

**TOWN OF PATTERSON  
ZONING BOARD OF APPEALS  
December 11, 2008**

**AGENDA & MINUTES**

**Patterson Crossing Retail Center  
*Special Meeting***

**PLANNING DEPARTMENT**

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Patterson, NY 12563

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**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF  
APPEALS**

Howard Buzzutto, Chairman  
Mary Bodor, Vice Chairwoman  
Marianne Burdick  
Lars Olenius  
Martin Posner

**PLANNING BOARD**

Shawn Rogan, Chairman  
David Pierro, Vice Chairman  
Michael Montesano  
Maria DiSalvo  
Charles Cook

**Zoning Board of Appeals  
December 11, 2008 Meeting Minutes**

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

Present were: Chairman Howard Buzzutto, Board Member Mary Bodor, Board Member Marianne Burdick, Board Member Olenius, Board Member Marty Posner, John Pettinella, Special Counsel Attorney with Santangelo Randazzo & Mangone and Rich Williams, Town Planner.

Chairman Buzzutto called the meeting to order at 7:03 p.m.

Chairman Buzzutto stated good evening ladies and gentlemen, we'll open the meeting with the pledge to the flag. Quickly call roll.

There were approximately 22 members of the audience.

Rich Williams was the Secretary for this meeting.

Michelle Russo transcribed the following minutes.

**Roll Call:**

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

Chairman Buzzutto stated okay.

The Secretary read the following legal notice into the record:

**NOTICE IS HEREBY GIVEN** by the Town of Patterson Zoning Board of Appeals of a public hearing to be held on Thursday December 11, 2008 at 7:00 p.m. or as soon thereafter as may be heard, at the Patterson Town Hall, 1142 Route 311, Patterson, Putnam County, New York to consider an application entitled **Patterson Crossing Retail Center, Special Use Permit for the revised 410,560 total square foot**

**project. The property is located at NYS Route 311, Patterson and Kent, New York.** All interested parties and citizens will be given an opportunity to be heard in respect to such application.

Chairman Buzzutto stated okay, Patterson Crossing, you want to put up your display and go through the explanation of. Can you put it up high and sort of face it so the audience can get a better picture of it, they can split the visual line of site on site.

Mr. Contelmo stated I don't know if these clips are wide enough.

Chairman Buzzutto stated can the audience see that, all right, can you. Now, let's turn it just a little bit so they can see it and we can see, Mary can you see that there, is that better, okay.

Mr. Contelmo stated good evening I'm Jeff Contelmo, project engineer from Insite Engineering, Surveying and Landscape Architecture P.C., we are the project engineers for Patterson Crossing. With me tonight is Fred Koelsch from Camarda Real Estate Investments, Tim Miller from Tim Miller Associates and Jim Garafalo from Tim Miller Associates. We are here this evening on the Patterson Crossing Retail Center, which requires a special use permit from the Board under section 154-11, as a regional retail center. The property I believe everybody is aware of is at the interchange of I-84 at exit 18 and Route 311, the project has been through years worth of review both from the site plan perspective and from a SEQRA perspective for the environmental review. Tim is going to speak a little bit about SEQRA once I walk you through the plan and the applicability of the special use permit. The project gains access from New York State Route 311, it includes a series of different retail configurations, it is partially in the Town of Kent, with about sixteen acres in Kent, the balance of ninety acres is in the Town of Patterson. The majority of the Town of Patterson property is located in the I-zone, the zone line runs through this portion so this area through here, is the Patterson I-zone area, this triangle down here is the Kent area which is commercially zoned and in the back sixteen acres is R-4 zone. The project is comprised of a series of different building groups that includes full stormwater infrastructure along the four side and along the frontage at [Route] 311. That includes its own well system which has been developed and tested, its own septic system which has been developed and tested, all of that has been put together in great detail in the DEIS and the FEIS prepared for the project. Tonight we are talking specifically about the special use permit requirements established in your Zoning Code, so what I would like to do is just take a moment and just go through the several items that are called for and show how we can comply with those items. First of all, your special use permit requires a minimum of forty acres, we have ninety acres, its applicable to centers larger than 75,000 square feet, we are over 410,000 square feet. Now the specific requirements in a special use permit, start with subsection A, which state that access must be from a state road or county road, our access is in fact from a state road, from New York State Route 311. The second provision talks about a sixty-five foot vegetated setback and we do have that around the perimeter of the center, there was actually one item, pointed out by your Town Planner having to do with an emergency driveway, which connects through to the adjacent road system, which was put in as a safety concern and that was proposed as an impervious surface which is looking at your code, really is not permitted. So what we've done, is we've done a little research and we believe that there is a product that we can use to make that a grass access way or a grass emergency driveway, we would propose to use what is called Grass Pave 2 which are support rings which will allow for a driveway to constructed and planted as grass and its strong enough to hold fire trucks and we can prove that out with manufacturers information, we've used it before. So that would be a site plan change that we make in order to make sure that we do in fact meet that provision of your code. The third provision talks about maximum percentage of impervious surfaces, the Code limits it to fifty percent we are hovering around thirty-four percent of the total site area. The fourth requirement is that the uses comply with the general business district uses and retail centers are in fact one of the those permitted uses which is our proposed use. Lastly, there is a requirement that the regional retail center be located within two thousand

feet of an interstate highway or Interstate 84 and we have about twelve hundred feet between our entrance and east bound lane of Interstate Route 84. So we believe that we do meet all of the requirements of your special permit, noting the one site change that we will be making to the site plan and we will answer any questions that you may have after Tim gives us a brief discussion just on where we are with SEQRA.

Tim Miller stated hi, good evening.

Chairman Buzzutto stated good evening.

Tim Miller stated my name is Tim Miller, I'm a planner and my firm was the primary consultant involved in preparing the Final Environmental Impact Statement and working with the Town and the Planning Board and your Planning Department in processing that SEQRA application. This project was initiated in around 2004, the Town of Patterson declared its intent to be Lead Agency around the middle of 2004. This is a type I action, an action that typically would require an environmental impact statement and as such the Town required a coordinated review, meaning that the cause of declaration calling for an environmental impact statement. Scoping was done in consultation with a variety of involved and interested agencies, one of those agencies was the Zoning Board of Appeals and of course there was an assortment of other agencies that included the New York State DOT, the New York State DEC, the New York City Department of Environmental Protection, the Town of Kent, the County of Putnam and so on. So, we went through a rather lengthy and exhaustive review which was subject to full public participation and public scrutiny, we had a public scoping session that said this is what we want to examine in the environmental impact statement. We prepared a draft environmental impact statement, the public hearings were held on several dates, there was a final environmental impact statement prepared and accepted by the Planning Board and ultimately findings were adopted, the draft environmental impact statement, the final environmental statement was circulated, it was in your libraries, it was published on the internet, it was fully vetted and it was available to anybody that was interested. The findings which were done by the Planning Board which this Board will be need to adopt in some shape or form, basically concluded that this project after modification. After collaboration with the various agencies, mitigated environmental, potential environmental impacts and those are the requirements of the New York State Environmental Quality Review Act. Basically the findings statement said that with the mitigation measures proposed on site and off site, this project was consistent with SEQRA and was available for approving action by the various agencies and in particular the Town of Patterson. This Board may adopt those findings, it may adopt its own findings but we do have a very lengthy record that does demonstrate that there was a collaborative effort with all parties to review this application, to come up with mitigation measures and comply with SEQRA. Thank you.

Chairman Buzzutto stated okay, are you ready to take, probably questions from the audience on this, does the Board have any questions.

Board Member Bodor stated I have nothing at this point.

Chairman Buzzutto stated nothing right now, no. All right, if you want to speak, come up to the microphone, give your name so we can go ahead with that.

Rich Williams stated that's fine.

Chairman Buzzutto stated keep it to, not too, too long, but you know kind of be within reason with the amount of time. If you want, come up, give your name, the lady back there with her hand up. You want to give your name.

**Veronica Popovics** stated yes, Veronica Popovics, resident of the Town of Patterson.

Chairman Buzzutto stated of Patterson, okay.

**Veronica Popovics** stated 50 Concord Road, could the segment of this that was glossed over regarding the sewage and septic area please be re-explained to help clarify that for myself.

Chairman Buzzutto stated all right, who can answer that.

Mr. Contelmo stated I can answer that. Basically, as I said, we have established areas for subsurface sewage treatment systems for the project in our two different areas there is one area in the vicinity of the building in the Town of Kent that will service the building in the Town of Kent and then there is a second area up on top of the hill up in the area which is a bit above the center but is surrounded by an extensive wooded area. And that area has been fully tested, that testing has been witnessed by the Putnam County Department of Health and the New York City DEP and the design of that system is currently being reviewed by both of those departments.

**Veronica Popovics** stated did you claim that was the content of what takes place in the site plan was the content of what occurs (inaudible – not using microphone) being that my house is the closest house to that, I just wanted to know as far as septic and et cetera what is in the site plan, what is sited for that area.

Mr. Contelmo stated basically this area will include only subsurface improvements, a septic system. What is depicted on this plan is existing tree line, in dark green which will remain, the lighter green areas are the areas that would have to be cleared to accommodate the septic system but once the system is constructed, it would just be a meadow very similar to a residential septic in the back yard. That meadow will have to be mowed once a year to keep woody vegetation off of it but all of the improvements up in this septic area are subsurface, no different than your septic.

**Veronica Popovics** stated so you are referring to the deforested area, meadowed with an underground septic not a sewage plant, no buildings, I heard that.

Mr. Contelmo stated that is correct, right.

**Veronica Popovics** stated my second question, I'll try to be brief, is when you refer to this being a change to the plan, what is that in lieu of when you are referring to that being the change.

Mr. Contelmo stated when we, what was pointed out to us by the Town Planner was that one of the special use permit requirements did not permit impervious surfaces within a sixty-five foot buffer zone around the development. As I alluded, this emergency driveway came up as a safety concern, was added to the plan, it was paved to have a reliable surface but in reviewing the code, the code calls for vegetation to remain through that buffer, so what we are going to do is we are going to change it to a grass driveway by putting some structural components within the grass to make it able to bear weight of say a fire truck.

**Veronica Popovics** stated and my last question is in the original I guess skeletal plans that were proposed for the development, there was an emergency egress area indicated through this, we call, we refer to this as the cell tower gate, what is going on the site development regarding this as the original proposed emergency egress for the project.

Mr. Contelmo stated the driveway which services the cell tower, the cell tower is shown here on the drawing and that driveway is shown in the cleared area, which is currently clear, that will remain as is, that will also provide access up into the septic area for any maintenance that may have to take place but there are no improvements or changes to that access.

**Veronica Popovics** stated so there is no indication of this being an emergency egress exit.

Mr. Contelmo stated correct.

**Veronica Popovics** stated for this project.

Mr. Contelmo stated there is a topographic grade change here, in excess of forty feet, so there will be no connection, no physical connection for vehicles between this upper area and this lower area.

**Veronica Popovics** stated okay, so in essence, in conclusion is that this grassy egress out of this complex here that goes out on to Concord Road, that will be grassed out, is considered so to speak, emergency egress not for the Patterson Crossing project, okay.

Mr. Contelmo stated right.

Chairman Buzzutto stated thank you. You want to give your name sir and your address, you can pull that out.

**Bill Brander** stated good evening my name is Bill Brander, I live on Echo Road in Lake Carmel. It looks like Mr. Camarda has done most of his homework but he has a track history that kind of scares me. Right now they are having some problems with a project that he did down off Stoneleigh [Avenue] they did a bait and switch on that, it was originally supposed to be one family for senior citizen and now it became town houses. His hotel project has run out of funding, they aren't doing anything there, they have a driveway to no where, they cut down a lot of trees, they leveled a lot of property, what happens if the same thing happens here. What happens if they go in, they start excavating, they start blasting and suddenly the funding dries up and today with the way things are with the economy the way it is, there is a very good possibility this could occur. So I would just be very careful that there is some kind of mitigation or some kind of litigation that you can get involved in that if this thing does collapse and you wind up with a gapping hole in the ground with all the trees down, its not left that way, so it looks like an abandoned quarry. Thank you.

Chairman Buzzutto stated thank you. Is there any bond or anything put up.

Rich Williams stated yes, as part of the site plan approval process, the Town requires that a bond be posted that would be used to restore the site, should the applicant begin the project and then at some point abandon the project in a condition that was left with bare soil or would cause an erosion problem, we could go in a restore that site.

Chairman Buzzutto stated okay, I think this gentleman back here has his hand up.

**Edmond Connors** stated I wanted to address, can I go up there.

Chairman Buzzutto stated you have to come up and give your name, you are on the same topic as the previous.

**Edmond Connors** stated yeah, the Patterson Crossing egress deal.

Chairman Buzzutto stated okay.

Board Member Burdick stated your name and your address please sir.

**Edmond Connors** stated my name is Edmond Connors, I live at 57 Woodstock Road and 69 Concord Drive in Patterson, the Woodstock Road address is in Kent, it is a contiguous piece of property, the property is in both Towns. I came to address, well first of all, what he just mentioned is a bond, they plan on more or less leveling this hill here and making it pretty level, pretty much the same way as the eye sore that is down on exit 17, where there used to be a hilltop, took the hilltop off, spread it out and made it level. If this thing fails, are you going to have enough money to bring back in fifty thousand, a hundred thousand yards of rock and soil and put it back the way it was or is it going to kind of a stop gap, well we screwed the hill up, we are just going to cover it up with green paint now.

Rich Williams stated the way the current process works with a bond, we are not going to bring the fill back in, we are going to re-create the hillside, we may have to bring in top soil, the bond is sufficient to cover bringing back in.

**Edmond Connors** stated and stone, so in other words the damage that was done will be left more or less, we'll just cover it up, spread a little good paint on the old wood.

Rich Williams stated there is money in the bond typically for minimal grading but not for extensive grading.

**Edmond Connors** stated so the bond is really just a political stop gap measure to make everybody happy, its not really to protect the people in the Town of Kent.

Rich Williams stated no, the bond is there so that we can restore the site to a vegetated cover.

**Edmond Connors** stated but not the way it was.

Rich Williams stated not to replace a hillside that has been removed, of course not.

**Edmond Connors** stated my question here tonight was this egress comes right out on Woodstock Road and my address is the next house on the right, there is eleven lots, that used to be owned by Puglisi, give this a face here. This lot is not 22-2-13, this lot belonged to Mr. & Mrs. Lippus, they came up from Brooklyn a long time ago, in the 30's or 40's, bought a little forty by a hundred piece of lot, from the Daily Mirror, I believe they were original purchasers, that lot has been there a long, long time. There was a house on that lot, there is a well, right in the middle of that, by the way, egress road, is spelled r-o-a-d, not e-g-r-e-s-s, egress is a road, this is a road, this gray line area here, is the same as this gray line here with the exception of the size. And I believe according to the zoning code, there is a sixty-five foot buffer, sixty-five feet from any rear, the minimum set back of all buildings, structures, parking areas and access drives and that probably would include egress roads, shall be sixty-five feet. Sixty-five feet from any rear or side property line shall be maintained as a vegetative buffer and shall not contain any surface or subsurface improvements, including waste disposal systems or utility lines, well it is going to include a road and the whole piece of property is only forty foot wide. So where are you getting the sixty-five foot on each side set back, sixty-five and sixty-five is about a hundred and thirty and forty is about hundred and seventy. So

you need a hundred, you are going to need to squeeze a hundred and seventy foot wide right away through a forty foot piece of property, that incidentally doesn't come out into some place that isn't Patterson, it comes out into the Town of Kent. It comes out into a neighborhood where people have children living, where people come with the hopes of every American to build a house and experience life in the suburbs, to get out of the city or to raise a family in a quiet place. Woodstock Road right now is a road to nowhere, the UPS is the only guy that comes up there that has no place to go and he's in and he's out, anybody else that comes up and down those roads is either lost or on their way home, home to where they live with their kids, so it's not just out into nowhere, out here to the numbers and this whole big blind area. This whole big blind area is inhabited by people like you and I, with families, they are not going to home to Connecticut and leave this behind them in a cloud of dust and a hearty pile of (inaudible) they are going to stay there and leave with the remnant of what you create or what you allow to be created. There is another section here, in the Town Code that I thought was really interesting, its in the Standards and Guidelines 154-93, the use shall be in such location size and character that in general will be in harmony with and conform to the appropriate and orderly general development of the Town to promote the health and general welfare of the Town. I mean, the deliberation and determination of the Board of Appeals shall be made with reasonable consideration among other things as to the character of the district and its peculiar suitability for particular uses and with the view to conserving the values of building and property and generally to encouraging the most appropriate use of land through out the municipality, that is your charge. That is what the people of the Town of Patterson are asking you to do and right now you are not only charged with the responsibility of protecting the people of the Town of Patterson and making good deliberations and decisions that will either benefit or hurt them, real people with families kids, just like you, your grandchildren, your children, that is what we are talking about here. We are talking about bringing a road out onto Woodstock Road, Woodstock Road is only thirty-five feet wide at the best and its going to job left, so if you are going to get a tractor trailer in there, a big fire truck with a hook and a ladder, the whole nine yards, you are going to have a tough time. Let me ask you something, if that will support a fire truck, will it support a Volkswagen, you are going to put concrete, you are going to use the typical concrete with the holes in it and not pave it over with concrete, there is a design, there is an engineering elements, where you build a honeycomb structure built out of concrete, lay it on the ground, put it on an item four base, cover it over with grass and dirt and it is a non-impervious surface, how are you going to make this road.

Chairman Buzzutto stated he'll answer the questions.

**Edmond Connors** stated well I want to know what he's going to do so I can address the answer.

Chairman Buzzutto stated okay, you want to step up to the mic.

Mr. Contelmo stated as I said earlier we are proposing to use a product known as Grass Pave 2, I believe that Rich may be familiar with it, it is actually plastic rings which provide containment for the soil so that you can actually put a sand sub base, a top soil matrix in place that would allow for grass to grow, once the grass grows in it covers over the rings, you don't really see the rings but what the rings do is provide the containment necessary to provide a suitable surface as I said that can support up to a fire truck, it certainly if it supports a fire truck, it would support other vehicles that don't have wheel loads greater than that.

Chairman Buzzutto stated (inaudible).

**Edmond Connors** stated right, so you are going to build a road but you are going to hide it under grass, that was the point I was hoping you would make. You are going to build a road, a road, is a road, is a road, if it looks like a duck and it walks like a duck and it quacks, it's probably got feathers, probably is a duck.

So that is going to be a road, it will support a fire truck, it will support a Volkswagen, is there going to be a guard at that road to stop people from coming up Woodstock Road and entering into here, when this is all tied up from the traffic that comes off exit 18 in both directions, in the morning and in the evening, there is already a traffic jam in through here. So now you are going to have all this regional shopping traffic that is added to the congestion that is there, so you think that people are not going to say Terry Hill is just a shot down here, I can go up Montrose and Woodstock and come right in through the back here and come out there. So pretty soon this road hidden under the grass is going to have two lines in it with the tracks of cars that are coming and going that we are egressing and accessing the Patterson Crossing thing and I think the variance you are looking for is sixty-five feet, you don't want that sixty-five feet anymore. I'm just asking you to consider whether or not, I don't know, I really don't believe that its too late to consider the whole project, if this little bit was to kill the whole project, oh gee, I'd be really not sorry about this after all. Appropriate use of this property, maybe some of the things you should consider is something other than a retail development, where we bring good jobs and good foundation taxes, something that is not so economy sensitive as retail. Right now retail is suffering but engineering corporations, large corporations like IBM, people that do soft industry, paper pushing, computer programmers and industries like that. What America specializes in now, ideas, that is what we make in the world, we don't make that many widgets anymore and export them to the world like we did during the 40's and 50's, in fact, I'm a teacher, the whole educational system has stopped teaching industrial arts because we are not an industrial country like we used to be, we are the creators of ideas.

Chairman Buzzutto stated I think you're getting off the beaten trail.

**Edmond Connors** stated no, no, I'm not because what I'm saying is if I know that you also have to consider the feelings and the economy of one man, who wants to build a project, that looks like, he makes these wild promises about jobs, these are five dollar, seven dollar an hour jobs, minimum wage jobs, most of the people. First of all, there is going to be nobody under 18 here because these are industrial areas and OSHA won't allow a kid under 18 to work in a Home Depot type arrangement, you've got a neighborhood here and a lake at the foot of it and all the drainage on this side, flows into Lake Carmel. So if this was to do or to die and we had to go looking for something else, is it possible that we could look for business that would build kind of an industrial campus, a park with some buildings that are designed to fit into the landscape, that is quiet that the lights get turned down, way down at night, where there isn't a constant. You never see the Milky Way anymore, have any of you ever seen the Milky Way, I mean some of you at this desk have seen it because you are as old as I am. I remember looking at the Milky Way from my house which was about right here, actually it's right on the line because some of the property line in Patterson, 69 Concord Drive is a Patterson address. So I remember looking that the Milky Way, it is not a bunch of stars in the sky, it looks like somebody spilt milk in the sky, it's a big strip of white, inexplicable, beautiful white, it's the whole looking edge wise into what we are living in, in the universe, it's important to be able to see it.

Chairman Buzzutto stated I think we are getting a little over time.

**Edmond Connors** stated but anyway I think I made my point, there are a lot of reasons not to allow, this is not a public meeting I believe, I wasn't informed, I didn't receive a letter, I live less than three hundred feet from the project, probably about two hundred and fifty feet from the project. Also I got an e-mail from Kathy Mulvihill who is the daughter of Kathy and John Mulvihill, they live adjacent to the project at Walden Road, this is their L-shaped house right here. There is the project, there is the house, they didn't get a letter or any notification and I believe that is required by law.

Chairman Buzzutto stated (inaudible).

**Edmond Connors** stated I just wanted to throw that out there.

Rich Williams stated the mailings did go out.

**Edmond Connors** stated pardon.

Rich Williams stated the mailings did go out.

**Edmond Connors** stated well then if the mailings went out, then the US mail for my money is probably the best business we run in this country, they never miss a beat so if the mailings went out, they didn't go out to those people, they didn't go out to me. Nobody took mail out of my mail box, I have checks going to that mailbox.

Rich Williams stated all I can tell you is.

**Edmond Connors** stated can you produce the.

Rich Williams stated we do it by regular mail.

**Edmond Connors** stated can you produce the copies that went out, can you produce a ledger that shows that an envelope that was actually drafted and paid for.

Rich Williams stated I can produce a list from which the envelopes are generated, yes.

**Edmond Connors** stated you can't produce documentation that the envelopes actually went out.

Rich Williams stated that is sufficient documentation.

**Edmond Connors** stated they weren't sent by certified mail or.

Rich Williams stated what do you think, my office staff is lying.

**Edmond Connors** stated no, I didn't say.

Rich Williams stated so then we.

**Edmond Connors** stated what do you think, your office staff can't make a mistake.

Rich Williams stated I can pull up the list, that is what I'm saying, I have a list, I'll have them check for your name, I will have them check for Mrs. Mulvihill because we did get receive (inaudible) today.

**Edmond Connors** stated was her name on the list.

Rich Williams stated I looked today, her name is on the list.

**Edmond Connors** stated well she said she didn't get the mail.

Rich Williams stated we are required to sent it out the door, we've done that, I can't explain why it didn't get, if you didn't receive it I don't have an answer.

**Edmond Connors** stated I thought that was the responsibility of the appealer.

Rich Williams stated not with the special use permit, it's the responsibility of the Town.

**Edmond Connors** stated thanks, I appreciate it.

Chairman Buzzutto stated thank you very much for your input. Are there any parts of that question that.

Mr. Contelmo stated there was just one relevant point that I thought should be addressed and that is that the emergency driveway is only twelve feet wide and it was discussed in great detail during the environmental review process, what its intent would be. There are gates that will be remain closed and locked and emergency services being the only ones with keys on each end.

Chairman Buzzutto stated so that is not generally used for the public.

Mr. Contelmo stated its not intended, it is not designed or intended nor was it ever intended for any other use.

Chairman Buzzutto stated and it is gated.

Mr. Contelmo stated its gated on both ends, someone can't come from the center and drive on it and come from a neighborhood and drive on it. It was clearly requested for safety reasons.

Chairman Buzzutto stated okay.

**Edmond Connors** stated I was wondering, as a follow up, why did they change the design from the original set up.

Board Member Bodor stated sir, let someone else speak for awhile, I think you've had your turn, besides from the back the microphone is not going to pick you up anyway.

**Edmond Connors** stated oh listen, just let me.

Board Member Bodor stated please let the next person have their turn.

Chairman Buzzutto stated let somebody else.

**Edmond Connors** stated do you mind if I just follow up.

Board Member Bodor stated I do mind.

**Edmond Connors** stated oh I see, I just wanted to know why he changed the egress from where it was going to be at the end of Concord Drive, the extension of Concord Drive, to a forty foot lot that requires a variance, I just would like to.

Chairman Buzzutto stated that's it for you, thank you. Somebody else wanted to, you want to come up sir.

**Shawn Osbourn** stated Shawn Osbourn, 94 Concord Road, right there [points to map], this light green strip here, this is sixty-five feet to the road, correct, okay, the light green here is totally deforested, stripped, that is what you're saying over there, this is natural foliage that still remains, this is foliage that remains, this is foliage that remains, all of this down here but this right in here, what happens here, exactly what happens there.

Chairman Buzzutto stated you want to just quick answer that.

Mr. Contelmo stated this is a representative site plan, which gets into much more detail as the you get lighter in the plan set. There is a landscaping plan that shows in more detail where the re-grading will take place, where the re-planting will take place. The re-planting is now show on this again what is shown on this and again what is represented here is where generally the tree line will be retained, there is a very significant buffer of proposed trees that happens along this line, it is actually a triple three d pine tree and fence screening that will happen all through there and that is really a subject of the site plan review and the details of that are shown on the landscape plan within the plan set.

Chairman Buzzutto stated okay, thank you.

**Shawn Osbourn** stated the trees that are here now and the stuff that is there now, is in excess of sixty-five feet, seventy-five feet tall, the re-planting and the stuff that is going to happen, three d pine trees, what are they going to be as tall as me, as tall as you.

Chairman Buzzutto stated well, the plantings.

Mr. Contelmo stated there are areas here which are clear.

**Shawn Osbourn** stated I said exactly what is going to happen there, I want exactly what is going to happen there, that is my backyard and it I sixty-five feet from there and I don't particularly, I got a fence on one side, I have shrubs on the other side, I don't want to see them and I don't think they want to see me and I asked at the beginning of the question exactly what is going to happen there, continue please.

Chairman Buzzutto stated you have anymore to say on that, but that will show on the landscaping place.

Mr. Contelmo stated actually in this specific area there are some encroachments where there is up to almost forty feet of clearing and fencing that has taken place based on the residential uses which are there right now. So there are areas which aren't really forested and those encroachments didn't show up on this plan but again the details on the landscape plan which is part of the site planning aspect to this project, show the details of the tree heights, I believe the tree heights are called out to be eight to ten foot at the time planting, there is also provisions for fencing through that area and that, those elements are all part of site plan review which are being reviewed by the Planning Board and subject of that application.

Chairman Buzzutto stated okay, thank you.

Board Member Bodor stated I have a question, you just mentioned that there are encroachments along that line, encroachments by the neighboring property owners encroaching up on this parcel, is that what I understand, can you say verbally into the microphone the answer.

Mr. Contelmo stated I'm sorry, yes, as I said, this plan as well as the detailed site plans shows where there are encroachments from those adjoining properties into this property.

Board Member Bodor stated thank you.

**Shawn Osbourn** stated when you say encroachments; you are replying that there is stuff on these property lines that is supposedly over this property line, okay. This was brought up before, I had a little conversation with someone from the Planning Board and they said that I was an encroacher, so now that we brought it up, let's bring it up. This is a hundred feet on this and this is eighty feet on this side, no one has come to my house and pulled it off of a tape, there is a pin in the front yard that has been there, since 1977 because there is a survey to match that pin that says, this side of the property is 100 feet and this is 80 feet. So I don't, you know, if there is an encroachment there is, might be a foot or two but that foot or two has probably been there since before '77 and no one has ever made a complaint, if it's a big deal about a foot or two foot, it'll be moved. About a year ago we got a letter from Mr. Camarda that said he was going to give us a piece of property but it was up to the Zoning Board whether he can subdivide it or not but that was a bunch of smoke and mirrors because there was a magazine article that said he had given everyone property up here, he had made all these properties larger, that is what it said in the article, welcome to Putnam, the magazine sent out by the newspaper, it is like a quarterly deal, whatever. If it's two foot, three foot, say something, I'll take care of it but I don't believe there is an issue there. My next question is what happens with the wells and septic on these properties when they don't work anymore because this sucks them dry or this floods them out because there is going to be an elevation change here, you are going to go up and you are going to go down, if you go up and it runs off and floods this out we are done, if you go down and take all the water out of the ground we're done. Is there was well head protection program going to be instituted by the Town to protect these homes, these homes are in the Town of Patterson, the ones in the Town of Kent, you don't even believe they are there, so that is just a cloud. What happens to these homes when things start to fail, is there any type of protection for the taxpayers in Patterson, who have been there a long time. This house next door to me, Mrs. Berglund, she was 103 years old when she passed away, did Mr. Camarda actually contact her and speak to her, I don't think so.

Chairman Buzzutto stated all right, thank you very much, we will consider this.

**Shawn Osbourn** stated what about the well head protection program, are you going to institute something.

Chairman Buzzutto stated well I believe that was something in the.

Rich Williams stated there is a program laid out within the Environmental Impact Statement and the Planning Board by adopting the findings statement and the Zoning Board if they follow suit, you know, put some teeth into that. So its is a requirement that there is a program for monitoring the wells and for repairing the wells if there are problems out there.

**Shawn Osbourn** stated so I have to have someone come, pull the pump in my well, screw around with it, stir it up, put up with that nonsense, we went through that once already on the property.

Rich Williams stated you do not have to have anybody come on to your property if you choose not to.

**Shawn Osbourn** stated and then when the well goes dry, I'm stuck. So I do have to put up with some sort of aggravation with these guys just to be protected, I have to let them on my property, to be protected I don't have to let them on my property, to not be protected, I just don't deal with it.

**Edmond Connors** stated how far does that well head protection.

Chairman Buzzutto stated you have to come up to the mic, wait a minute now, you had your turn sir, now let somebody else talk.

**Shawn Osburn** stated thank you.

**Edmond Connors** stated you just said I had to come up, so I wanted to, this is following up on his question.

Chairman Buzzutto stated all right.

**Edmond Connors** stated how far does that well head protection program run, I have a piece of property in Patterson, which is right here on this line, somewhere between the two dots, it's a property about a hundred feet deep by hundred and twenty feet wide. A lot of it, there is a good chunk of it, a couple hundred square feet in Patterson. The well is almost in Patterson, the contiguous property is in Patterson, so how far does that well head protection program, because we all get our water from this side.

Rich Williams stated I'm not going to comment on the specifics of the program right here and right now.

**Edmond Connors** stated could you say why not.

Chairman Buzzutto stated we don't have to do that right now.

**Edmond Connors** stated well don't be specific now to the booklet, how far, a hundred feet, two hundred feet.

Rich Williams stated well again, its been awhile since I reviewed that plan, I'm not going to comment on the specifics of it.

Chairman Buzzutto stated I don't think he wants to shoot out figures on it, if he's not positive.

**Edmond Connors** stated yeah, that's okay, can we get back to that.

Rich Williams stated I can tell you this, it was in the Environmental Impact Statement, that is still posted online, you can feel free to look.

**Edmond Connors** stated to check the distances, yeah okay, great.

Rich Williams stated yeah, it's all online.

Chairman Buzzutto stated okay, thank you, have a seat.

**Edmond Connors** stated you're welcome and I just want to follow up (inaudible – walking away from microphone).

Chairman Buzzutto stated that's, the gentleman back there you want to come up.

Board Member Bodor stated Mr. Miller wanted to come up.

Chairman Buzzutto stated oh I'm sorry, did you want to.

Mr. Miller stated I can respond to the (inaudible).

Chairman Buzzutto stated all right, can you wait just a second sir.

Tim Miller stated yeah, Tim Miller, the Draft Environmental Impact Statement was required to address the question of ground water supply and wells were installed on this site, there was a water supply, a ground water testing protocol established with the Putnam County Department of Health. Wells in this neighborhood were monitored during a 72 hour pump test that was carried out on the property. The wells on the property were pumped at twice the daily demand of what is anticipated to be used on this site, there was not identified draw down after pumping these wells at twice the daily demand, however as a commitment that was part of the Environmental Impact Statement, the project sponsor agreed to implement a long term off-site well monitoring program. That program would be reviewed and approved by the Patterson Planning Board in consultation with a professional ground water consultant, as well as the Putnam County Department of Health and that program would monitor wells off-site for a period of up to two years following the full occupancy of the project. The project sponsor has agreed that he would be responsible for the repair and replacement of any neighboring well that might be damaged by the use of wells on the Patterson Crossing Retail Center. This was a matter was discussed in great detail in the Environmental Impact Statement.

Rich Williams stated Tim.

(Side 1 ended).

Tim Miller stated this is a matter that was discussed in great detail during the environmental review process, this was not done willy nilly, there were a lot of comments from the public, we knew that it was a matter of concern, the truth is that we have a very large piece of property, the water demand of this project is far less than what is being recharged on this site on an annual basis. So we are pretty comfortable that there won't be environmental impact statements, that findings were done as a result of the SEQRA review conclude that and there are mitigation measures set forth in the environmental review process and in the findings that the applicant has committed to.

Chairman Buzzutto stated how long ago was that monitored.

Tim Miller stated testing was done in 2006, 2007.

Chairman Buzzutto stated oh just now.

Tim Miller stated yes, it was done very recently.

Chairman Buzzutto stated the average depth of a well in that particular area.

Tim Miller stated the wells on the Patterson Crossing site I think are three to five hundred feet deep.

Chairman Buzzutto stated they are that deep.

Tim Miller stated yeah.

Chairman Buzzutto stated okay, fine I just wanted to. Thank you, you've been up already, haven't you, how about we get someone else, this gentleman here, you want to give your name sir.

**Paul Spiegel** stated yes, my name is Paul Spiegel, I live on 42 Echo Road in Lake Carmel, I've got a couple of comments but I've also got a letter here that I would like to read into the record, it comes from Mr. Daniel Kutcha, who is a resident of Patterson. "Dear Chairman Buzzutto and the ZBA Board Members, I believe that the special use permit for the Patterson Crossing can not be issued tonight, at tonight's meeting of the ZBA because one of the five requirements because of one of the five requirements of section 15-111 of the Zoning Code is not met", then he writes out the requirement b, that Mr. Connors has already read. He continues, "given the current plans for the Patterson Crossing, the proposed emergency access drive does not appear to meet the sixty-five foot rear and side set backs as called for in the subsection b above. The emergency access drive was relocated from the original plan and now connects to the middle of Concord Road, it appears that this access drive goes through the tax map 22.84-2-13, which is currently owned by Putnam LILLC, this parcel is only forty by one hundred feet, so the sixty-five foot set back is not met. The parcel would have to be at least one hundred and forty-two feet wide to meet the special use permit requirement, the sixty-five foot set back plus a twelve foot road plus another sixty-five foot set back. Right now the application only has fourteen feet of the required sixty-five foot set back on each side of the road, do this reason the special use permit can not be issued at this time until a variance is applied for, seeking relief from section b". As far as access, I have to apologize because I missed about the first fifteen minutes of the discussions that were here but as far as whether this is an access road or an emergency access road or an egress, the minute there is an emergency, this becomes access, therefore these variances should apply to any access into this project and they clearly don't meet those requirements. Apparently the developer only wants this to be an access if its used, once its used it an access, if its not used its not an access but it is always going to be an access. There was some discussion about just, an intrusion, I forget the word you used about the property that was in the other property, it slipped my mind, encroachment, if anything is an encroachment to the people who live all in through here, a lot of people that are in this room. This is an encroachment, this is definitely an encroachment one our neighborhood, thank you.

Chairman Buzzutto stated thank you. I think we already addressed the short road there, that has been addressed. You want to come up sir.

**David Reeves** stated my name is David Reeves, 42 Walden Road, Lake Carmel. In looking at this proposed access, the emergency egress, I also had the same questions with regard to what is the purpose of the egress, is it for fire fighting that is one question. Is that egress for fire fighting, has this been worked out with the Town of Kent, I believe we were going to supply fire safety and using that road to enter the project.

Chairman Buzzutto stated I imagine all of these things have been addressed somewhere along the line about emergency.

**David Reeves** stated so the Town of Kent will supply fire safety and will be using that road.

Chairman Buzzutto stated I don't know how the fire equipment works, as mutual aid.

Rich Williams stated primary responder will be the Town of Patterson.

Chairman Buzzutto stated yeah but if there is mutual aid required.

Rich Williams stated well there are mutual aid agreements set up through all off Putnam County into the state of Connecticut, between all the fire departments.

**David Reeves** stated okay, so I'm going to repeat the question, will the fire trucks come through the residence of the Town of Kent and use this as a point of entry for fire protection.

Chairman Buzzutto stated I think that would be a shorter distance to come in the regular entrance and up to there.

**David Reeves** stated didn't answer my question. Will the fire trucks enter the Town of Kent and come in through the rear of this site for fire protection, it's a question, is it yes or no.

Board Member Bodor stated the best answer I can think of right now.

**David Reeves** stated okay.

Board Member Bodor stated would be that the fire department would be looking to get into their, to the area that needs their assistance the most expeditious safe way.

**David Reeves** stated great, so has it been worked out with the fire department for the Town of Kent that they can access coming up these narrows roads, trying to make that turn to get into that property, has that been worked out.

Board Member Bodor stated you know, already that area, those residential homes, that whole residential area has fire protection from the local departments, it would be the same type of response and the same roads they would have to travel.

**David Reeves** stated I'm sorry, to turn off of this road, Woodstock, if they are coming up Woodstock, they couldn't make that turn, so what I'm asking is, has the developer worked out with the fire department, can they actually make this turn and access this site off of Concord.

Chairman Buzzutto stated I don't know, can you answer that question.

Mr. Contelmo stated the first thing that I wanted to point out is that the fire department wouldn't be using the emergency driveway unless they couldn't get up the main driveway because I think everybody who is familiar with the site and the surrounding property knows that the quickest way into the site will certainly be the main driveway. There was a concern expressed during the environmental review process, what if that were in some way limited or blocked in an emergency situation and that is why there was discussion of providing an emergency access. As stated, the fire department has to be able to get to upper areas of Lake Carmel now anyway, quite frankly if a truck, a fire truck were coming from the other side, they wouldn't be coming down Woodstock, they probably would actually come up Echo, which I believe is the most direct way in and the fire department has reviewed our plan. As we finalize the site plan, we will be finalizing issues with them and certainly we can seek additional input from them on that.

Chairman Buzzutto stated that has been worked out with the Kent fire department.

Mr. Contelmo stated we have not had meetings, that I am aware of because of the response is that this is in the Patterson fire protection district, so Patterson is the primary responder here and there has been dialogue with the Patterson Fire Department relative to the entire site plan.

Chairman Buzzutto stated okay, thank you.

**David Reeves** stated so the answer is they haven't signed off with the Town of Kent Fire Department.

Chairman Buzzutto stated obviously he said just Patterson would be the primary.

**David Reeves** stated I just wanted to make it a point though.

Mr. Contelmo stated what I said was I'm not aware of it.

Chairman Buzzutto stated yeah.

**David Reeves** stated well then should it be finalized with the Town of Kent before we develop or allow this access.

Chairman Buzzutto stated that I would have to check with the.

**David Reeves** stated because if we can't enter this site then what is the purpose of offering this special variance.

Rich Williams stated we can't speak for the Patterson Fire Department but typically on any commercial site in the Town of Patterson, the Patterson Fire Department develops a response plan so that they have an idea if an emergency some catastrophic event or some fire occurs that they have a plan in place laid out. At that point when the Patterson fire department develops that plan, they will contact whatever agency they feel should be part of that plan.

**David Reeves** stated well the same consideration should be given to the Town of Kent that we should be able to sign off on something from our vantage point to say yes they can enter this site and yes they can as a second responder be able to enter this site from the Town of Kent before you allow this variance for this parcel of property.

Chairman Buzzutto stated wouldn't that be done between the two fire departments.

**David Reeves** stated well it should be done before we agree upon this variance being voted on.

Rich Williams stated there are engineering standards as far as turning radius in and out of a road, the width of the road, that is all being looked at by the Planning Board.

**David Reeves** stated but we still don't have anything signed off with the Town of Kent Fire Department.

Rich Williams stated no, we do not.

**David Reeves** stated that should be done before we consider this as a variance.

Chairman Buzzutto stated I mean, it can be done but it's not required.

**David Reeves** stated it should be done.

Rich Williams stated its not requirement, certainly we can bring this back to the Planning Board.

**David Reeves** stated coming through the Town of Kent property, it should be done, no, as a second responder, health and safety. You are asking as a second responder, the Kent Fire Department, to supplement, in case we have to for health and safety and I'm saying that if you already have it signed off with the Town of Patterson, as a courtesy you should also have the Town of Kent also sign off on this, before you allow this variance.

Chairman Buzzutto stated I don't know if that is a required.

**David Reeves** stated well maybe we should look into it in case it is a requirement.

Chairman Buzzutto stated well, it can be looked into.

**David Reeves** stated I think that would be a courtesy.

John Pettinella stated your standard of review right now, as a Board, is to look into the issues that are within your purview to determine whether or not the special use permit under the guidelines of the Board or the guidelines of your Code and State regulations should or should not be granted. The Planning Board is lead agent, they are considering all these issues, you can certainly request additional information for your consideration but you should also be aware that the Planning Board will consider these issues and maybe the more appropriate agency to address them. This is a, for your purposes, is a limited review to determine whether or not the special use permit should be granted under your Code.

Chairman Buzzutto stated what, if a special use permit is granted, it don't mean the investigation and all this stuff dies, it still goes into process of.

John Pettinella stated because the final approval has yet to be given from the Planning Board and the Planning Board will be addressing a lot of the issues that have been raised tonight, including landscaping, including exactly what areas are deforested and what the plans are to regenerate the vegetation in those areas. So their review in terms of those issues is going to be much more comprehensive than your review on the specific issue.

Chairman Buzzutto stated right, so like I said, the Planning Board will pick up the stuff that is asked tonight and like I say, it just don't die, I mean, it will still be, it could be done by the Planning Board to require Kent to sign off or whatever or however they want to word it.

**David Reeves** stated if you grant the special permit for this access road, in the Town of Patterson, how does it affect the other property owners along that stretch of road.

Chairman Buzzutto stated I don't think that we would be granting a special use permit for that access road, I think it would the whole area.

Board Member Burdick stated its a special use permit.

Board Member Posner stated it's for the entire shopping center, its not for the road.

Chairman Buzzutto stated that's right. If we granted the special use permit and that comes up as a problem it would have to be modified or straightened out through the Planning Board to get all that squared away but we would grant a special use permit just for that.

**David Reeves** stated no, on the whatever was submitted, there were four parcels of property that were included in this special permit and in that special permit was that particular roadway.

Chairman Buzzutto stated well that was, just was in there because it didn't quite meet the standards that Dan Kutcha, sent that document in to us. That would not be part of the criteria of the special use permit.

**David Reeves** stated well all I can say is I'm in the Town of Kent, 600 feet away from this development, these people here that live in the Town of Patterson they are going to be devastated. These homes over here where you are going to have a 60 foot cut in grade and they are going to be blasting hundreds of thousands of rock, I'm sure they are going to have rock crushers sitting on the site for months and months, turning that rock into item four, into gravel and they are going to be breathing the dust.

Chairman Buzzutto stated but that does not fall under the jurisdiction of this Board.

**David Reeves** stated I know that but I am speaking.

Chairman Buzzutto stated how can we address something like that if its not part of the Zoning Board.

**David Reeves** stated you kill that road, you don't grant the access, that is how you do it.

Chairman Buzzutto stated that is part of the Planning Board. All right, who else, somebody else back there.

**Kathleen McManus** stated good evening.

Chairman Buzzutto stated want to give your name ma'am.

**Kathleen McManus** stated my name is Kathleen McManus, I live at 84 Concord Road, I'm the resident there, my parents own the property, essentially all the property on Concord that runs between Walden and Woodstock. For the record I did send a letter, which I think you acknowledged before, I faxed you a letter earlier to say that I did not receive a notice, not making any implications or insinuations but I'm just stating for the record that neither myself as a resident nor my parents as a property owner received a notice of the meeting. So I feel completely unprepared and caught off guard, I also came a little late so I apologize if I ask some questions that may have already been asked. I do want to ask, has the Zoning Board made a site visit, to see where that is, how long ago was that made, do you know.

Chairman Buzzutto stated it was in 2005.

Rich Williams stated I believe it was in 2005.

Chairman Buzzutto stated 2005.

Rich Williams stated maybe it was late in 2005.

**Kathleen McManus** stated 2005, like three years ago.

Chairman Buzzutto stated I would say yeah.

**Kathleen McManus** stated oh okay, all right.

Chairman Buzzutto stated but I think the Planning Board has been up there since, they haven't.

Board Member Burdick stated we did it joint, it was a joint visit.

Board Member Bodor stated it was a joint visit.

Chairman Buzzutto stated yeah it was a joint visit.

**Kathleen McManus** stated I believe that after a recent Planning Board meeting there was a decision that they were going to make another site visit and shortly there after, someone spray painted on the road, in front of the three lots that my family owns right next to the developers two lots that he plans to use for the access road, they spray painted on the road P.C. Entrance, which of course is incorrect. My three lots are directly across from Woodstock, the developers two lots are not and I think that is a very important point to make. I don't think and this is pure speculation, after living in this house since 1964, I don't think emergency vehicles would come up Woodstock, the easiest way of course, the straight way would be Terry Hill to Echo to Concord. My concern is that it is only forty feet wide, there is a deep ditch, these two lots are not across from Woodstock, they are across from my neighbors lawn, so a large vehicle like a tanker or a pumper or a truck is going to have to drive on somebody's private property to make a turn wide enough to access that. And I don't know if, maybe it was addressed before, what are the barriers, if any, on the sides of the access road that would barricade, that would separate that road from my property and Mike Rosco's property on the other side. You're talking about a gate that prevents people from accessing it from Concord Road but nothing that would separate the property lines. So now you might have emergency vehicles that are going to damage my property as they are racing to an emergency, I realize you know, the first access would be through the main access but you know if is a big word and in today's world it happens a lot so, you know I have to consider my family's investment, our property as well as Mike Rosco's, you are going to have a truck, an emergency vehicle large enough trying to make the turn, they are going to damage private property, who is liable for that. Why did the access road change, it was originally proposed at the top of the hill with the cell phone tower, does anybody know why it changed.

Mr. Contelmo stated that was discussed in the FEIS and I believe it had to do with more direct access into the site.

**Kathleen McManus** stated my other question is, since my property is residential and you are talking about the way the access is constructed, does this, do the changes to the access road and the materials they are going to put under it, is this and the location of it, is it going to dictate the way that I use my property, which is being used as a residential, I have two parents that are becoming elderly, that will soon be moving back up to live with me, what if I choose to build a new home on the property, right now my home is on the opposite end of the property, what if I choose to build a new home at the top end, is this access road, if this special permit is approved with the access road, is this now going to dictate whether or not I can build a home or construct a new septic system for a new home. That is a question that I have, bear with me one second, can anybody answer that.

Chairman Buzzutto stated I don't think it would effect it, it would fall under like unique situations, individual, I don't think that would interfere with your property.

**Kathleen McManus** stated well um.

Chairman Buzzutto stated I mean dictate how you build, if you can't build it would be due to other reasons, not because of the access road.

**Kathleen McManus** stated I don't want to repeat what's been said, I just want to say that I am completely in agreement with Dan Kutcha's letter that Paul Spiegel wrote before and the reference in the Code that clearly the proposed access road does not meet the set back requirements. Does it matter if it is an emergency access road, you know an access road by any other name is still an access road, it's what its intended use is, hopefully it would never be used but the point is that its still there in the middle of a residential neighborhood. I just have two other quick point to make, somewhere I believe that it was said that or the point is trying to be made that the look is supposed to conform to its environment, its 90 acres of woods, so any change is going to change it. Its not going to conform at all, to have change the style of the project by putting up equestrian style fences, does not make it a horse farm, it's still a forty, four hundred thousand plus, thousand retail box center and in this economy I just can not see how that is economically feasible. The last point I just want to make was, we were talking about the water testing, this has been a point of contention with me, my well was tested, in January, in bad weather when most people hardly use any water. In one of the environmental impact statements, it was my neighbor 103 year old whose tests were shown, not mine a family of five, why didn't they test, why didn't they do a second water test in July when people are using higher water, I think that the water test results are unrealistic and not reflective of you know, daily life on Concord Road. Obviously because I'm border, I have 30,000 square feet of property, two sides of it border the developer, so you can't even begin to imagine the list of concerns that I have but I realize tonight is just about the special permit and I just think its common sense, I don't see how it could be approved and I have great concerns for this access road on so many different levels, safety, security, my perspective use of my property as a residential homeowner, so that's it.

Chairman Buzzutto stated thank you very much, appreciate it. Is there any part of that that you would like to refer to.

Mr. Contelmo stated just by clarification, I believe your Code is very clear in what it discusses as access, it says access must be from a state road or county road, our access driveway is here. The emergency driveway, we believe in the reading of the Code is not an access, the issue at hand with the emergency driveway is the Code calls for a vegetated surface through that area and that's the only, we are not asking for a variance from that which certain people have stated what we are pointing out is that issue is brought to our attention, the need for the emergency driveway was laid out in the FEIS, the issue with the surface was brought to our attention and we believe that we should in fact make sure that we do conform and make it a vegetated surface, that is the only issue that we are discussing with the Board relative to the special use permit and I want to be clear on that.

Chairman Buzzutto stated all right, yes, come up, she, your name and address please.

**Johanna Groepl** stated I'm starting to get very confused, my name is Johanna Groepl, I live on 58 Concord Road, and I'm a Patterson resident. Just as a principal, this project needs this access road or emergency road.

Chairman Buzzutto stated you want to talk into the mic.

**Johanna Groepl** stated I'm looking at him because I'm not sure what to call this.

Chairman Buzzutto stated well you can take the mic out of there, can you get it out.

**Johanna Groepl** stated yes, is this now an access road or an emergency road.

Mr. Contelmo stated emergency.

**Johanna Groepl** stated first of all clarify that for me.

Chairman Buzzutto stated emergency access is it.

**Johanna Groepl** stated so it's both.

Rich Williams stated it's a gated emergency connection.

Chairman Buzzutto stated okay.

**Johanna Groepl** stated it's a gated emergency connection, connecting this planned mall with what, if it's a connection, with this neighborhood.

Rich Williams stated a public road.

**Johanna Groepl** stated okay with the public road which happens to be Concord.

Rich Williams stated correct.

**Johanna Groepl** stated all right, just if this road here, this connection road, wouldn't be able to be built there, what would that mean for this project.

Tim Miller stated one less point of access.

**Johanna Groepl** stated and would that be lawful, would that be acceptable.

Tim Miller stated well we went though a full environmental process and through that process, meeting with the Town and the fire department, emergency connections are desirable for many reasons, one of which is that it also provides a connection to the neighborhood that is behind us. It is smart planning to provide emergency connections, its not required by anything in your Code that I'm aware of, its just good planning.

**Johanna Groepl** stated so that I live on Concord, I would have access to this property.

Tim Miller stated no, absolutely not.

**Johanna Groepl** stated I hear you say this.

Tim Miller stated its gated.

**Johanna Groepl** stated its gated, right but you also say it doesn't have to be there.

Mr. Contelmo stated I just addressed that.

**Johanna Groepl** stated why does it have to be there, why does it have to be at all that is what I'm (inaudible – not using microphone).

Mr. Contelmo stated there is not a Code requirement that requires this project to have an emergency connections, a secondary way, only under emergency purposes. As Tim pointed out, it's good planning. I was in Carmel last Wednesday night, 18,000 square foot commercial property, it was adjacent to a road next door, the Planning Board said, we would like you put a gated emergency access connection to the back of that facility. This is a standard planning tool doing what the Planning Board is supposed to be doing and that discussion was drawn on through the environmental review process and certainly the elimination of that emergency driveway, doesn't put this project in jeopardy of not complying to the laws of the Town or anything else. Again there were other alternates that were looked at in the environmental impact statement and landed on that one. I don't know if the community in opposition of this project feels that is some sort of Achilles heel but if that is the feeling, I just feel bad they can't come up with something better.

Chairman Buzzutto stated can I ask you a question, can I just ask you one question before you go, the Town of Kent, those houses up near Bennett, by emergency vehicles coming in the other way, to help put a fire out up there, to get to their property, you (inaudible) what I'm trying to say.

Mr. Contelmo stated right, right, if for some reason.

Chairman Buzzutto stated would they benefit by it.

Mr. Contelmo stated if for some reason this area up here got choked off, certainly it would work both ways and that they could come through the center and up the emergency driveway to get to that area.

Chairman Buzzutto stated okay, thank you.

**Johanna Groepl** stated so just say in another way, its not just for decoration, it's planned to be used if there is a need for it.

Chairman Buzzutto stated for emergencies only.

**Johanna Groepl** stated its for emergencies only but it is planned to be use for emergencies if there is a need for it.

Chairman Buzzutto stated yes.

**Johanna Groepl** stated what I recall from the FEIS, that because of the kind of on ramp into the building, the mall here, there needed to be and there has to be by law an emergency access road, so I misunderstood that all this time, okay. Earlier I heard you say that this road won't be used and then I heard you say it will only be used in emergency cases, so which way is it, is it going to be built so it can used or is it going to be built just so we have it and we can use it if we need it.

Chairman Buzzutto stated only for emergency, it is a gated road and that would be, and emergency would be strictly fire equipment, police, maybe.

Board Member Posner stated ambulance.

Chairman Buzzutto stated ambulance, stuff like that other than that, no.

**Johanna Groepl** stated okay, so it will be used at one point, it will be able to be used.

Board Member Olenius stated we can't see into the future ma'am.

**Johanna Groepl** stated I know but if you keep saying and if and if and if, then I have to say why if, then why do you even want to build it if there are so many if's and you don't want to commit to the if.

Tim Miller stated you know, if I lived in this neighborhood and my family was shopping at one of these centers and as a buyer, I would want a way of getting there if something happened to block off the access. This is just good planning, this is not trying to hurt anybody, we want to protect each other, that is what we do as planners, we want to make sure that people can move from one place to the other in order to take care of each other. So this is an emergency access that will be used if these two boulevard roads in some way shape or form get blocked off and people can't get there and we want to make sure as people, as citizens that we can get from one point to the other under the extreme circumstances, this is what emergency planning is all about. I can't be any clearer about it than that, I don't know what else to say.

**Johanna Groepl** stated okay let me.

Chairman Buzzutto stated wait, wait.

Board Member Posner stated you have not been recognized.

**Johanna Groepl** stated Edward, please, it's my turn, okay.

Chairman Buzzutto stated okay, no talking across the room, please.

**Edmond Connors** stated well he just did.

Chairman Buzzutto stated he was asked a question.

**Johanna Groepl** stated Edward, please you are interrupting my thoughts.

**Edmond Connors** stated and I'm addressing his question.

Chairman Buzzutto stated I'll tell you who can talk, really. When your turn comes again, after everybody else is speaking.

**Edmond Connors** stated okay I'll address it now.

Chairman Buzzutto stated not right now, no.

**Johanna Groepl** stated let me please finish because you just interrupted my thought process here.

Chairman Buzzutto stated thank you.

**Johanna Groepl** stated so you are, I'm hearing that you're telling me that you are doing me a favor, I live on Concord, you decided to build this project there and you are doing me a favor by putting this road in

there. Even so that everything my neighbors just said, it's really not a favor because its an eyesore, it's possibly dangerous, it's possibly being misused. We can look in the future, who said that on the Board, I can't look in the future either but if something is being built there, it can be used at some point, that is the fact and if no trucks, no fire trucks can come through then what is the point anyway or if fire trucks shouldn't come through, what is the point anyway. Why do the favor if I'm a project developer that never comes to me and asks me if I want that favor, I don't want handouts, thank you very much.

Chairman Buzzutto stated the favor would be classified as like a favor, it's just to be there in case there is a fire and they can't get in there the other way, you have means now to get in there.

**Johanna Groepl** stated I don't want to get in there.

Chairman Buzzutto stated then your house would burn if Kent couldn't get in there.

**Johanna Groepl** stated up until now, I live in Patterson, I am very well protected the way the streets are set up if I have a fire up there. I had to have the police come at one point when I moved here which was four years ago, they were there in five minutes. So I believe there is access fine right now for me up on Concord, thank you.

Chairman Buzzutto stated thank you very much.

**Mike Rosco** stated my name is Mike Rosco I live on 70 Concord Road, right next to this project, my property is right there. Four of us did not have our wells tested, nobody came to test our wells, number one, number two, how did Mr. Camarda come about finding this property, can anybody answer about these two lots.

Board Member Olenius stated what does that have to do with the special permit application.

**Mike Rosco** stated those two lots were promised to me, I was supposed to buy them.

Chairman Buzzutto stated well that's.

**Mike Rosco** stated I just want to say, one second.

Chairman Buzzutto stated that's it then.

**Mike Rosco** stated I was supposed to buy them at the time I was going through a divorce, I was communicating with the owner of the two lots, forty by one hundred, she said she would hold them for me. Camarda called her up, spoke to her, she told him, he was interested in the two lots, she told him that they were promised to me but he's waiting for a divorce. Okay, I'll buy them from you, he offered more money but what are you going to do with two lots, he says I'm going to donate it to charity. What else are we supposed to expect.

Chairman Buzzutto stated that has nothing to do with what's going on here tonight.

**Mike Rosco** stated I know but if you wanted to know about these two lots here.

Chairman Buzzutto stated you are way off the beaten track to start with, whatever you are talking about now is basically your personal life and it has nothing to do with me.

**Mike Rosco** stated right, I'm not telling you about my personal life, I'm telling you about the two lots, how they came about.

Chairman Buzzutto stated well that is the way the business was conducted.

**Mike Rosco** stated what I'm saying is he is lying about this driveway coming in and the two lots for charity, they should have been donated to charity.

Chairman Buzzutto stated thank you anyway. All right, sir, you want to come up.

**Dan Enkler** stated my name is Dan Enkler and I live at 54 Concord Road, I'm the second property in right about here, just a couple weeks ago, somebody in a car, made the turn, it was a little slippery, they went right into my grass, took out my mailbox, it was a minor thing but it happened you know. What I'm asking is if this particular road, you can see right here, this is an S-turn, this is where I'm getting more practical with what that is, this is an S-turn and these roads, if you remember, you said you took a walk, somebody said they were thirty-five feet wide, they are nowhere near that. If you put three cars across, usually what you during the summer time, Fourth of July kind of set up, people park on both sides and you can barely get your car through as it is and that's the summer time. This is going to be a vegetated road with a gated, if there is an emergency where this road is needed, is this going to be maintained by plows, you know, every time you know, it snows and the gates are going to be open so the plow can get through or are they going to wait until an emergency hits and you know, decide we need to do this now, that is one thing. We have, sometimes we get furniture deliveries and stuff like that where these are plain old box trucks nothing tremendous and these guys have a difficult time getting through this neighborhood and everybody said you come up Terry Hill hit Echo and then come to Concord, that is the main path but if this, any of these vehicles couldn't fit through there, they are going to take the alternate roads and believe me, they are worse. Concord and Echo and Terry Hill are the widest roads that we have up there, everything else is narrower from there on, if for some reason they can't get up Echo, they are going to take the smaller roads and believe me that is a nightmare in itself, I just took my neighbor home the other night and there is a certain route you take where no stop signs are, in realizing that the roads are very narrow, maybe eighteen feet wide at best, with big drainage ditches on the side, so there is a real logistic problem with this, so I just want you to consider that before you approve this road. Maybe it will look nice in the summer time, I don't know are you guys going to cut the grass on it.

Chairman Buzzutto stated to stop you, we are not approving the road.

**Dan Enkler** stated okay, I'm just saying it seems like to me, an issue tonight.

Chairman Buzzutto stated that is not an issue for us tonight.

**Dan Enkler** stated but that's if you are considering that, I would say this is, this neighborhood is really, years ago, it was a little beach community kind of thing, everybody built cottages and made them into houses now. So the roads are not made for larger vehicles like that and everybody is asking about the what if, should this, for some reason a trailer truck get out of control and block both lanes and they need this road, in the winter time, will be it be plowed, will the gate be opened, will they be able to get through in time, it's just little things to consider, all right.

Chairman Buzzutto stated yeah, good thoughts.

**Dan Enkler** stated thank you.

Chairman Buzzutto stated can I ask you a question, if this became such a big deal here, could that road be taken out completely and wiped off the plan or is it required.

Mr. Contelmo stated at this point I believe that issue would lie with the Planning Board, there was discussion as I said in the DEIS, FEIS on that matter, that is in fact a site plan matter and if the Board believes that is the best thing to do, we will entertain it and discuss it with them.

Chairman Buzzutto stated it has become such an issue here tonight, although it is not under our jurisdiction if you can build it or no, it is just a question I'm asking.

Mr. Contelmo stated certainly the Board could direct the Planner to further discussions with the Planning Board on the matter and we will certainly participate.

Chairman Buzzutto stated all right.

Board Member Olenius stated he spoke already.

Chairman Buzzutto stated pardon.

Board Member Olenius stated he spoke already.

**Paul Spiegel** stated I would just like to add one more comment.

Chairman Buzzutto stated oh, make it quick because you did have you.

**Paul Spiegel** stated one more fast comment.

Board Member Posner stated your name please.

**Paul Spiegel** stated Paul Spiegel, Lake Carmel, there is discussion about if it is going to be accessed or how often its going to be accessed or if it will even be accessed at all, the Code, which I read, it's almost written for this project, it is custom written for this project, it says any access, this entrance is disqualified right there, without a variance, it says any access, I would really like for you to keep that in mind, thank you.

Chairman Buzzutto stated thank you, anybody else have any input. All right, I am going to let you speak one more time and that will be it.

**Edmond Connors** stated thank you.

Chairman Buzzutto stated sure.

**Edmond Connors** stated and please forgive the interruptions, it is very difficult with the kind of passions. I don't think the issue here is that road really, deep down inside.

Board Member Burdick stated can you just give your name again.

**Edmond Connors** stated my name is Edmond Connors, I live at 57 Woodstock Road, which is always 69 Concord Drive in Patterson New York, Woodstock Road is in the Town of Kent. What I started to say was the issues here run a little deeper than a road, I think everybody that lives in this neighborhood that is conveniently left out, that neighborhood is Lake Carmel.

Board Member Burdick stated one moment, that is the change of tape.

**Edmond Connors** stated that's okay.

(Side 2, Tape 1 – Ended).

The second tape failed to record.

Additional comments were received by Edmond Connors, Veronica Popovics, Harry Hitner, Marion Rose and Kathleen McManus.

Additional responses were given by Tim Miller.

The Zoning Board of Appeals scheduled a site inspection for January 3, 2009.

A motion was made by Mary Bodor and seconded by Marty Posner to adjourn the public hearing until January 7, 2009 at 7:00 p.m.

A motion was made to adjourn by Lars Olenius and seconded by Marty Posner.

The meeting adjourned at 9:05 p.m.