody.

8) MINUTES

Chairman Olenius stated I will also make a motion to approve the, uh, August 20, 2014 minutes.

Board Member Bodor stated I second that.

Chairman Olenius stated all in favor.

Motion carried by a vote of 5 – 0.

Chairman Olenius stated just a site walk, is that right. That's it. We're done.

Board Member Carinha stated we're going to try to do the site walk where we're going to visit the site and the neighbor the same day.

Chairman Olenius stated yeah.

Board Member Carinha stated okay.

Chairman Olenius stated I think it's just easier to go out there.

Board Member Carinha stated yep.

Chairman Olenius stated what are your hours like [to Board Member Fox].

Board Member Fox stated I have my own business. But I have a 2-year-old and a 4-year-old, so, um...

Chairman Olenius stated I only ask that...

Board Member Fox stated whenever...

Chairman Olenius stated because we usually...

Board Member Fox stated whenever will be easier...

Chairman Olenius stated my hours are early. Mike's retired.

Board Member Carinha stated I work. Well, I'm not working right now, but I work...

Bob McCarthy stated what do you call work.

[Laughter.]

Chairman Olenius stated um, we usually go kind of more or less... um, Mary works, too, but Marianne has, like, the hours that kind of overlap everybody else. Are you on winter hours again? Summer hours are over.

Board Member Burdick stated last week.

Board Member Bodor winter hours this week.

Bob McCarthy stated summer's not over, though, right.

Board Member Fox stated and you said earlier in the day...

[Inaudible – too many speaking at once.]

Rich Williams stated I don't know, I was gone for 4 days, I came back to... [Inaudible – speaking away from microphone]

Chairman Olenius stated no, no. Early like, uh...

Board Member Fox stated 4:00, 5:00...

Chairman Olenius stated yes, exactly.

Board Member Fox stated okay.

Chairman Olenius stated her summer hours, she gets out at 4:00, sometimes earlier, so this time of year, like the earliest for Mooney Hill would probably be like 5:15, 5:20, something like that...

Board Member Burdick stated yeah...

Chairman Olenius stated or 5:30.

Board Member Burdick stated but if that didn't work for everybody, I could always leave before.

Board Member Fox stated the only days that wouldn't work for me would be a Wednesday because my son has speech.

Chairman Olenius stated okay. So if the meeting is the 15th, how is the week of the 6th. Monday being the 6th. In fact, how are the 6th or 7th.

Board Member Fox stated the 7th is better for me.

Board Member Carinha stated the 6th is not good for me.

Chairman Olenius stated okay.

Board Member Fox stated oh, see. I'm good with 7.

Chairman Olenius stated how about you ladies.

Board Member Carinha stated in fact, you might have to work.

Board Member Bodor stated the 7th looks alright with me. It's a Tuesday, that's pretty good.

Board Member Carinha stated do you work the games at all, or no. Because there's a home game that night. JV.

Chairman Olenius stated no.

Board Member Carinha stated okay. That's why.

Chairman Olenius stated you'll be back in time.

Board Member Carinha stated it's 4:15.

Chairman Olenius stated oh, it's an early game.

Board Member Carinha stated yeah. These kids.

[Laughter.]

Bob McCarthy stated it's a 6:15... [Inaudible – speaking away from the microphone]

Board Member Carinha stated no, it's a 4:15 game.

Chairman Olenius stated alright.

Bob McCarthy stated it's two hours, right.

Board Member Carinha stated right.

Chairman Olenius stated how about the 2nd or 3rd. Backing it up... the Thursday and Friday before.

Board Member Fox stated well, the 3rd's my birthday, so... um, I'm going away [laughter]. But the 2nd is fine.

Chairman Olenius stated okay. Is the 2nd good?

Board Member Bodor stated the 2nd is good.

Board Member Carinha stated oh. No, not for me.

[Laughter].

Board Member Carinha stated what did we say, the 4th.

Board Member Bodor stated that's a Saturday.

Board Member Fox stated yeah, the 4th's a Saturday.

Board Member Carinha stated alright.

Chairman Olenius stated are you in October.

Board Member Carinha stated yeah, yeah. You know what, I was looking at September.

[Laughter.]

Board Member Carinha stated alright. So, what are we looking at. I'm sorry.

Chairman Olenius stated we're looking at the second.

Board Member Carinha stated alright. October 2nd, no, because Thursday, October 2nd there's a 4:00 game away at Spring Valley... [Inaudible – too many speaking at once]

Chairman Olenius stated and there's also a game on the 7th.

Board Member Carinha stated no. I made a mistake. I looked at the wrong thing.

Board Member Burdick stated so October 7th is good.

Chairman Olenius stated so the 7th is good again.

Board Member Carinha stated hold on. Let me go back. Yes. October 7th is fine. See I have two, that's why. One's playing one day, one's playing the other. It's nuts. October 7th is fine.

Chairman Olenius stated at 5:15. 5:30, Mar. 5:30.

Board Member Burdick stated between 5:15 and 5:30.

Chairman Olenius stated okay.

Board Member Fox stated that's fine. There. Say 5:20.

Chairman Olenius stated why don't you say – why don't you say 5:15 for Mr. Roman...

The Secretary stated okay.

Chairman Olenius stated and 5:45 for Mr. Heller, being that they're next door. I don't think it's going to take – I think we're just looking at the view shed here. I don't think it's going to be, like, a lot of...

The Secretary stated alright.

Chairman Olenius stated crazy relocation things or anything.

Bob McCarthy stated he's taken a lot of my time.

[Laughter.]

Bob McCarthy stated he's going to tell you how to interpret the code, too.

Board Member Carinha stated Mr. Heller.

Bob McCarthy stated yeah.

Chairman Olenius stated that's why he's second. Because if it starts getting dark...

[Laughter.]

Board Member Fox stated that 425 Mooney Hill. Is that right.

Chairman Olenius stated yes, and I'm assuming Mr. Heller would appear to be below him, so...

Bob McCarthy stated right.

Board Member Fox stated something else...

Chairman Olenius stated well, down the slope, whatever. Will we go downhill.

Bob McCarthy stated you're going to stand elevation height.

Board Member Burdick stated are they before Baldwin or after Baldwin if you're coming from [Route] 292.

Rich Williams stated they're above.

Bob McCarthy uh, I think it's after...

Board Member Burdick stated after Baldwin.

Bob McCarthy stated yeah.

[Inaudible.]

Chairman Olenius stated yeah, I can't imagine where this property is either.

Board Member Fox stated okay. October 7th, 5:15. Good.

Board Member Burdick stated are we doing the...

Board Member Bodor stated are we doing rain date.

Chairman Olenius stated oh.

Bob McCarthy stated bring your raincoats.

[Laughter.]

Board Member Bodor stated we have gone out in the rain...

Chairman Olenius stated we have.

Board Member Bodor stated and also the snow. Walked in the snow while it was coming down.

Chairman Olenius stated was the 6th bad. Monday, the 6th.

Board Member Fox stated yeah, well...

Board Member Carinha stated yeah.

Board Member Fox stated I have to...

Board Member Carinha stated yeah, the 6th is bad. Yeah.

Board Member Fox stated I have to be in Larchmont.

Chairman Olenius stated alright.

Board Member Fox stated and the 8th is no good. But the 9th...

Chairman Olenius stated no, I'm going to be in South Carolina.

Board Member Fox stated oh, good for you.

Board Member Carinha stated golfing.

Chairman Olenius stated yes.

Board Member Carinha stated nice.

Chairman Olenius stated it's Columbus Day, isn't it.

Board Member Carinha stated yes.

Chairman Olenius stated why do you think I have this fur on my face. Because I like it.

[Laughter.]

Chairman Olenius stated um...

Board Member Bodor stated it won't rain, it won't snow.

Chairman Olenius stated it's not going to rain or snow, no.

Board Member Bodor stated okay. Alright, I'll...

Chairman Olenius stated we'll deal with that when it gets closer...

Board Member Bodor stated okay...

Chairman Olenius stated if that's the case.

Board Member Bodor stated whatever.

Board Member Fox stated okay.

Chairman Olenius stated alright. Do you have anything for us [to Rich Williams].

Rich Williams stated I do. A couple of quick things.

Chairman Olenius stated on the record.

Rich Williams stated I'll be brief. On the record.

Chairman Olenius stated okay.

Rich Williams stated first, I'd like to welcome Mrs. Fox to the Zoning Board of Appeals...

Chairman Olenius stated as would I.

Rich Williams stated I think you're going to find that her expertise is going to be invaluable in your deliberations on some of these applications. Some of that's already, you know, come through. We got, uh – she grabbed all of the materials and reviewed it thoroughly and had a number of questions. I was away. Mary fielded the questions. I think Mary did an excellent job responding...

Board Member Fox stated absolutely.

Rich Williams stated but, there was one thing that came up, um, in Mary's response that I did want to talk to you a little bit about – gave me an opportunity to think about this, and that's the Open Meetings Law. And, you know, just what the boundaries are for the Board's back and forth communications. Um, Open Meetings Law and some of the court cases that have been decided set up a number of different boundaries, and generally the opinion is that it's perfectly okay for the Board to share information but all deliberations and all discussions must be done in a public forum here. So, you know, it's okay for Stephanie to send questions over to Mary and CC the whole Board...

Board Member Fox stated okay.

Rich Williams stated so you all see what the questions are. That's perfectly okay. But, as soon as you start talking about, say, jeez, do you think it's appropriate for Mr. Heller to, you know, have, uh, you know, or Mr. Roman to have this building here – that's kind of crossing that boundary. And, uh, you know, similarly, you know, the case that was decided down in Somers with the Riverkeeper, you know, they set those same boundaries up for when you're doing site walks. When you're going out there doing site walks, you really need to be observing and gathering information, and not really deliberating and negotiating and, you know, what have you. It's typically why the Planning Board doesn't like to have the applicants out there, and they take me out there to take notes so they can't talk amongst themselves. I have to write everything down. So, those are kind of, you know, the general boundaries for Open Meetings Law. If anybody has any questions, you know, feel free to ask Nancy or, you know, myself, and, you know...

Chairman Olenius stated we're pretty quiet on site walks. We really don't give a lot away...

Rich Williams stated no, I know you don't. You do fine. But...

Chairman Olenius stated so, I...

Rich William's stated Stephanie's new, and...

Board Member Fox stated yeah, I'm new. Yeah.

[Laughter.]

Rich Williams stated oh, one last thing I did want: when you start exchanging e-mails back and forth, those emails are all subject to freedom of information. So, somebody can come in here and

ask us for all the, you know...

Nancy Tagliafierro stated we...

Rich Williams stated all the documents, those e-mails are part of all the...

Nancy Tagliafierro stated possibly, though, with the exception of inquiries that they may make to me as their attorney might be...

Rich Williams stated well...

Nancy Tagliafierro stated privileged.

Rich Williams stated yes, I know, and I...

Nancy Tagliafierro stated well, my responses, especially, but yeah...

Rich Williams stated we could debate that all night long, you and I, but, yes, except for some of the responses from the attorney which might be privileged. Or might not.

Board Member Fox stated but asking about the history of the buildings and things like that, that's all okay to be done prior...

Rich Williams stated absolutely.

Board Member Fox stated okay.

Rich Williams stated yeah. Yeah. And, again, emailing us and asking us for additional information on the applications – absolutely, totally appropriate.

Board Member Fox stated okay.

Rich Williams stated that's it. I'm done.

Chairman Olenius stated he is, is he...

Rich Williams stated I try.

Chairman Olenius stated done with us.

Board Member Carinha stated oh, I think he forgot his... [Referring to a copy of Mr. Heller's appraisal]

Rich Williams stated I'm glad he left it because I'd rather have that part of our record being as it was mentioned so much...

Board Member Carinha stated okay.

Rich Williams stated so, we're going to keep that, and he's not getting it back.

Nancy Tagliafierro stated actually, everything that he showed to you guys he probably should have left here as part of the record.

Chairman Olenius stated I think he did.

Board Member Burdick stated he did leave his...

Rich Williams stated and I was, I was thinking it...

Board Member Burdick stated no, didn't he...

Nancy Tagliafierro stated no, he put some things back in his bag that's why...

Rich Williams stated oh...

Chairman Olenius stated oh.

Rich Williams stated I was thinking...

Nancy Tagliafierro stated I suggested to Mary that she ask for them...

Rich Williams stated I'm sorry.

Nancy Tagliafierro stated that's okay. I'm done.

Rich Williams stated it might be a good idea, because Nancy's right. Anything that comes before the Board should become part of that record. It's what you're basing your decision on, to some degree. Either for or against. And so, maybe right up front you should let applicants know any information they want to share with the Board...

Chairman Olenius stated they need to submit.

Rich Williams stated goes in the file and isn't getting handed back to them.

Board Member Carinha stated now the one thing he handed us, I think we also have a copy, is – I don't know if we should give them to is when he had the two codes...

Board Member Fox said the section of the code he just printed out...

[Inaudible – too many speaking at once.]

Chairman Olenius stated he gave it to me.

The Secretary stated I have – I have that.

Chairman Olenius stated I gave mine to Mary.

The Secretary stated yep.

Board Member Carinha stated alright. Because I have mine still, but that's good. Okay.

[Inaudible – too many speaking.]

Nancy Tagliafierro stated I think Mr. Roman had photographs of the house, too, that he – of the structure – that he took back with him, too, that he should have left with us, so, things like that we should ask for...

Rich Williams stated yeah.

The Secretary stated okay.

Nancy Tagliafierro stated in the future.

Board Member Fox stated and, like you said, tell them beforehand that they're going to have to...

Chairman Olenius stated surrender.

Board Member Fox stated yeah.

Chairman Olenius stated okay. I make a motion to close the meeting.

Board Member Fox stated second.

Chairman Olenius stated all in favor.

Motion passed by a vote of 5 – 0.

Meeting adjourned at 8:43 PM.