

**TOWN OF PATTERSON
ZONING BOARD OF APPEALS
September 20, 2011**

AGENDA & MINUTES

	Page	
1) Patricia Tanzi Case #03-11	1	Application tabled at request of the Applicant
2) Dino Rentoulis Case #10-11 – Use Variance	2 – 26	Public hearing closed; Use Variance denied for a residential use in C-1 Zoning District
3) John & Tina Harnaga Case #15-11	26 – 38	Public hearing opened and closed; Area variances for existing shed and play-set granted; Area variance for impervious coverage granted
4) Other Business		
a) Minutes	38 – 39	August 24 th minutes approved

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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

**ZONING BOARD OF
APPEALS**

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

PLANNING BOARD

Shawn Rogan, Chairman
Charles Cook, Vice Chairman
Michael Montesano
Thomas E. McNulty
Ron Taylor

**Zoning Board of Appeals
September 20, 2011 Meeting Minutes**

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

Present were: Chairman Lars Olenius, Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Howard Buzzutto, Board Member Gerald Herbst (arrived late at 7:24 p.m.), Joe Charbonneau, Attorney with Town Attorney's Office, Rich Williams, Town Planner.

Chairman Olenius called the meeting to order at 7:08 p.m.

There were approximately 3 members of the audience.

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

Chairman Olenius led the salute to the flag.

Roll Call:

Board Member Bodor	-	here
Board Member Burdick	-	here
Board Member Buzzutto	-	here
Board Member Herbst	-	not present (arrived late at 7:24 p.m.)
Chairman Olenius	-	here

1) PATRICIA TANZI CASE #03-11

Applicant was not present.

Chairman Olenius stated okay, we received another request for extension from Mrs. Tanzi, Case #03-11, on September 19th. Still working with the Health Department and the Town Supervisor trying to rectify her situation, so we're going to give her another month hold over.

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

Mr. Dino Rentoulis was present.

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 Tuesday, September 20, 2011 at 7:00 p.m. at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following application:

Dino Rentoulis Case #10-11 – Use Variance – Held over from the July 12, 2011 and August 24, 2011 meeting

The Secretary stated do you want me to read [referring to the case description]...

Chairman Olenius stated no, that's fine.

The Secretary stated okay.

Chairman Olenius stated Mr. Rentoulis.

Mr. Dino Rentoulis stated good evening, folks. How are you.

Chairman Olenius stated welcome back.

Mr. Rentoulis stated ladies and gentlemen, I'm not sure if you received the letter from broker, Mr. John Ravetto, who is sitting behind me.

Chairman Olenius stated yes.

Mr. Rentoulis stated then you won't need that.

Chairman Olenius stated let me just make sure. Was it dated Wednesday, August 24th.

Mr. Rentoulis stated yes. Correct.

Chairman Olenius stated we did receive that in our packets.

Mr. Rentoulis stated ladies and gentlemen, the last time I was here...Here you go [passing out papers to the Board]. Last time I was here, I had to provide sufficient evidence to show, I guess, economic hardship as to why I needed to keep the residential unit, the use variance, as a residential unit. In the packet, you will find I have a number of bills, some of them going back to 2010, 2009. I have bills from this summer.

The Secretary stated do you have an extra copy for the record.

Mr. Rentoulis stated yeah. You'll see I have insurance bills that I'm paying currently. Invoices from this past summer. I have bills from emergency boiler installation. What I do not have, and I could not locate, was work that was performed on the residential unit in 2009, the fall of 2009, but you can obviously see that siding was put on the residence. We ran brand new electrical. I have the roughing inspection that was

on the window when you folks performed the site walk. Again, these are all things that are not cheap. Mr. Lamberti went inside, he inspected it, he gave me the okay to begin sheet rocking. And it was then where, again, money ran out, winter came, and unfortunately I had to do a boiler installation, an emergency. And...Just from the building permits, folks, back then, you can see that the building inspector and, you know, the entire Town, they granted me the...to proceed with the restoration of the place because they knew that's what it was, that's what it always has been, and that's what I'm going to continue with. And very, very, simply, I'm in economic hardship because I have not had a tenant in there for two years, and you can see that attached with the packet is...I'm...even my current tenant, and again, I didn't feel comfortable doing this at the last meeting because I just don't think it's right to show the relationship in the economic situation with my current tenant, but they are in arrears. The winter was very slow. The economy is bad. I just paid my taxes. I need a rent, especially from this house, to stay afloat. I mean, it is that simply. The place has been there for forty years; Over forty years. This is the same situation, just like the sign. I took it down, granted, I should have waited for the variance. You gave me the variance. But this should be the same exact situation as the sign. Same circumstances. I don't understand what's different.

Chairman Olenius stated you got your initial building permit to demolish a residential structure due to fire in 2005.

Mr. Rentoulis stated right. That's when it happened. That's when the fire happened, that summer.

Chairman Olenius stated so it's 2011.

Mr. Rentoulis stated yes.

Chairman Olenius stated what's take...Why's it taking so long to finish the reconstruction.

Mr. Rentoulis stated it's taking long, Sir, because the restaurant did poorly. My father tried leasing it out. It did poorly then. There's no money coming in, either when my father operated it or when we leased it out. Right across to the Town Court...the old tenants were in arrears of over \$85,000 between arrears rents, between back taxes, between legal fees, okay. I spoke to my father, and again, he could not be here unfortunately. We didn't have fire insurance on the place before...On the tenant. We had a tenant who, I guess it was a breach of contract, was suppose to have insurance of their own. We have liability, they did not. So, this happened, and again, it took this long because there was just no money to fix it and the business that's even struggling down in Westchester that I have, I'm paying the taxes up here, I'm putting as much aside to fix it. I want to go ahead and fix the place up so I can rent it. It is that simple. And I thought I could do this two months ago when I was up here everyday, every other day. That's how I received my site plan approval. That's how I received my C of O. I had guys up here, they were working, but, I mean, it's just not logical to continue working on something if I'm not going to get the use back. And again, ladies and gentlemen, this thing has been here for fifty years. I just don't...I'm not stealing anything from anybody, I'm not. I'm just trying to beautify the place. And when...I've had numerous meeting with Town Supervisor, Mr. Griffin. He's very excited that, you know, I have a potential tenant. I have potential buyer. He wants to see the place open up as something and generate more, you know...It's another place in the Town of Patterson to open up. But that residential unit, that's what makes it that much more attractive, and no one will pursue the place. People...So, someone might want to live there. They might have a manager on staff. They might want to have a groundskeeper. That's what the place has always been.

Board Member Bodor stated getting back to the fire, you as the landowner, the owner of the property with the structures on it, had no insurance that would have reimbursed you for the fire damage.

Mr. Rentoulis stated we have liability, Ma'am. And the property, it was free and clear. We did not have a mortgage on the property and we are not legally liable to...If you have no mortgage, you're not legally liable to have insurance. It's your decision if you want it or not. We have liability. We have fire insurance on the restaurant. We just did not have it on that particular resident...on the residential unit.

Board Member Bodor stated on the residential structure there was no...

Mr. Rentoulis stated the structure.

Board Member Bodor stated fire insurance.

Mr. Rentoulis stated yes.

Board Member Bodor stated well, don't you think that was rather careless, less than prudent. I mean, you own the structures.

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

Board Member Bodor stated you're...

Mr. Rentoulis stated and again...

Board Member Bodor stated responsible.

Mr. Rentoulis stated and again, it was...Back then, my father...we were going through a tough time economically, financially, the place was struggling and the worst case scenario happened. The worse thing happened.

Board Member Bodor stated so...

Mr. Rentoulis stated I'm just trying to show and to explain that I have been doing my best fixing the place up, fixing the property, you know, doing the best that I can. I just...I need this variance. I need this use variance. It's been like that forever.

Board Member Bodor stated but the zoning changes. Zoning does not stand still.

Mr. Rentoulis stated I understand that. I understand. And if that was the case, Ma'am, then why...why since back to the fire, I was granted the permission to restore the residential unit. I'm assuming the Code changed way before that. I received no notification on anything. Again, I'm just trying to beautify the place. I need to generate income. If I don't generate this, I can't pay my taxes.

Board Member Bodor stated what's...What I'm stuck on is the delay. The time...period of time that you have not done enough to rehab the structure so that you could perhaps...

Mr. Rentoulis stated Ma'am...

Board Member Bodor stated made an income from it.

Mr. Rentoulis stated I understand. Ma'am, you can see this past summer, okay, \$13,000 and change just for the site work: to install the decks, okay, for the site plan issues.

Board Member Bodor stated that's two thousand...

Mr. Rentoulis stated \$10,000 for the boiler, Ma'am. I understand, okay. Ten thousand dollars to do work. I still have materials inside the place, okay. For the sheet rocking, for everything. For the electrical work. If I had the money, please, don't think for one second that I wouldn't complete this. That's just silly on my part.

Board Member Bodor stated I'm going back to what the Chairman had stated earlier, though. You're talking 2010, 2011. This occurred way back in two thousand and...

Mr. Rentoulis stated Ma'am, even in...

Board Member Bodor stated five.

Mr. Rentoulis stated 2009...Even in 2009 they were doing work.

Board Member Bodor stated still there is a gap there of not days, not months, but years.

Mr. Rentoulis stated Ma'am, I understand.

Board Member Bodor stated years.

Mr. Rentoulis stated and like I said, that's why, one of the main reasons, again, why my father, he decided to lease the place. He even wanted to sell it back then in 2007 when we got our tenants in there because the place was just not making money. I cannot construct...I cannot build something if there is no money there. I can't build a building with no money. I can't build a bathroom. I can't do anything if there's no money. Again, I'm not doing anything illegal here. I just want to move forward. I would like this granted so I can finish it up, get the C of O, and get the place rented to generate an income. I have nothing coming in right now. Absolutely nothing.

Board Member Buzzutto stated did the previous tenant have use of...He didn't have use of that apartment either then.

Mr. Rentoulis stated I'm sorry.

Board Member Buzzutto stated the previous tenant that was in there, Nick was his name.

Mr. Rentoulis stated Nick.

Board Member Buzzutto stated yeah. They didn't...

Mr. Rentoulis stated well, well...They...No. They had no use of it because it wasn't completed yet.

Board Member Buzzutto stated that's what I mean. They leased it at that time without the use of that, so why can't...

Mr. Rentoulis stated well, that was... Well... I don't understand what you're saying.

Board Member Buzzutto stated well, if it was leased then without the use of the apartment, why can't another tenant in the tavern or the bar, whatever you want to call it, lease the building without that.

Mr. Rentoulis stated well, Sir, I'm even talking about in the future if we're looking to sell. If you know something isn't free and clear you're not just going to go ahead and buy it. And plus, I mean, it's... If you go online and you Google commercial square footage available in Putnam County, your jaw will drop at how many thousands upon thousands of square feet are available. Square feet commercial, to put a business, okay. And just like a walkup apartment building, this has stairs. What commercial property could I keep this as. It's a residential unit. Again, it always has been and it will always will be. I mean, it's just... Maybe we're going around in circles but I just don't know what else I can provide. That is my economic hardship. I don't have income coming in now. I'm a fantastic taxpayer, just like every single in the Town of Patterson is, and I'd like to continue being that way, okay. But if I'm not generating income then game over. There's nothing more I can say. We have Mr. Williams here. We have Mr. Lamberti in the back, okay. Maybe... They might not agree but they see money being put into the place. They know more idea... He's the Code Inspector, Town Planner. They know how much things cost. You folks, too, probably know how much things cost. It's not cheap. Materials and labor are not free and they're not cheap. I just... I really don't see what the hassle is. And all this, like I said, I had people up here. I had good momentum going. I got my C of O. I finished my site plan and this, it just slowed me down. It slowed me down a lot folks. I don't know what else I could provide you. It's just that and, you know, the Town of Patterson, the Zoning Board, you should know what goes on in the Town. You should know that the place has been vacant, not generating any income. You should wonder that me, trying to pay the taxes here, wow, this guy really must be busting his butt to not only work in Westchester, but to pay the taxes up here as well. Hello, Sir. How are you [referring to Board Member Herbst arriving late].

Board Member Herbst stated sorry if I kept you all waiting if I did.

Mr. Rentoulis stated I understand that you have the laws and I understand codes. Listen, I'm just a guy trying to go and make things right. And the reason why the things didn't happen sooner is because there's no money. That is all I can say. The place has been a residential unit since Ming Hoy fifty years ago, forty, fifty years ago. I just don't see why I can't have that back.

Chairman Olenius stated we just wish that you would have come earlier to ask for it back. That's the problem.

Mr. Rentoulis stated I understand, Sir.

Chairman Olenius stated there's a long delay.

Mr. Rentoulis stated I wish I didn't start in mid, you know, this whole mid process. I wish I was there earlier, okay. But I was working elsewhere. I had my own job before, you know, signing up with my father. I wish a lot of different things. I really do. I wish I had money to complete it back in 2009, back in 2010, back in 2008.

Chairman Olenius stated when did you take this over from your father, this (inaudible – too many talking).

Mr. Rentoulis stated I took this over...Nick. When was the first time you and I spoke. In '09.

Mr. Nick Lamberti stated yes.

Mr. Rentoulis stated in '09. In 2009. And since then you have told me, Nick, you didn't want it to be an eyesore, you know, with the burnt vinyl siding outside. I went and I fixed that to make it more, I guess, aesthetically pleasing, driving. I did that. Then I started getting my guys in. Now, I had to run my electrical. Again, the thousands upon thousands of dollars just on materials and labor. I fixed the place up. I got my...the roughing inspection from the electrical...Putnam Electrical Inspector. Okay, I got the guys in there. I started putting the sheet rock up. I started painting. And then I had guys going up, patching the roof, fixing things up. I mean folks, if there's no money, you can't expect someone to just...I don't know, cut my arm off to pay for it.

Board Member Buzzutto stated you say you had permission to go ahead with all of that without...

Mr. Rentoulis stated well, permission meaning that what I was given was just the building permit renewals for a two bedroom residence as you all can see.

Board Member Buzzutto stated yeah, but I mean to go ahead with the renovations and stuff on it. You have to...

Mr. Rentoulis stated of course, from the Building Inspector, before Mr. Lamberti.

Mr. Lamberti stated he had a build....Mr. Rentoulis did have a building permit before I was hired. I was hired in February of 2009 and I came to know Mr. Rentoulis shortly thereafter. But even as early as October of 2009, I wrote a letter to Mr. Rentoulis asking what he was doing with the restaurant, with the apartment, explaining to him that he has an obligation to get it completed; fulfill his commitment to restore the dwelling so they can be rented again. I think he had other opportunities, one of which he expressed to me. I think I sent a letter to the [Zoning] Board indicating that. You know, we were frustrated to a degree that, you know, things weren't moving very quickly. Recently, after finally, I guess, his prospects improved and he has the opportunity to sell either the restaurant or lease it, it became clear that, you know, in order to make this sale he also needs to have the residential property be available and maintain its status as a...

Mr. Rentoulis stated I mean, how do you do that.

Mr. Lamberti stated residential unit.

Mr. Rentoulis stated it's more appealing. I've have it listed for god knows how long and...

Mr. Lamberti stated yeah, but Dino...

Mr. Rentoulis stated no bites.

Mr. Lamberti stated in six years, you could have repaired it, got it back on the rent rolls, collected rent. It would have helped you, you know, earn income, do other things with the restaurant.

Mr. Rentoulis stated Nick, I understand.

Mr. Lamberti stated we even helped you get...

Mr. Rentoulis stated Nick, I understand. I'm talking about now.

Mr. Lamberti stated well, but this is the problem.

Mr. Rentoulis stated (inaudible – too many talking) move in to it, Nick.

Mr. Lamberti stated but we're trying to help you but we also need to explain to you why you're in this predicament.

Mr. Rentoulis stated I understand. I understand, totally, Nick, why I'm in this predicament.

Mr. Lamberti stated well...

Mr. Rentoulis stated okay. And I came here, again, two months ago for the same thing; the variance. I'm showing economic distress. I'm showing this.

Mr. Lamberti stated but you lost the variance and I think what one of the Board Members said is why didn't you come to us sooner to request...

Mr. Rentoulis stated Nick, I wasn't on board sooner. I need this...

Mr. Lamberti stated well, you were on board since at least 2009, so...

Mr. Rentoulis stated to pay. And 2009, have I not been making strides.

Mr. Lamberti stated you have been...

Mr. Rentoulis stated economic strides, Nick. I... You said if work is being progress, have I not made progress in two years.

Mr. Lamberti stated you have made progress.

Mr. Rentoulis stated thank you very much. Have I not spent thousands upon thousands of dollars...

Mr. Lamberti stated it's up to the Board to decide...

Mr. Rentoulis stated yeah, I understand.

Mr. Lamberti stated whether it's sufficient progress and give you what you're asking for.

Mr. Rentoulis stated if you could see with the twenty somewhat thousand dollars a year taxes, zero income, arrears from tenants both old and new. I think you could see that, yeah, I'm in a pretty tough situation here.

Board Member Buzzutto stated well, the situation is you're asking for a use variance permit.

Mr. Rentoulis stated yes, Sir. For something that has been there...

Board Member Buzzutto stated that is a complicated...

Mr. Rentoulis stated for forty years.

Board Member Buzzutto stated obligation. I think you have five...What is it, four. Four units that have to be perfect. It ain't like the one that we gave you for the sign. That's just a variance. This is totally different. Now, I don't know myself on how we could get around something like that, to grant...

Mr. Rentoulis stated I understand. But if I recall correctly, is it an obstruction of some sort. No. Is it a...I mean...I'm just trying to recall from memory the bullets. This...Folks, this has been something...This is something that's been there for over forty years.

Board Member Buzzutto stated yeah, but it has lapsed. It had expired.

Mr. Rentoulis stated I understand that. I understand that. Was I aware that that particular property was just commercially zoned, no. Was I aware that the law within the Code if there's X amount of time expires and then you lose that use variance and you have to get it again. No. I'm doing the best that I can to move forward.

Board Member Buzzutto stated but what...

Mr. Rentoulis stated to try to stay afloat.

Board Member Buzzutto stated what you're saying here is what you're saying is self created problem. You created the problem by not looking into the Codes.

Mr. Rentoulis stated Sir, I understand that, which is why I try my best to speed...

Board Member Herbst stated may I ask you a question.

Mr. Rentoulis stated yes.

Board Member Herbst stated you had somebody handling your case, right, on the real estate.

Mr. Rentoulis stated when.

Board Member Herbst stated when we saw it, when we did the site walks and everything, did we not have Dave Pierro there.

Mr. Rentoulis stated yes. Yes.

Board Member Herbst stated okay. Dave was on boards. How come he didn't put you up to all of this.

Board Member Buzzutto stated he knew about it, but he was trying to push to get the use...

Mr. Rentoulis stated the best...

Board Member Buzzutto stated I don't know how...

Mr. Rentoulis stated Sir, to get the C of O and the site plan, which I did. To get the C of O completed. And again it was more...thousands of dollars. And it was a lot of money. I need this. I need to complete this. I need to rent it out. I need to find a tenant. I really, and again, there is nothing more I could say. I wish I was on, you know, sooner. But that's pretty much it. I need this to stay afloat and to pay my taxes.

Board Member Bodor stated the reality of it is the other structure is a restaurant, correct.

Mr. Rentoulis stated yes.

Board Member Bodor stated is that terminology we can call it.

Mr. Rentoulis stated yes.

Board Member Bodor stated and thinking about a restaurant, per say, I don't believe...

Board Member Buzzutto stated it's a hold over [speaking to Board Member Herbst about a different case].

Board Member Herbst stated I know, I see it.

Board Member Bodor stated that every restaurant out there has a residential piece connected to it in order for it to operate. So, to my way of thinking, I don't know why the potential residential piece is going to be important to getting the restaurant up and running.

Mr. Rentoulis stated well...

Board Member Bodor stated and that's...I'm hearing from you that...

Mr. Rentoulis stated and I know a little bit...

Board Member Bodor stated it is. I don't believe it.

Mr. Rentoulis stated right. And I know a little bit about the restaurant business, Ma'am. And what a lot of owners, what they do, is they do provide some sort of housing for their employees. And I guess from the time that it was Ming Hoy, that's what was done back then. Okay. So, it makes it that much more attractive. That much more appealing to purchase that parcel of land.

Board Member Bodor stated that it may. But it's not essential to the operation of the restaurant.

Mr. Rentoulis stated but when my father bought it back then, Ma'am, it was. To pay the mortgage, to make the payments. It was another source of income as a residential unit. And that's how my father, he could buy things, because we did have an income from that, okay. When that's done, then...I mean, you can see that we're going through a tough time here. I just don't understand. I'm up here telling you all that I really wish I can have this use variance, I can complete the place, and get it rented out to pay my taxes.

Board Member Bodor stated we really wish that you had come to us years ago...

Mr. Rentoulis stated Ma'am...

Board Member Bodor stated so we didn't have this long timeframe with nothing happening.

Mr. Rentoulis stated Ma'am, do you know the first time I heard about this was, I think, maybe back in May of this year when I went to go fill out some paperwork with Mr. Lamberti. And then he mentioned, oh Dino, you know, I think that maybe your time lapsed for the use variance of that place. You're going to, you know, have to do some other steps to, you know, get it back active, or whatever. Is that right, Nick. Back in May, when I first came...I'm sorry for making you come back and forth [referring to Mr. Nick Lamberti having to come back up to the microphone].

Mr. Lamberti stated it's true. Mr. Rentoulis might have discovered this in May, however, it's really not our responsibility to keep him aware of what his obligations are. So, if you were...If he was ignorant of the need to renew his use variance...

Rich Williams stated no, stop.

Board Member Burdick stated it...He never had a use variance.

Mr. Lamberti stated okay.

Board Member Burdick stated it was a pre-existing, nonconforming use, so there was no use variance that was lost.

Mr. Lamberti stated okay. Well...

Board Member Burdick stated is that correct, Rich. Attorney.

Rich Williams stated

Mr. Lamberti stated so once that...Once two...a year has passed without him actually using it as a residential...for residential purposes, he loses that.

Joe Charbonneau stated that's what the Code says.

Mr. Lamberti stated that's right. The Code says he loses that privilege.

Mr. Rentoulis stated now is there a time...

Mr. Lamberti stated then he needed to come and ask for a use variance, which he didn't.

Joe Charbonneau stated at that point, the pre-existing, nonconforming use was deemed to have lapsed.

Mr. Lamberti stated exactly.

Joe Charbonneau stated he would then have had to come before the Zoning Board, request a use variance in order to continue...

Mr. Lamberti stated continue using it.

Joe Charbonneau stated that use.

Mr. Lamberti stated right. So...And this is something that you needed to be aware of. We can't make you aware of it. It's not our responsibility to make you aware of it. We make you aware of it by publishing...

Mr. Rentoulis stated right.

Mr. Lamberti stated making available the Town Code to you. It's on...

Mr. Rentoulis stated even back then, I was not aware that...

Mr. Lamberti stated it's on our website. You can come into Town, read it. You know, you're, more or less, obligated to know all the rules.

Mr. Rentoulis stated I know, Nick. This is (inaudible) place. I've known it since I was...Twelve years ago, since I was, you know, a lot younger that it's been a residential. And even now, and I know that if the Code has changed somehow deeming it not residential but commercial, again, I mean...I just found this out back in May. And again folks, I'm just asking that I get this use variance. I don't know how many times...I feel like a broken record. I'm not doing anything illegal here. I'm trying to make everything right and I just need to pay my taxes. I need to make my payments. I really do. And the only thing that I can do now, and don't think for one second that I'm not trying to lease the place, or I'm not trying to sell the restaurant, we are. Myself, my brokers, okay. Even...This has been going on for two years now, since we last evicted the last tenant. There's no way I'm going to let it just sit there. I've tried. And I've showed the place. And I've done this and I've done that. But, it's still vacant. And you can see from the documentation that I had given you that even my current tenant is in arrears, okay. What other financial burden, financial hardships do I have to present to you. That I need this. I mean, I understand that either the Codes are whatever, but think with your minds and your hearts. I'm really, really think that I need this to survive. To stay afloat.

Board Member Buzzutto stated you've got the problem of not getting the permits and stuff like that, that's the consequence. I don't know what our consequences would be if we granted something without him meeting all the criteria on that. What are the consequences that could get us the other way around.

Joe Charbonneau stated it could be collaterally attacked by...

Board Member Buzzutto stated a resident.

Joe Charbonneau stated absolutely. They can put in an Article...

Board Member Buzzutto stated yeah, we could be sued.

Joe Charbonneau stated 78. Absolutely.

Board Member Buzzutto stated we could, you know, be sued. That would be...

Mr. Rentoulis stated even the place has been pre-existing for over 45 years.

Joe Charbonneau stated let me just try to clarify something because you keep going back to the same terminology and you're incorrect. The moment that you did not rebuild within a year's period of time you lost that use. So the fact that it was a pre-existing, nonconforming use stopped at that point, okay. That's

why you're here. So really the historical aspect of the building is not so much in play here as the inability that you presently have to receive some economic gain based on the present zoning. And that's what you provided Mr. Ravetto's...

Mr. Rentoulis stated right.

Joe Charbonneau stated letter for.

Mr. Rentoulis stated and what's the Code provide...

Joe Charbonneau stated you keep going back to...

Mr. Rentoulis stated for fire and...

Joe Charbonneau stated historical.

Mr. Rentoulis stated and explosion.

Joe Charbonneau stated at the moment at which you did not rebuild within a year based on a determination made by the Building Department, you lost your pre-existing, nonconforming use. That's a standard provision that's in every code throughout New York State.

Mr. Rentoulis stated and then they would just...

Joe Charbonneau stated because the purpose...

Mr. Rentoulis stated renew my building permit every year, after year, after year.

Joe Charbonneau stated that's...It's not the obligation of the Building Department to make a determination as to pre-existing, nonconforming uses, it's the applicant's.

Mr. Rentoulis stated right, okay. Well...

Board Member Buzzutto stated it's just that the Town could be hit with a big lawsuit.

Joe Charbonneau stated in fact, what the Town did by issuing the building permit was to facilitate your making sure that that pre-existing, nonconforming use didn't lapse.

Mr. Rentoulis stated okay, so pretty much I just...I'm not getting my variance, my use variance, and I spent thousands upon thousands of dollars trying to correct things and make everything right, and all of the sudden I'm just going to use that...lose that I mean. What else could I possibly put in that space that's raised with three staircases. What else could I put.

Board Member Buzzutto stated I don't know.

Mr. Rentoulis stated nothing but just like a walkup apartment building, a residential unit. Someone who can't walk or who is handicapped will not rent that space. If I make that into a commercial place, am I going to put an elevator in there. I can't. The site plan was approved by Nick Lamberti and Richard Williams, okay. I have X amount of parking spaces. If this turns into commercial, that takes away from

the restaurant. Folks, this was a residential unit. I understand...I need this to continue to be a residential unit.

Chairman Olenius stated sorry. You should have come sooner. That's my opinion. You let it go too long and the alleged hardship, in my opinion, has been self created because of...

Mr. Rentoulis stated Sir, but if Mr. Lamberti said...

Chairman Olenius stated waiting so long.

Mr. Rentoulis stated that...I know. I came on 2009. I have been working since 2009...

Chairman Olenius stated you know. I looked at that...

Mr. Rentoulis stated since then.

Chairman Olenius stated unfortunately, you didn't...the property didn't change ownership. It's still in your father's name. I looked...That's one of the things I looked at to see if it had changed names from your father's name to your name, and it hasn't according to the...

Mr. Rentoulis stated no, Sir, it hasn't. I have...

Chairman Olenius stated because that...

Mr. Rentoulis stated power of attorney over my father since he had open heart surgery, beginning of the summer.

Chairman Olenius stated that was one of the first things I looked at, to see if...

Mr. Rentoulis stated anything you'd like to add, I mean [referring to John Ravetto in the audience]. So, if I don't get this as a residential unit, what am I to do. All the money I put in there. What do I have to change it to. With all the thousands and thousands...hundreds of thousands of commercial...millions, commercial square feet available in the Town of...in Putnam County.

Joe Charbonneau stated the answer to that question is any conforming use. So you could ask Rich, what other conforming uses are there in that zoning.

Rich Williams stated retail, personal services, undertaker's establishment, banks.

Joe Charbonneau stated so there's a myriad of other uses that the property could be used for.

Mr. Rentoulis stated folks, I was here last month. I brought you documentation. And if that was the case, if we had bullets, and all of the sudden your minds were set, well, you know what, you should have come to us sooner. Why did we do this two months.

Board Member Buzzutto stated I...

Mr. Rentoulis stated I was ready, ladies and gentlemen, to go and finish this place up. I'm not doing anything wrong here. I'm not stealing from my neighbor. I'm not stealing from the Town of Patterson. I am working with what is there and trying to make the place nice.

Board Member Buzzutto stated I think if you go back in the minutes, I think we've even said back then, why didn't you come sooner. Or why didn't you... You said you weren't aware of it. Well, again...

Mr. Rentoulis stated Sir, I do not recall that in the minutes. I do not recall that. That was not said in the minutes, I'm sorry. That was not said in the minutes, why we didn't come sooner. And even last time, ladies and gentlemen, you said that this all could be avoided if Nick Lamberti, who joined the Town of Patterson Code Enforcement in 2009, if he could prove that progress was being made. I mean, you see Nick, how all of this... You know the money that was put in there, Nick. And that's why I came to you to talk to you about this. Progress was being made. You joined in 2009, okay, I understand. But the ladies and gentlemen up here said the only way this could be reversed is if Nick Lamberti, the Code Enforcer, said that, yes, progress was being made. That, for 100% fact, that was in the minutes.

Board Member Bodor stated sufficient progress over the number of years, from 2006 to 2011. This has been a stop, a little bit here, stop for a couple, apparently. This is what I'm understanding. It was not consistent work being done in order for you to gain any income from that.

Mr. Rentoulis stated I understand, Ma'am. From when it burnt down, demolition, okay, removing rubbish. After that, the roof installation from the Baker Brothers. I have receipts here from them, back from 2007, 2006.

Board Member Bodor stated but it was a little bit here, a little bit there, a little bit... If you had...

Mr. Rentoulis stated Ma'am, if there's no money...

Board Member Bodor stated worked consistent...

Mr. Rentoulis stated I understand that. But if you, economically, financially, don't have the money to fix something in an X amount of period of time, how can you do it. I don't see how one can do that. If something happens to your house, knock on wood Ma'am, and they say you have to fix this in this amount of time and you don't have the means to do it economically, what are you to do. And that goes for everyone in here.

Board Member Buzzutto stated yeah, but we're not saying you have to fix it in a certain amount of time, we're saying you should have renewed the permit.

Mr. Rentoulis stated and even then, when Mr. Lamberti was talking, we were in the middle of leasing the place out only because that... we had no money back then in '07 and '08, that's why we leased the place out, folks.

Chairman Olenius stated I don't see anything submitted here for work being down 2006, [200]7, [200]8.

Mr. Rentoulis stated yes, Sir. Again, it was... I had to go back and get documents and so many old things. (Inaudible – too distant) even before. This (inaudible) me for... I'm sorry, if you could just pass that around [referring to a bill]. Garbage and rubbish removal and engineers for the fire restoration plan. And then

after that, we have so many other things. I mean, again, we're talking about five years ago, folks. It was a big process for someone that didn't have money, it was a big process.

Board Member Buzzutto stated yeah, but wasn't the place leased at that time to Nick and...

Mr. Rentoulis stated my father was operating it, Sir, and it was at that point, again, it was still struggling financially...

Board Member Buzzutto stated it was still open for business.

Mr. Rentoulis stated it was open for business, yes.

Board Member Buzzutto stated yeah. It wasn't vacant.

Mr. Rentoulis stated it wasn't vacant, no.

Board Member Buzzutto stated yeah.

Mr. Rentoulis stated but again, even back then which is the main...If it was doing well and it was making money, I assure you, my father would ne have leased it out in 2007. He would have continued operation as is. But it wasn't. The new tenants tried taking a crack at it, they failed horribly. And we took the...the...the biggest beating from that. I'm sorry, Sir, but I have, I mean, I have folders from the insurance. And keep in mind, every year, again, it's the same, the \$24,000 with the taxes and the taxes. Every year. I'm sorry [referring to trying to hand papers to the Chairman].

Chairman Olenius stated that's okay.

Mr. Rentoulis stated thank you. You can see even back then, and then installing the roof and then sending machinery up here. It's like \$800 per machine per day. It's just a lot of things. I really wish you folks would understand how much money it is. And how much money I've spent in the past two years completing this, trying to fix it up.

Board Member Buzzutto stated well, the thing I keep going back to is the criteria you have to meet and the lawsuits that could depend on us giving the variance without you meeting some of these criteria.

Mr. Rentoulis stated believe me, I'm trying to show you everything...

Board Member Buzzutto stated I don't doubt your...

Mr. Rentoulis stated how can we...

Board Member Buzzutto stated I'm not going to put the Town in that fix.

Mr. Rentoulis stated but I understand, Sir. I mean, this is...You take case by case. This is my case. I mean...I mean, please think about it. It's not like it's someone's house or whatever. We're doing case by case. That's why we're here.

Board Member Buzzutto stated it's not just a...It's a special use permit [*note: it is a use variance Mr. Rentoulis applied for], and that's one of the only variances that require that type of ...

Mr. Rentoulis stated and what have I not fulfilled, shown you. Right now, I'm coming asking you for a variance. What have I not fulfilled. What have I not shown. What have not proven.

Board Member Buzzutto stated well, you're not...

Mr. Rentoulis stated what do you not feel comfortable with.

Board Member Buzzutto stated showing that you renewed the permit back in it...

Mr. Rentoulis stated I did. It's right there, Sir.

Board Member Buzzutto stated well...

Mr. Rentoulis stated the permit for the...

The Secretary stated wait. Hold on [referring to having to flip the tape for the minutes].

Mr. Rentoulis stated residence.

TAPE ENDED

Mr. Rentoulis stated Nick, is there anything you'd like to add. Can you...If I...Would you feel comfortable Nick, if you gave me a timeframe, just like I had with the C of O. Anything to help me out here.

Mr. Lamberti stated Dino, legally I'm not permitted to do anything aside from what the law permits me to do.

Mr. Rentoulis stated the last meeting...

Mr. Lamberti stated if it were possible...

Mr. Rentoulis stated the Board told me that you were the only one that could overturn that.

Mr. Lamberti stated no I can't.

Board Member Buzzutto stated just...

Mr. Rentoulis stated yes you could have. That's what...

Board Member Burdick stated no. What we...You were...I'm reading the minutes right now. What you said to us was that Nick was confused, you felt, between the work being done on the restaurant and the residence and that you felt that you could show Nick documentation that work had been being done all along and that if that could be provided to Nick, he might, at that point, reassess his original determination.

Mr. Rentoulis stated right.

Board Member Burdick stated and that's what was said. It...That's what we told you.

Mr. Rentoulis stated and even before I spoke to Mr. Lamberti, maybe he didn't know the work that was being done. Maybe it's not in file.

Board Member Burdick stated but apparently you didn't provide him with anything that shows there was consistent work being done from the time of the fire because he hasn't overturned his decision.

Mr. Rentoulis stated well Nick, have you looked in the file to see all the work...

Mr. Lamberti stated yes I have.

Mr. Rentoulis stated I've done for the permits that were done from the...I have the receipt right here from the Baker Brothers Construction.

Mr. Lamberti stated Dino, you didn't give me receipts for much of anything. Okay.

Mr. Rentoulis stated Nick, it's in the file.

Mr. Lamberti stated we...I even wrote a letter to the Board that I sent you a copy of. Remember a conversation we had where you told me after the fire you had the opportunity to put another tenant in and they wanted to operate it...

Mr. Rentoulis stated Nick, have you looked in the file.

Mr. Lamberti stated they wanted to operate it as a bed and breakfast and you held off on doing anything because that would have meant maybe modifying the structure.

Mr. Rentoulis stated I understand.

Mr. Lamberti stated so you did nothing for two years.

Mr. Rentoulis stated that was until it had gone sour. It wasn't two years, Nick.

Mr. Lamberti stated that's what...Those were your words. Two years.

Mr. Rentoulis stated Nick, that was back in 2009 when I was fixing the place...

Mr. Lamberti stated you said you had held off...

Mr. Rentoulis stated inside.

Mr. Lamberti stated for two years. Those were...

Mr. Rentoulis stated two years.

Mr. Lamberti stated that's what you told me.

Mr. Rentoulis stated that was in 2009. The place was still...

Mr. Lamberti stated that's not...

Mr. Rentoulis stated the tenants were still there in the beginning of 2009. Have you looked in the file to see...

Mr. Lamberti stated no, the tenants...

Mr. Rentoulis stated the work that was done in the past.

Mr. Lamberti stated the building had already been destroyed.

Mr. Rentoulis stated Nick, we're talking about the restaurant.

Mr. Lamberti stated no.

Board Member Bodor stated no.

Mr. Lamberti stated we're talking about the residence. The restaurant has nothing to do with this variance.

Mr. Rentoulis stated Nick, again, Nick it was a packaged deal. Someone to come in here for the residence and the restaurant.

Mr. Lamberti stated look, I understand. During the whole time that I was in you were working on the restaurant.

Mr. Rentoulis stated Nick, did you go into the file. Have you seen the file pre-2009.

Mr. Lamberti stated Dino, I really don't want to argue with you.

Board Member Buzzutto stated yeah. Cut that conversation.

Mr. Rentoulis stated I understand...

Joe Charbonneau stated let me just clarify something. The issue of whether or not you had sufficiently continued work since the fire of 2005. Since the fire of 2005 and today, is not an issue before this Board. You're not appealing a decision made by the Building Inspector that insufficient evidence has been established to show...I'm sorry. That there lacks evidence to demonstrate a continuity of work in order for you to keep the pre-existing, nonconforming use. That issue's a dead issue. So, the colloquy...

Mr. Rentoulis stated right.

Joe Charbonneau stated that we're engaging in here is not productive to the issue.

Mr. Rentoulis stated I mean, folks, before I even walked into this microphone, it seems like you already, you know, determined...It was already predetermined how you were going to answer tonight. Because even from the two months ago that I was here and I had to keep, you know, information and show you proof and documents and to, I mean, it pretty much was useless to do all of that.

Chairman Olenius stated that's not true. You had every opportunity. You were made aware of the bullets you needed for a use variance. We received nothing until tonight. And what you gave us tonight...

Board Member Buzzutto stated it just (inaudible).

Chairman Olenius stated it is not enough for me to form a decision on. You had an entire month to demonstrate competent financial evidence, some of which you handed us tonight.

Mr. Rentoulis stated Sir, I understand...

Chairman Olenius stated I don't find this as fully competent financial evidence. This is all relatively new.

Mr. Rentoulis stated but even...And again, that's why I said in the beginning, I tried locating, I tried finding receipts. I tried finding payment. You folks completed the site walk. You say that...the materials in there. You know that every year I have to pay my taxes. You know the place has been closed for two years. I'm showing you right now. If you want, I can have my attorney contact each one of you with my current tenant that's in arrears. That is obvious financial hardship right there with a place that's been closed. What else can I demonstrate. We drive by, especially you folks that are up here. You drive by it every day.

Board Member Buzzutto stated the whole thing in a nutshell is that the permit...the variance has lapsed.

Mr. Rentoulis stated (inaudible) the same thing.

Board Member Buzzutto stated that's basically...you probably met the other three things in it, but that's the one thing you're not meeting.

Mr. Rentoulis stated Sir, and that's why...

Joe Charbonneau stated just to correct...

Board Member Burdick stated yes.

Joe Charbonneau stated the use...

Board Member Bodor stated yes.

Joe Charbonneau stated has lapsed not...

Board Member Burdick stated the use has lapsed.

Joe Charbonneau stated the variance.

Board Member Burdick stated not the variance.

Board Member Buzzutto stated alright, use. Yeah, use.

Board Member Burdick stated there is no pre-existing...

Board Member Bodor stated there was no variance.

Board Member Burdick stated variance.

Joe Charbonneau stated correct.

Board Member Buzzutto stated thank you.

Board Member Bodor stated and the hardship, to my way of thinking, is something you have created. And one of these says, the alleged hardship has not been self created. I can't say that it hasn't been self created because I feel by your dragging your feet...

Mr. Rentoulis stated but Ma'am...

Board Member Bodor stated all these years...

Mr. Rentoulis stated Ma'am...

Board Member Bodor stated excuse me.

Mr. Rentoulis stated I understand.

Board Member Bodor stated excuse me.

Mr. Rentoulis stated what normal person...

Board Member Bodor stated you have created...

Mr. Rentoulis stated does that.

Board Member Bodor stated you have created the situation yourself that you are in today.

Mr. Rentoulis stated how many times can I...do I have to explain if there is no money coming in somewhere, you can not fix or build something. You say...So, you're saying that the three bullets have been preformed. Okay, fine. The time has lapsed which is why I am before you, the Board, now to obtain...I mean, use again. I've been working busting my butt off.

Board Member Bodor stated recently.

Mr. Rentoulis stated recently. In the past two years, though, since 2009, since I told the Board...Ma'am, I'm trying to...Westchester pays the taxes here in Patterson. My business that I have down there. Do I not pay taxes down there. Yes, I do. If I have no income coming in here, what am I to do. I can't keep going on like this. I can't. I'm not going to have money to pay my taxes from this point forward. How am I suppose to...It could take years before I find a tenant.

Chairman Olenius stated there are other uses for the property where you could get financial gain, as written in the Code.

Board Member Bodor stated have you explored those other uses.

Mr. Rentoulis stated folks, the place is designed...It has not changed one bit from what it was before. It is a residential unit. It is a residential unit, again, always has, and it will be since...forever.

Chairman Olenius stated the reality is...

Mr. Rentoulis stated you all know...

Chairman Olenius stated it hasn't been...

Mr. Rentoulis stated that it's not going...

Chairman Olenius stated for seven years, so...

Mr. Rentoulis stated we all know, folks, that it's not going to be a laundry service. We all know the place. We all know that it's not going to be...Rich isn't here [referring to Rich Williams]. I don't know what else it could be. It has the two bedrooms. It has a den. It has a kitchen. It's been like that forever. Forever. And I know a lot of you remember that as that. I've had conversations. People have no...You folks have known that and even people in the Town. The Supervisor, Mr. Ed O'Connor. They all know that that's what it's been like. I did three out of the four bullets. I don't know, I mean, that's why I'm here, to correct that one bullet. Folks, I mean, I need...This is very...

Chairman Olenius stated it's not...

Mr. Rentoulis stated important.

Chairman Olenius stated it's not the best score you get. You have to meet all four. That's a wall you're hitting.

Mr. Rentoulis stated the time has lapsed, I understand that, Sir. That's why I'm coming to you presenting you with information. I just showed you a bill from years ago, from a long time ago.

Chairman Olenius stated you know, that wasn't even submitted as part of the record, to be quite honest with you. You've...

Mr. Rentoulis stated I...

Chairman Olenius stated (inaudible – too many talking).

Mr. Rentoulis stated understand, and again...

Chairman Olenius stated I can't really take that into consideration...

Mr. Rentoulis stated and again...

Chairman Olenius stated it should have been in...

Mr. Rentoulis stated since last time, folks...

Chairman Olenius stated a properly prepared packet that we could have received and reviewed prior to tonight, so...

Mr. Rentoulis stated and again, you know, I'm very busy. Like I said, Westchester pays my taxes here, and that is all I can say. And from the last month's meeting, again, if Mr. Lamberti had agreed and he had sent you a letter stating that, yes, the progress was being made, then all of this would have been aside. But he did not do that. It was the other way and we are where we are.

Chairman Olenius stated from what I understand, the information that he had did not show that, so...

Mr. Lamberti stated yes. Mr. Rentoulis, I couldn't do that because you didn't give me the information to be able to say that. I don't have the documentation that could demonstrate that you were...The time...

Mr. Rentoulis stated Nick, I gave you that.

Mr. Lamberti stated the building burnt down until today, were continuously working at it or doing something to restore the building so you could rent it again. In good conscience, I couldn't do that, so I couldn't do that for you.

Mr. Rentoulis stated I understand. Nick, that goes to show me that you did not look at the file. And not only that Nick, I saw you on a Friday, you said let me ask the Zoning Board...Let me verify if that's what they said.

[Hear music – Nick Lamberti's cell phone started ringing].

Mr. Lamberti stated Dino, I can't do your job for you.

Mr. Rentoulis stated and then the next day...

Mr. Lamberti stated you have to present that to the Town.

Mr. Rentoulis stated Nick, it's in the files.

Board Member Buzzutto stated the music [referring to Mr. Lamberti's cell phone].

Chairman Olenius stated there's no special use, it's a use variance.

Mr. Rentoulis stated Rich, is there anything...

Chairman Olenius stated it was pre-existing, nonconforming prior...

Mr. Rentoulis stated you can say (inaudible – too distant and too many talking).

Chairman Olenius stated and he lost the pre-existing.

Rich Williams stated I don't know what you would want me to say.

Board Member Buzzutto stated yeah, but (inaudible – too distant). He has to meet these, right [referring to the requirements for a use variance].

Chairman Olenius stated right.

Board Member Buzzutto stated well, so if he meets all of these...

Mr. Rentoulis stated will you give me a (inaudible) here.

Board Member Bodor stated that's not...But he doesn't.

Mr. Rentoulis stated John, anything [referring to John Ravetto who is in the audience].

Chairman Olenius stated he doesn't.

Board Member Buzzutto stated he doesn't.

Board Member Bodor stated he doesn't, no.

John Ravetto stated ask for a vote, we'll talk to your lawyer.

Board Member Buzzutto stated okay.

Chairman Olenius stated anybody from the audience have any other input on this case.

Board Member Buzzutto stated make a motion to close the public hearing. You want to close it.

Chairman Olenius stated I'll second it. Okay.

Board Member Buzzutto stated all in favor.

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

Chairman Olenius stated sorry. Alright.

Chairman Olenius read the following resolution:

IN THE MATTER OF THE APPLICATION OF
Dino Rentoulis, Case #10-11
Use Variance for a Residential Use in the C-1 Zoning District

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

WHEREAS, *Dino Rentoulis* has made application to the Patterson Zoning Board of Appeals for a use variance pursuant to §154-34 of the Patterson Town Code; Permitted principal uses, in order to allow for a portion of the existing structure to be used as a two bedroom residence, and

WHEREAS, §154-34 of the Patterson Town Code does not allow for a residential use as either a principal or accessory use in the Commercial (C-1) Zoning District, and

WHEREAS, a public hearing was held on the application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on *July 12, 2011, August 24, 2011 and September 20, 2011*, and a site walk was conducted on *August 22, 2011*, to consider the application; and

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

1. the applicant *can* realize a reasonable return on the property;
2. that the alleged hardship relating to the property in question *is not* unique to the Applicant, and *does not* apply to a substantial portion of the neighborhood;
3. that granting the present application *will not* alter the essential character of the neighborhood;
4. that the hardship demonstrated by the Applicant *has* been self created.

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

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

1. There *will not* be a substantial change in existing air quality, ground or surface water quality or quantity, traffic or noise levels.

Rich Williams stated Lars.

Chairman Olenius stated I don't have to read any of that.

Rich Williams stated if you're denying it, and that's what it sounds like you're doing, then SEQRA is not an issue.

Chairman Olenius stated it's not an issue. Thank you, Rich.

Rich Williams stated just take it right out.

Chairman Olenius continued to read the following resolution:

BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *denies* the application of *Dino Rentoulis* for a *use variance* pursuant to §154-34 of the Patterson Town Code; Permitted principal uses, in order to allow for a portion of existing structure to be used as a two bedroom residence in the C-1 Zoning District.

Board Member Bodor stated I'll second.

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

Resolution carried by a vote of 5 to 0.

Mr. Rentoulis stated thank you folks.

The Secretary stated (inaudible – papers shuffling).

Mr. Rentoulis stated oh, that's fine [referring to the fact that the minutes won't be completed for a week]. Thanks. Have a good evening.

Chairman Olenius stated you, too.

Board Member Buzzutto stated that's a tough one.

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

Chairman Olenius stated (inaudible – too many talking) where I'm cutting that off where I did [referring to the resolution].

Joe Charbonneau stated on the SEQRA.

Chairman Olenius stated yeah. No, no. On the number one on the points they have to make.

Rich Williams stated why don't we talk about that at the end.

Chairman Olenius stated yeah, alright.

Joe Charbonneau stated we can clean up the resolution before it's done.

Chairman Olenius stated yeah.

3) JOHN & TINA HARNAGA CASE #15-11

Mr. John Harnaga was present.

The Secretary read the following legal notice:

John & Tina Harnaga Case #15-11 – Area Variances

Applicant is requesting an area variance pursuant to §154-27(12)(b) of the Patterson Town Code; Permitted accessory uses, in order to legalize an existing play set which is 6' from the rear property line; Codes requires a 25' setback; Variance requested is for 19'. The

Applicant is also requesting area variances pursuant to §154-27(9)(b) of the Patterson Town Code; Permitted accessory uses, in order to legalize the existing shed which is 1' from the rear property line and 7' from the side yard property line; Code requires a 25' rear yard setback and 15' side yard setback; Variances requested are for 24' and 8', respectively. An area variance pursuant §154-7 of the Patterson Town Code; Schedule of regulations, is also being requested. Applicant wishes to install an 18' diameter round, aboveground pool and deck in the rear yard. The Code requires there to be no more than 12% impervious coverage; Currently exists is 19.75%; Will exist is 22%; Variance requested is for 10%. This property is located at 46 Meadowbrook Court (R-1 Zoning District).

Chairman Olenius stated Mr. Harnaga.

Mr. John Harnaga stated yes. Good evening.

Chairman Olenius stated do you agree with...How are you.

Mr. Harnaga stated good.

Chairman Olenius stated do you agree with how the...

Mr. Harnaga stated yes.

Chairman Olenius stated legal was read there.

Board Member Buzzutto stated raise your right hand.

Chairman Olenius stated oh, yes. Raise your right hand, please. Do you swear the testimony you provide tonight will be the truth and the whole truth.

Mr. Harnaga stated yes.

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

Mr. Harnaga stated John Harnaga. 46 Meadowbrook Court.

Chairman Olenius stated tell us a little bit about what you're doing here.

Mr. Harnaga stated well, what I'm looking to do is to add a pool, an 18' foot round, circular pool, and also to legalize...I didn't realize the variance on the shed and the play-set. The shed I had, when I originally called, you know, I knew that you had to get a 10' x 14' shed, it was the minimal I needed to get a permit. I didn't realize that you needed a variance for where the shed was or I didn't realize that the play-set needed a variance as well. So I'm also looking to get a pool put in, too, as well.

Chairman Olenius stated so this was the first building permit you had requested...

Mr. Harnaga stated yes.

Chairman Olenius stated up to this point...

Mr. Harnaga stated yes.

Chairman Olenius stated and you became aware of these other problems...

Mr. Harnaga stated yes.

Chairman Olenius stated when applying for the...

Mr. Harnaga stated right.

Chairman Olenius stated pool.

Mr. Harnaga stated that's correct.

Chairman Olenius stated okay. You provided a very nice packet, actually. I was looking at your...

Mr. Harnaga stated oh. I tried...

Chairman Olenius stated survey and points of reference and...

Mr. Harnaga stated I tried to give you as much information as possible.

Chairman Olenius stated yeah, no. That makes it a little easier. We've been out to your neck of the woods several times.

Mr. Harnaga stated okay.

Board Member Bodor stated well, you back up to the common area, which I see.

Mr. Harnaga stated right. That common area is pretty much open space. I've been, actually, maintaining that for the past 15 years; cutting the grass, putting grass seed, fertilizer. So, it's just to keep maintaining it. I wanted to keep the ticks away from my son. So that's pretty much, you know, keep it just opened and cleaned.

Chairman Olenius stated if I was to pull into Meadowbrook Lane, are you the loop on the right or the one with a cul-de-sac like on the...

Mr. Harnaga stated the Meadowbrook... Well, Meadowbrook Court, you'll have the first circle, and then the second circle in the back.

Chairman Olenius stated you're the second circle.

Mr. Harnaga stated yes.

Chairman Olenius stated okay.

Board Member Buzzutto stated where is Meadowbrook to start with.

Chairman Olenius stated that cluster subdivision off of [Route] 292 that we've been to several times.

Board Member Buzzutto stated oh.

Board Member Herbst stated we were there in...

Chairman Olenius stated you know, on the left there.

Board Member Herbst stated not that long ago.

Board Member Buzzutto stated [Route] 292. You said you want to keep it where it is.

Mr. Harnaga stated that's correct. Yes.

Board Member Buzzutto stated keep that where it is.

Mr. Harnaga stated yes.

Board Member Buzzutto stated and...

Board Member Bodor stated you have no deck on your house.

Mr. Harnaga stated oh, the deck is... Well, if you look at picture 3 [referring to the pictures submitted in his application], the deck... you can see just the corner of the deck.

Board Member Bodor stated oh, I see it. Okay.

Board Member Burdick stated oh.

Mr. Harnaga stated it's just the picture...

Board Member Bodor stated alright.

Mr. Harnaga stated it comes out 16 feet...

Board Member Buzzutto stated oh yeah. Okay.

Mr. Harnaga stated from the back of the house.

Board Member Bodor stated that's on the second level.

Mr. Harnaga stated that's correct.

Board Member Bodor stated okay. Because most of the places do have decks, that's why I...

Mr. Harnaga stated yes.

Board Member Bodor stated asked you that. Yes, it's a great packet you did.

Mr. Harnaga stated thank you.

Board Member Bodor stated very good.

Chairman Olenius stated so the tree line that I'm looking at is actually all on your property. Your property line...

Mr. Harnaga stated that is correct.

Chairman Olenius stated is to the opposite side the tree line.

Mr. Harnaga stated if you look at picture one, the tree line is on my property and it's...the property line is actually behind, on the other side, of the property.

Board Member Buzzutto stated what's the total property you have there.

Mr. Harnaga stated yes.

Board Member Buzzutto stated the total, what is it.

Mr. Harnaga stated it's a...just about a quarter of an acre.

Board Member Buzzutto stated well, it's eleven thousand...Quarter of an acre.

Mr. Harnaga stated just about. What is it.

Board Member Burdick stated it's .26 [acres].

Chairman Olenius stated so your pool actually meets the side and rear yard setbacks, it's just the impervious coverage is the issue.

Mr. Harnaga stated that's correct.

Chairman Olenius stated but we have to fix the other stuff, too.

Mr. Harnaga stated yes.

Board Member Buzzutto stated that's all your property is, a quarter of an acre.

Mr. Harnaga stated that's all. Some of them are smaller. Some...Pretty much the quarter of an acre. The corner lots though, which is what I have, is quarter of an acre. That's pretty much the largest that's in that development.

Chairman Olenius stated I was going to say, this looks bigger than some of the other ones we've seen.

Mr. Harnaga stated well, keep in mind that, you know, I did mow the common area, so that makes it look even bigger.

Board Member that, yeah.

Chairman Olenius stated alright. That...

Mr. Harnaga stated so even though I've been maintaining that myself, it does make it look a little bit bigger.

Board Member Buzzutto stated alright.

Mr. Harnaga stated that's why where I placed the shed and the swing set, I didn't...since that is open, that space over there, I didn't realize that, you know, I didn't see that there was a problem with the location for those two structures.

Board Member Bodor stated and there's nothing behind that area except for this common area. You've...

Mr. Harnaga stated that's correct.

Board Member Bodor stated got the mowed grass and then some trees...

Mr. Harnaga stated and then even going back further, there's nothing. It's all open space right there. And even if they, you know, with there's suppose to be additional houses that they're suppose to go into that location, right behind that is even further back.

Board Member Bodor stated okay. And it's an aboveground pool.

Mr. Harnaga stated yes.

Chairman Olenius stated oh, there it is. Okay. I was looking for the impervious coverage. It does include the shed and play-set. That's what I was looking for and it was right in front of me.

Board Member Bodor stated mmhmm.

Board Member Buzzutto stated it's a macadam drive, the house. Okay. The pool, the shed, the pay-set.

Chairman Olenius stated mmhmm.

Board Member Bodor stated were you the original owners there.

Mr. Harnaga stated yes.

Board Member Bodor stated wow. You said you've been maintaining...So it's been 15 years.

Mr. Harnaga stated we moved in, I believe, in '96. Yes.

Board Member Buzzutto stated the pool is 18 [feet], right.

Mr. Harnaga stated that's correct. Also with the pool, I'm looking to put a small deck that's around the...That's like maybe a quarter around. It's just to have a seat or a chair up there. It hasn't been planned out if we do decide to do that. We put that in the permit for the permit application in case we...But I don't know the placement. It would be within the bounds of the property, the offsets.

Chairman Olenius stated the side yard and rear yard setbacks.

Mr. Harnaga stated yes.

Chairman Olenius stated it wouldn't...

Mr. Harnaga stated it would be...I wouldn't encroach on either side. I have everything marked out, so it would be a small...just to have...just to walk up instead of having just a ladder and it would just be something small.

Board Member Bodor stated all around or just...

Mr. Harnaga stated just maybe a quarter of this. A quarter of it. Not all around, no.

Chairman Olenius stated (inaudible) properties. The past ones, this is all the...

Board Member Buzzutto stated this is all, what do you call it, the...

Chairman Olenius stated common land.

Board Member Buzzutto stated common land, yeah. It don't make a difference. Or does it.

Board Member Bodor stated and the shed and the play-set have been there for how long, roughly.

Mr. Harnaga stated the shed is recently; two years. I had another shed before.

Board Member Bodor stated oh, okay.

Mr. Harnaga stated I had a smaller shed and then I got a larger shed and left the pad, but that was two year...The play-set has been since my son has been three years, so I guess eight years now. And again, when I looked on the...I didn't realize that a play-set was considered a...because it could be taken down, so I didn't realize that could be a permanent fixture.

Board Member Bodor stated and the current shed is on the same pad as the previous one.

Mr. Harnaga stated that's correct.

Board Member Bodor stated but on a larger...

Mr. Harnaga stated yes.

Board Member Bodor stated same location.

Mr. Harnaga stated it's pretty much the same size, I just has a pad put down of stone.

Board Member Bodor stated okay.

Mr. Harnaga stated yes. It was the same size.

Chairman Olenius stated anybody in the audience. I don't see anybody.

Board Member Bodor stated close the public hearing.

Chairman Olenius stated I don't think anyone had anything else. You guys alright.

Board Member Buzzutto stated yeah, I'm fine.

Board Member Herbst stated I don't have a problem.

Board Member Burdick stated it's pretty straight forward.

Chairman Olenius stated I'll make a motion to close the public hearing then.

Board Member Burdick stated second.

Board Member Herbst stated second.

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

Chairman Olenius read the following resolution:

IN THE MATTER OF THE APPLICATION OF
John & Tina Harnaga, Case #15-11
For an Area Variance for Installing an 18'Round, Above-ground Pool and Deck

WHEREAS, *John and Tina Harnaga are* the owners of real property located at 46 Meadowbrook Court (R-1 Zoning District), also identified as **Tax Map Parcel # 13.7-1-20, and**

WHEREAS, *John and Tina Harnaga* have 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 install a 18' round, aboveground pool and deck in the rear yard, and

WHEREAS, §154-7 of the Patterson Town Code requires ≤12% impervious surface coverage in the R-1 Zoning District; Applicant currently has 19.75%; Applicant will have 22%; ***variance requested is for 10%***, and

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

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on ***September 20, 2011*** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***because the pool meets side and rear yard setbacks.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***because***

of the fact that it's within a cluster subdivision.

3. the variance requested *is not* substantial *due to an interpretation by this Board made on November 15, 2004 deeming that the 43 plus acres of dedicated open space be spread equally among all homeowners with reference to impervious surface coverage.*
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because increase in impervious coverage is minimal.*
5. the alleged difficulty necessitating the variance *was self created*, however, *is not* sufficient so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *grants* the application of *John and Tina Harnaga* for an *area variance of 10% in addition to the 12%* allowed in the R-1 Zoning District as set forth by §154-7 of the Patterson Town Code; Schedule of Regulations, in order to permit 22% impervious coverage for installing an 18' round, above-ground pool and deck in the rear yard.

Board Member Bodor stated I'll second it.

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

Resolution carried by a vote of 5 to 0.

Mr. Harnaga stated that's it.

The Secretary stated no. Not yet.

Mr. Harnaga stated oh, okay.

Board Member Bodor stated two more to go.

Mr. Harnaga stated two more to go.

Board Member Buzzutto stated two more to go.

Mr. Harnaga stated oh, okay.

Board Member Buzzutto stated okay.

Chairman Olenius stated okay.

Chairman Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
*John & Tina Harnaga***

Chairman Olenius stated am I saying your last name right.

Mr. Harnaga stated Harnaga, yes.

Chairman Olenius stated Harnaga.

Mr. Harnaga stated yes.

Chairman Olenius stated I apologize.

Mr. Harnaga stated no problem.

Chairman Olenius continued to read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
John & Tina Harnaga, Case #15-11
*For an Area Variance for an Existing Play-set***

WHEREAS, *John and Tina Harnaga are* the owners of real property located at 46 Meadowbrook Court (R-1 Zoning District), also identified as **Tax Map Parcel # 13.7-1-20, and**

WHEREAS, *John and Tina Harnaga* have made application to the Patterson Zoning Board of Appeals for area variances pursuant to §154-27(12)(b) of the Patterson Town Code; Permitted accessory uses, in order to legalize an existing play-set in the rear yard, and

WHEREAS, §154-27(12)(b) of the Patterson Town Code states that an accessory structure shall not be nearer to any side or rear line than is specified in the schedule, and

WHEREAS, the Code requires a rear yard setback of 25' in the R-1 Zoning District; Applicant has 6'; ***variance requested is for 19'***; 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 20, 2011*** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***because of the amount of dedicated open space to the rear yard as well as the fact that a considerable amount neighbors in this cluster subdivision have sought the same relief from this Board.***

2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because of the small lot size these cluster properties*.
3. the variance requested *is* substantial *however, due to the effect of the shared, dedicated open space, is not so much to cause a denial*.
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because the play-set in question has been in place for a considerable amount of time and does not effect an exorbitant amount impervious coverage*.
5. the alleged difficulty necessitating the variance *was self created, however, is not sufficient* so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby *grants* the application of *John and Tina Harnaga* for *an area variance* pursuant to §154-27(12)(b) of the Patterson Town Code; Permitted accessory uses...

TAPE ENDED

Chairman Olenius continued to read the following resolution:

of 19' from the 25' required for a rear yard setback in order to legalize an existing play-set in the rear yard.

Board Member Burdick stated second.

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

Resolution carried by a vote of 5 to 0.

Board Member Burdick stated Lars, did you want me to do the last one.

Chairman Olenius stated if you don't mind. I thought I was going to have to yell over the train before.

[Laughter]

Board Member Burdick read the following resolution:

IN THE MATTER OF THE APPLICATION OF
John & Tina Harnaga

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

Board Member Burdick continued to read the following resolution:

Case #15-11
For Area Variances for an Existing Shed

WHEREAS, *John and Tina Harnaga* are the owners of real property located at 46 Meadowbrook Court (R-1 Zoning District), also identified as **Tax Map Parcel # 13.7-1-20, and**

WHEREAS, *John and Tina Harnaga* have made application to the Patterson Zoning Board of Appeals for area variances pursuant to §154-27(9)(b) of the Patterson Town Code; Permitted accessory uses, in order to legalize an existing shed in the rear yard, and

WHEREAS, §154-27(9)(b) of the Patterson Town Code states that a shed shall not be nearer to any side or rear line than is specified in the schedule, and

WHEREAS, the Code requires a rear yard setback of 25' in the R-1 Zoning District; Applicant has 1'; ***variance requested is for 24'***; and

WHEREAS, the Code requires a side yard setback of 15' in the R-1 Zoning District; Applicant has 7'; ***variance requested is for 8'***; 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 20, 2011*** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***because the shed is existing and due to the amount of dedicated space to the rear yard.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***because of the small lot size of these cluster properties.***
3. the variance requested ***is*** substantial ***but due to the shared dedicated space, it's not sufficient to cause denial.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***because the shed is already existing and other properties in the area have sheds located in their rear yards.***
5. the alleged difficulty necessitating the variance ***was self created, 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 *John and Tina Harnaga* for *area variances* pursuant to §154-27(9)(b) of the Patterson Town Code; Permitted accessory uses, *for a variance of 24' from the 25' required for a rear yard setback, and a variance of 8' from the 15' required for a side yard setback*, in order to legalize an existing shed in the rear yard.

Board Member Bodor stated I'll second.

Chairman Olenius stated second.

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

Resolution carried by a vote of 5 to 0.

Board Member Buzzutto stated okay.

Chairman Olenius stated now you're done.

Mr. Harnaga stated excellent.

Board Member Herbst stated now you're finished.

Mr. Harnaga stated alright, thank you.

Chairman Olenius stated no you can back to Mr. Lamberti and finish your paperwork. Good luck.

Mr. Harnaga stated thank you.

4) OTHER BUSINESS

a) Minutes

Board Member Buzzutto stated okay. Minutes.

Chairman Olenius stated what are we doing, minutes.

Board Member Buzzutto stated for the 24th.

Chairman Olenius stated I'm going to assume that the minutes were pretty accurate being that Burdick was able to reference them this evening for a previous case. So, I'll make a motion to approve the minutes from August 24th.

Board Member Herbst stated second.

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

Chairman Olenius stated so, no site walks. Nothing. I'll make a motion to close it.

Board Member Burdick stated second.

Board Member Herbst stated I'll make a motion to close it, if that's what you want.

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

Meeting was adjourned at 8:30 p.m.