

TOWN OF PATTERSON
ZONING BOARD OF APPEALS

December 15, 2015

AGENDA & MINUTES

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| 1) Black Birch, LLC Case #25-15 | 1 – 12 | Public hearing opened and closed;
Resolution – Application for FYSB & SYSB <u>granted.</u> |
| 2) Fabio Lucas Case #26-15 | 12 – 25 | Public hearing opened and closed;
Resolution – Area variances for SYSB & accessory
structure in FY <u>granted.</u> |
| 3) Other Business | | |
| A) Minutes: November 17, 2015 | 25 – 26 | Minutes from November 17, 2015 <u>approved.</u> |

PLANNING DEPARTMENT

P.O. Box 470
1142 Route 311
Patterson, NY 12563

Sarah Mayes
Mary Schartau
Secretary

Richard Williams
Town Planner

Telephone (845) 878-6500
FAX (845) 878-2019



**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

ZONING BOARD OF APPEALS

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

PLANNING BOARD

Thomas E. McNulty, Vice Chairman
Ron Taylor, Vice Chair
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**Zoning Board of Appeals
December 15, 2015 Meeting Minutes**

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

Present were: Chairman Olenius, Board Member Marianne Burdick, Board Member Mary Bodor, Board Member Michael Carinha, Board Member Stephanie Fox, and Don Rossi – Attorney with Town Attorney’s Office.

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

There were approximately 4 members of the audience.

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

Chairman Olenius led the salute to the flag.

Roll Call:

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

Chairman Olenius: *[To the Secretary]* Go right ahead.

1. Black Birch, LLC Case #25-15

Three people were present to represent to the application.

The Secretary read the following legal notice:

Black Birch, LLC Case #25-15 – Area Variances

Applicant is requesting area variances pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, in order to construct a 30,000 +/- sq. ft. building. Patterson Town Code requires principal buildings to meet a front yard setback of 65 ft.; Applicant will have 34.12 ft.; *Variance requested is for 30.9 ft.* Principal buildings are also required to meet a side yard setback of 30 ft.; Applicant will have 15 ft.; *Variance requested is for 15 ft.* This property is located at 56 Commerce Drive (I Zoning District).

Chairman Olenius: Good evening.

Mr. Alfonzetti: Hello. How you doing?

Chairman Olenius: I'm good. How are you?

Mr. Alfonzetti: Alright.

Chairman Olenius: Could you just state your name for the record, please?

Mr. Alfonzetti: Uh, Ralph Alfonzetti. I'm the engineer for the project.

Chairman Olenius: Long time, no see.

Mr. Alfonzetti: Yup.

[Laughter.]

Mr. Alfonzetti: Um, so, as she said, we have a 2 ½ acre vacant lot, um... we're proposing this building and we need a front yard setback variance and a side yard variance setback, um... one of the main reasons we need the setback is because there's a DEC wetland right here *[referring to submitted plans]*. So, there's a DEC wetland right here – New York State DEC wetland, um... the DEP – New York City DEP, um – does not allow you to have an impervious surface within 100 ft. of that wetland. So, that wetland buffer is – it's on the plan that was submitted and it is right about there. So, that pushes the building towards the front of the lot, um, and that requires us to have that... that, um... the variance, um... in addition to that, we put parking on the side and we squeeze the building to that side, so we do have a, uh... we require a variance on that side, um... the proposed building's going to have a green roof to help mitigate the stormwater runoff and the DEC requirements as far as that, um... as far as the use of the building, it's, uh, kind of a cool thing – it's, um... it's a storage building, but, for cars, um... for Ferraris, collectors' cars, antique cars, and things like that. So, you guys can all park your Ferraris in there on weekdays...

[Laughter.]

Mr. Alfonzetti: Call them up and get them delivered on the weekend, drive, you know, around, then go back to your Hondas on, uh, Monday to Friday, so, um... I'm here to answer any questions you guys have.

Board Member Fox: Uh, what determined the size of the building?

Mr. Alfonzetti: What determines the size? Um... it's basically economics. If the building's smaller, you can't fit as many cars, and it's just not – it's not economically feasible to build, um...

Board Member Fox: *[Inaudible – speaking away from microphone]...*

Mr. Alfonzetti: Right, and I – I don't know anything about this world, but, there are other, um, facilities like this – there's a couple, uh, in Westchester and there's a waiting list to get in them, so...

Board Member Fox: I know. I did a private one.

Mr. Alfonzetti: What was that?

Board Member Fox: I – I've done private ones.

Mr. Alfonzetti: Oh, you have. Okay.

Board Member Fox: Yeah, so...

Board Member Carinha: They gonna have lifts in there?

Mr. Alfonzetti: What's that?

Board Member Fox: Lifts.

Mr. Alfonzetti: Yeah. There's gonna be a lift. Yep. So, basically, you know, there's gonna be no – no servicing, no automotive work or anything like that on site, um... probably a staff of 4-6 people, um, just to keep the grounds clean and, you know, if someone calls up, you have a flatbed truck, you get the car on there, you deliver it, go pick up a car, this.. you know...

Board Member Fox: And security.

Mr. Alfonzetti: And security. Right.

[Laughter.]

Chairman Olenius: So, you stated the green roof, again...

Mr. Alfonzetti: Right.

Chairman Olenius: So, my only question was is the architecture of this building going to be similar to the... *[referring to building to be located on another property owned by Christine Monteleone, for which a RYSB variance was granted at the November 17, 2015 ZBA meeting]*

Christine Monteleone: [From the audience] Same look – same look.

Mr. Alfonzetti: Same – same architect. Yeah.

- Chairman Olenius: Okay.
- Mr. Alfonzetti: It's gonna be similar. Yep. Green roof is something we kind of need nowadays to offset some of the impervious [surface coverage restrictions] with the DEC regulations.
- Chairman Olenius: No. Understood. This is not as steep as the last property, but...
- Mr. Alfonzetti: No.
- Chairman Olenius: You've still got a little bit coming up, I see.
- Mr. Alfonzetti: No much.
- Board Member Fox: *[Inaudible – papers shuffling]...*
- Board Member Carinha: Yeah.
- Board Member Fox: That's why you put the parking on the north side, right?
- Mr. Alfonzetti: Yup.
- Board Member Fox: Obviously.
- Mr. Alfonzetti: And, I believe – I have not seen them, but I think that this neighbor, um, and the neighbor across the street – I think they wrote letters...
- Board Member Fox: Mm hmm.
- Board Member Bodor: This is them.
- Mr. Alfonzetti: To this board. I – I haven't seen them, so, I'm not even sure what they say.
- Chairman Olenius: Uh, for the record, we did get 2 letters: one from Eurostyle Marble & Tile and one from Patterson Machinery Corp., both, uh... in favor of this application – both of them are direct neighbors, I believe, too. Uh, one next door and one...
- Mr. Alfonzetti: Is it directly...
- Chairman Olenius: One across the way?
- Mr. Alfonzetti: Directly across the street.
- Chairman Olenius: If the Secretary could enter those letters into the minutes?
- The Secretary: Sure.

The following letters were entered into the minutes:

Letter #1:

December 10, 2015

*Town of Patterson Zoning Board
1142 Route 311
Patterson, NY 12563*

Re: Black Birch, LLC

Ladies and Gentlemen of the Board:

My name is Martin Monaghan of Eurostyle Marble and Tile, Inc. I am a property owner directly across from Black Birch LLC in the industrial Business Park. I am unable to attend the Public Hearing for Black Birch for the car storage facility.

As a business owner, I am in full support of this project. I truly feel that having a business such as that proposed would help my business as well.

Please acknowledge my support when considering approval of this project.

*Thank you,
Martin Monaghan, President*

Letter #2:

December 8, 2015

*Patterson Zoning Board
Route 311
Patterson, NY 12564*

Ladies & Gentlemen:

We received notice of a public hearing regarding Black Birch and their need for a zoning variance.

This variance, if approved, will put Black Birch's building closer than 50' to our property. We have no problem with the board approving this application. Actually, we are looking forward to seeing an additional viable building/business in our Industrial Business Park. It has been too long since anything has been improved.

In closing, please consider our full endorsement for this project.

*Sincerely,
Steven Leardi
Patterson Machinery, Inc.*

Board Member Fox: And the lot behind, because it – well, the area behind is not gonna be able to be developed, right, because of the wetlands?

Mr. Alfonzetti: Right. There's no way they're gonna be able to do anything with that.

Chairman Olenius: Oh, these flagged – I was confused before – the flagged ones are physical and then you went... you have to go 100 feet from that.

Mr. Alfonzetti: You have to go 100 ft. from that. Yes.

Chairman Olenius: They're actually on the edge of the actual wetland.

Mr. Alfonzetti: This is the wetland. Yup.

Chairman Olenius: Okay.

Mr. Alfonzetti: This is the edge of the wetland and the buffer's 100 feet...

Chairman Olenius: Gotcha.

Mr. Alfonzetti: Towards – towards Commerce Drive.

Chairman Olenius: Gotcha. Does anyone in the audience have a comment on this case? I'm hearing none. *[To the other Board Members]* You guys good?

Board Member Carinha: Yeah, I'm good.

Chairman Olenius: Okay. I make a motion to close the public hearing.

Board Member Burdick: Second.

Chairman Olenius: All in favor?

Motion passed by a vote of 5 – 0.

Chairman Olenius: Okay. So, we have 2 resolutions for you.

Chairman Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Black Birch, LLC, Case #25-15
For Area Variance to Construct a 30,000 +/- sq. ft.
Building 34.12 ft. from Front Property Line**

WHEREAS, Christine Monteleone is the owner of real property located at 56 Commerce Drive (I Zoning District), also identified as **Tax Map Parcel #34.-3-58, and**

WHEREAS, Black Birch, LLC has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code; Schedule of

regulations, in order to construct a 30,000 +/- sq. ft. building 34.12 ft. from the front property line, and

WHEREAS, §154-7 of the Patterson Town Code requires a front yard setback of 65 ft.; Applicant will have 34.12 ft.; **Variance requested is for 30.9 ft.**, and

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

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on **December 15, 2015**, to consider the application; and

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

1. the proposed application **will not** produce an undesirable change in the character of the neighborhood **in light of the fact that, um... it's an undeveloped parcel now and it's in... the new architecture will be aesthetically pleasing to the area.**
2. the benefit sought by the applicant **cannot** be achieved by any other feasible means **in light of the, uh wetland buffer zone that runs through the property – or the parcel.**
3. the variance requested **is** substantial, **however, not so much so as to cause a denial of the requested variance.**
4. the proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, **uh, in light of the fact that they're using, uh, green roof architecture, uh, to mitigate the impervious coverage.**
5. the alleged difficulty necessitating the variance **was** self-created, but **is not** sufficient so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby **grants** the application of **Black Birch, LLC** for **an area variance** pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, **of 30.9 ft. from the 65 ft. required for a front yard setback**, in order to allow for the construction of a 30,000 +/- sq. ft. building 34.12 ft. from the front property line.

Board Member Burdick: Second.

Board Member Bodor - Yes.

Mr. Alfonzetti: I – I have a question. I'm sorry to interrupt, um... it's actually – the footprint is actually 30,000 sq. ft., but since it's a couple – you know, multiple floors, it's more than that. Does it matter that that's in the resolution? I just wanted to make sure it doesn't cause a problem later.

Mr. Rossi: You might want to refer to it at ground coverage – the 30... 30,000 sq. ft. foot...

Board Member Fox: It's the volume...

Mr. Rossi: Footprint.

Board Member Bodor: Footprint. Yeah.

Mr. Rossi: Yeah. I think it might be good to refer to that, and also, just – I might want to comment on the fact that you... uh, they're finding that there's a self-created hardship. I think you might want to mention that the... that the wetlands, uh, contribute to the hardship on the site also... so what – so...

Chairman Olenius: So, can you [*inaudible – too many speaking*]...

Mr. Rossi: Footprint of 30,000 sq. ft. and you might want to even say parentheses "Total Floor Area" whatever the total is.

The Secretary: 120,000 [sq. ft.] is the total?

Mr. Alfonzetti: 120,000. Yes.

The Secretary: Okay.

Mr. Alfonzetti: Yeah, I just didn't want it to get too far and then that be a problem later.

Chairman Olenius: No, I appreciate that.

Mr. Rossi: And then put, uh, the "self-created" aspect of it...

Chairman Olenius: Yes, so on point number 5, reference the wetland buffer again as I referenced in bullet point number 4 as being the reason...

The Secretary: So, do you want to say "it *was not* self-created" then?

Chairman Olenius: "*Was not* self-created..."

The Secretary: Okay.

Chairman Olenius: "*In light of the fact of the avoidance of the wetland buff – the wetland buffer.*" Yeah.

The Secretary: Okay.

Mr. Alfonzetti: Okay. Thank you. Sorry.

Chairman Olenius: No. I appreciate your honesty.

Mr. Rossi: And if Mary will put the DEP – "*the DEP 100 ft. wetlands setback.*"

The Secretary: Okay.

Board Member Bodor	-	Yes, with the amendments.
Board Member Burdick	-	Yes, with the amendments.
Board Member Carinha	-	Yes, with the amendments.
Board Member Fox	-	Yes, with the amendments.
Chairman Olenius	-	Yes, with the amendments.

The following resolution was submitted into the record:

IN THE MATTER OF THE APPLICATION OF

Black Birch, LLC, Case #25-15

For Area Variance to Construct a Building with a 30,000 +/- sq. ft. Footprint 34.12 ft. from Front Property Line

WHEREAS, *Christine Monteleone* is the owner of real property located at 56 Commerce Drive (I Zoning District), also identified as **Tax Map Parcel #34.-3-58, and**

WHEREAS, *Black Birch, LLC* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, in order to construct a building with a 30,000 +/- sq. ft. footprint 34.12 ft. from the front property line, and

WHEREAS, §154-7 of the Patterson Town Code requires a front yard setback of 65 ft.; Applicant will have 34.12 ft.; ***Variance requested is for 30.9 ft., and***

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

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on ***December 15, 2015,*** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***in light of the fact that it's an undeveloped parcel now and the new architecture will be aesthetically pleasing to the area.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***in light of the wetland buffer zone that runs through the parcel.***
3. the variance requested ***is*** substantial, ***however, not so much so as to cause a denial of the requested variance.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***in light of the fact that they're using green roof architecture to mitigate the impervious coverage.***
5. the alleged difficulty necessitating the variance ***was not*** self-created, and ***is not*** sufficient so as to cause a denial of the requested variance ***because of the 100 ft. setback required by the DEP wetland buffer.***

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby ***grants*** the application of ***Black Birch, LLC*** for ***an area variance*** pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, ***of 30.9 ft. from the 65 ft. required for a front yard setback,*** in order to allow for the construction of a building with a 30,000 +/- sq. ft. footprint 34.12 ft. from the front property line.

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

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

Chairman Olenius: Let's get this one right the first time...

Chairman Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Black Birch, LLC, Case #25-15
For Area Variance to Construct a 30,000 +/- sq. ft.
Footprint Building 15 ft. from Side Property Line**

WHEREAS, *Christine Monteleone* is the owner of real property located at 56 Commerce Drive (I Zoning District), also identified as **Tax Map Parcel #34.-3-58, and**

WHEREAS, *Black Birch, LLC* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, in order to construct a 30,000 +/- sq. ft. footprint...

Mr. Rossi: A... A building having a 30,000 sq. ft....

Chairman Olenius: I like that better.

Mr. Rossi: Yeah.

Chairman Olenius continued reading the resolution:

... a building having a 30,000 +/- sq. ft. footprint 15 ft. from the side property line, and

WHEREAS, §154-7 of the Patterson Town Code requires a side yard setback of 30 ft.; Applicant will have 15 ft.; ***Variance requested is for 15 ft.,*** and

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

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on ***December 15, 2015,*** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood ***in light of the fact that it is an industrial district in need of further development.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***in order to avoid the 100 ft. DEP wetland buffer.***
3. the variance requested ***is*** substantial, ***however, not so much so as to cause a***

denial of the requested variance.

4. the proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district **in light of the green roof architecture to mitigate the impervious coverage aspect of the property.**
5. the alleged difficulty necessitating the variance **was not** self-created, and **is not** sufficient so as to cause a denial of the requested variance **in light of the siting, um.. being required to avoid the DEP wetland buffer**

Board Member Burdick: Setback.

Chairman Olenius continued reading the resolution:

To avoid it... setback.

Mr. Rossi: Yeah, yeah. Setback works.

Chairman Olenius: Thank you.

Chairman Olenius continued reading the resolution:

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby **grants** the application of **Black Birch, LLC** for **an area variance** pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, **of 15 ft. from the 30 ft. required for a side yard setback**, in order to allow for the construction...

Board Member Burdick: Of a building with a 30,000 +/- sq. ft. footprint.

Chairman Olenius: Thank you.

Mr. Rossi: That's it.

Chairman Olenius continued reading the resolution:

...of a building with a 30,000 +/- sq. ft....

Board Member Burdick: Footprint.

Board Member Fox: Footprint.

Chairman Olenius continued reading the resolution:

...footprint 15 ft. from the side property line.

Board Member Burdick: Second.

Board Member Bodor	-	Yes.
Board Member Burdick	-	Yes.
Board Member Carinha	-	Yes.

Board Member Fox - Yes.
Chairman Olenius - Yes.

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

Chairman Olenius: Thought I'd get it right the second time.

[Laughter.]

Mr. Alfonzetti: *[Inaudible – papers shuffling]*... alright. Thank you very much.

Chairman Olenius: Alright. Good luck.

Board Member Burdick: Good luck.

Board Member Carinha: Yeah. Have a good one.

Mr. Alfonzetti: Have a good night.

Mrs. Monteleone: Happy Holidays.

Board Member Burdick: You, too.

Board Member Bodor: Thank you.

Chairman Olenius: Take care. *[To the Secretary]* Go right ahead, Mar.

The Secretary: Alright.

2. Fabio Lucas Case #26-15: Area Variances

Two people were present to represent the application.

The Secretary read the following legal notice:

Fabio Lucas Case #26-15 – Area Variances

Applicant is requesting area variances pursuant to §154-27A(12)(a) of the Patterson Town Code; Permitted accessory uses, and §154-7 of the Patterson Town Code; Schedule of Regulations, in order to legalize an existing 18 ft. round above-ground pool and construct an attached deck. §154-12 of the Patterson Town Code states that property boundaries adjacent to streets are considered to be front yards; §154-27A(12)(a) of the Patterson Town Code states that accessory structures shall not be located in the front yard; Applicant's pool exists in the front yard; *Variance requested is to allow the pool and attached deck to be located in the front yard.* Patterson Town Code requires accessory structures to meet a side yard setback of 10 ft.; Applicant's proposed deck will be 3.5 ft. from the side yard property line; *Variance requested is for 6.5 ft.* This property is located at 111 Haviland Drive (RPL-10 Zoning District).

Chairman Olenius: Mr. Lucas?

Mr. Lucas: Yep.

Chairman Olenius: Come right up, please. Could you just state your name and address for the record, please.

Mr. Lucas: Fabio [*inaudible – papers shuffling*] Lucas. 111 Haviland Drive.

Chairman Olenius: Thank you very much. Do you promise the testimony you'll provide tonight is the truth and the whole truth?

Mr. Lucas: Yes.

Chairman Olenius: So, tell us a little bit about your problem here.

Mr. Lucas: Um... let's see... can you – he help me?

Chairman Olenius: Absolutely.

Mr. Ferrera: Yeah... you couldn't handle his English. So, um...

Chairman Olenius: Could you just state your name for the record, too, please?

Mr. Ferrera: Okay. Tony Ferrera.

Chairman Olenius: Thank you.

Mr. Ferrera: Um... he installed a pool in what's behind his house, but, it's, uh – I guess apparently it's, uh, considered a front yard because he has 2 fronts.

Chairman Olenius: Frontage on 2 streets?

Mr. Ferrera: Yeah. Yeah... so, um, he's basically asking for a variance to keep the pool where it is and build a deck around it. Um... that's the – the ideal spot for it.

Chairman Olenius: Now did he replace a pool that was there?

Mr. Ferrera: He did have a pool. Yes.

Chairman Olenius: Okay, because I read the assessor's roll here and it says...

Mr. Ferrera: He did. It was a...

Chairman Olenius: There was one installed in 1975.

Mr. Ferrera: Dilapidated pool years, you know...

Chairman Olenius: Okay.

Mr. Ferrera: When he bought the house, he basically...

Chairman Olenius: It was there?

Mr. Ferrera: It was already collapsed and he just junked it.

Chairman Olenius: So he put the new one in the same...

Mr. Ferrera: So, he assumed he could just put a new one up, and he – somebody gave him one, so he *[inaudible – too many speaking]*...

Chairman Olenius: In the same location.

Mr. Ferrera: So, he put it... it's – yeah pretty much. It shifted a little bit, but it was in the same... same, uh, location more or less.

Board Member Fox: He's a through lot – oh, you have through lot. I see. Okay.

Chairman Olenius: Yeah.

Mr. Ferrera: Yeah, it's sort of strange. It's...

Board Member Fox: It's one lot, though? It's not 2 separate, right? They're combined.

Mr. Ferrera: Uh, it was actually 5 lots at one time, and now it's like one.

Board Member Fox: Well, at one time, right. But – but they've been combined, right?

Mr. Ferrera: Yes.

Board Member Fox: Okay.

Chairman Olenius: We were out there before for a deck...

Mr. Ferrera: Mm hmm.

Chairman Olenius: On the back of the house?

Mr. Ferrera: Yeah.

Board Member Carinha: Yeah.

Mr. Ferrera: That's all done.

Chairman Olenius: No, I remember...

Mr. Ferrera: Mm hmm.

Chairman Olenius: The... I remember the property. How it ran through...

Mr. Ferrera: Same thing – it was... it was the front...

Board Member Carinha: Yeah.

Mr. Ferrera: It was – the deck was the same thing. It needed a variance because it was in the front.

Chairman Olenius: And the deck was flush with the side of the house. It was just the actual house was sited to close to the... the deck didn't extend beyond the house, if I recall. It was flush with the side of the house...

Mr. Ferrera: Yes.

Chairman Olenius: But, the actual house where it's sited...

Mr. Ferrera: Is already...

Chairman Olenius: Is technically...

Mr. Ferrera: Already encroaching on the...

Chairman Olenius: Right.

Mr. Ferrera: I guess the...

Chairman Olenius: That's what I remembered.

Mr. Ferrera: Legal setback.

Board Member Carinha: Yeah.

Mr. Ferrera: Yeah.

Chairman Olenius: Right. Probably not at the time it was built, but...

Mr. Ferrera: Yeah. Exactly.

Chairman Olenius: As the codes change...

Board Member Fox: So, the pool is there, but the deck isn't?

Mr. Ferrera: The deck he hasn't...

Board Member Fox: Built yet.

Mr. Ferrera: No. He hasn't built the deck.

Board Member Fox: Okay.

Chairman Olenius: So, my question to you in looking at the survey was... why couldn't the deck be put on the other side of the pool? It's proposed on the property line side of the pool.

Mr. Ferrera: Mm hmm. Mm hmm.

Chairman Olenius: Why couldn't it be put towards the other side?

Mr. Ferrera: Uh...

Chairman Olenius: Is there something there that it can't cover?

[Mr. Ferrera and Mr. Lucas conversing away from microphone – Inaudible.]

Mr. Ferrera: Because of the sun? Because of I sunlight I guess, I mean, it's...

Chairman Olenius: It – where's the septic system?

Mr. Ferrera: Septic is further back.

Mr. Rossi: Yeah. Show him.

Mr. Ferrera: I'll show you.

Mr. Rossi: *[Referring to the submitted property survey]* Point it – no. Point it out for... for Lars, also... *[Inaudible – papers shuffling]*

Mr. Ferrera: The septic is here. A brand new septic was put in – it's here.

Chairman Olenius: Okay.

Mr. Ferrera: And it's – it's, uh, 12 or 13 feet away...

Chairman Olenius: Okay.

Mr. Ferrera: From the actual... the closest point is 13 – 12 or 13 feet away. The... I think the junction box, and it's a lift/raised area here.

Chairman Olenius: And where's the tank?

Mr. Ferrera: The tank is over here.

Chairman Olenius: Over there.

Mr. Ferrera: Yeah, on this side. Far away. And then it's pumped. There's a tank – there's 2 tanks. There's a septic tank and a pump chamber...

Chairman Olenius: Mm hmm.

Mr. Ferrera: And it gets pumped up to this raised area that...

Chairman Olenius: Okay.

Mr. Ferrera: We did a few years ago. That's also why he, you know, had to put the pool sort of in this... it was a little over this way, and now he put it a little closer this way to get away from it.

Chairman Olenius: To stay away from the septic fields.

Mr. Ferrera: To stay away from all that stuff.... And that's probably why he wanted to put the deck – so the pillars don't have to kind of encroach on them.

Chairman Olenius: That's kind of...

Board Member Burdick: It...

Mr. Ferrera: He could...

Chairman Olenius: What I was getting at with my...

Mr. Ferrera: Yeah.

Board Member Carinha: Yeah.

Chairman Olenius: Line of questioning.

Mr. Ferrera: Could maybe go this way a little bit more... towards the shed...

Board Member Fox: Health Department requires you to be 10 feet away from any septic.

Mr. Ferrera: Yeah. Yeah... well, the pool is...

Board Member Fox: Right.

Mr. Ferrera: And so is the deck, believe it or not. The deck will be, too.

Board Member Fox: Right, but, even...

Chairman Olenius: So, to spin it around to the other side would be encroaching on that.

Mr. Ferrera: Um, he could... he could put this section on this side, I guess. I don't see why not.

Chairman Olenius: It doesn't matter. It's just...

Mr. Ferrera: It doesn't matter.

Chairman Olenius: My point was... it would eliminate this if it was on this side.

Mr. Ferrera: Yeah.

Chairman Olenius: But, if it's gonna affect the septic system...

Mr. Ferrera: Yeah, I mean it...

Chairman Olenius: That's not.

Mr. Ferrera: And I – I don't know if the... I think the force meter might be in that side... but, that's just the pipe. I mean, it's not like...

Chairman Olenius: No, I really...

Mr. Ferrera: It's not actual drainage.

Chairman Olenius: I'd personally rather it went nowhere near it.

Board Member Carinha: Yeah, they...

Mr. Ferrera: Yeah, go near it. Yeah. Not go near it.

Chairman Olenius: What's...

Board Member Carinha: But, if that's got some footings in over there, then if you gotta change the pipe, everything's in the way, and...

Mr. Ferrera: Yeah. I mean, we know where everything is. I have an, uh... I have an As-Built already.

Board Member Carinha: Yeah.

Chairman Olenius: This Whitfield property that's adjacent here...

Mr. Ferrera: Mm hmm.

Chairman Olenius: Where – where is... approximately where is the house on that property?

Mr. Ferrera: Uh, maybe... 20 feet away. *[To Mr. Lucas]* Right? How much do you have to... your neighbor there. This guy. What's his name? Tom? Uh...

Mr. Lucas: Donald.

Mr. Ferrera: Donald. 20 feet from the property line? His house?

Mr. Lucas: More.

Mr. Ferrera: More? He's got...

Mr. Lucas: *[Inaudible – turned away from microphone]...*

Mr. Ferrera: Yeah. How far is it from the property line to his house? 20 feet?

Chairman Olenius: About.

Mr. Lucas: 30 [feet], yeah.

Mr. Ferrera: 30 feet?

Chairman Olenius: Okay.

Mr. Ferrera: His house is property 30 – because he's got his driveway on this side and it's pretty wide.

Chairman Olenius: The driveways' ... over...

Mr. Ferrera: Is on – is on this side. It's between the house and the property line.

Chairman Olenius: Okay. I remember going to the property...

Mr. Ferrera: Mm hmm.

Chairman Olenius: Before, and... you know, I – I remember it. I just don't remember exactly where the, uh, neighbors... you know...

Mr. Ferrera: Yeah. Okay.

Chairman Olenius: I see on this side they're – it's documented where the frames are, so...

Mr. Ferrera: Yeah, everybody's sort of close there. All the houses are kind of like...

Chairman Olenius: But, it doesn't even make the survey, so I'm assuming it's a little bit further.

Board Member Fox: And you wouldn't be able to put the stairs on the other side anyway because you have to be 5 feet from a shed.

Board Member Carinha: Yeah.

Mr. Ferrera: What's that?

Board Member Fox: You'd have to – you can't put the... where the stairs are, you can't flip it...

Mr. Ferrera: Mm hmm.

Board Member Fox: To the shed side because you have to be 5 feet from the shed.

Mr. Ferrera: You have to be 5 feet, yeah. He wanted to leave that space there until...

Board Member Fox: Right. Yeah. You have that 5 feet.

Chairman Olenius: That would have been another variance.

Board Member Carinha: Yea, that's true. Yeah.

[Laughter.]

Board Member Fox: Although, then you'd have to fire-proof it.

Board Member Carinha: Yeah.

Chairman Olenius: Yeah.

Mr. Ferrera: Oh my God.

Board Member Carinha: Yeah.

Board Member Fox: Yep, you're within 5 feet. And I don't know how you fire-proof it then.

Board Member Carinha: Make it out of steel.

Board Member Fox: What? You've gotta make it out of steel.

Mr. Ferrera: Make it out of concrete, I guess, right?

Board Member Carinha: Yeah.

Board Member Fox: Yeah.

Board Member Carinha: *[Inaudible – speaking away from microphone]...*

Chairman Olenius: It's so unusual to see a new survey here.

Board Member Bodor: Mm, yeah, right?

[Laughter.]

Chairman Olenius: This one's a [20]13. We're usually looking at stuff from the [19]60s.

Mr. Ferrera: Old stuff? Yeah.

Board Member Bodor: Yeah.

Mr. Ferrera: Well, he had that done. For you, I believe. Well, for... for the town.

Chairman Olenius: Oh, for the – for the original one?

Mr. Ferrera: For the, uh... for – for the deck, right? *[To Mr. Lucas]* You had to have that survey done...

Mr. Lucas: Yeah.

Chairman Olenius: Yeah.

Mr. Ferrera: For the deck, because he had no survey, like...

Chairman Olenius: Okay.

Mr. Ferrera: Nothing existing. He did it prior to the deck, so that the...

Chairman Olenius: Right.

Mr. Ferrera: Architect could draw it... draw it up.

Chairman Olenius: Yeah. I think I remember the application, because it was drawn in on this.

Mr. Ferrera: Mm hmm.

Chairman Olenius: No one in the audience to provide comment, so... *[To the board members]* You guys have anything? You guys good? Anything else?

Board Member Carinha: No.

Chairman Olenius: No? Okay. I make a motion to close, then...

Board Member Fox: Second.

Chairman Olenius: All in favor?

Motion passed by a vote of 5 – 0.

Chairman Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
Fabio Lucas, Case #26-15
For Area Variance to Locate Pool with an Attached Deck in Front Yard**

WHEREAS, Fabio Lucas is the owner of real property located at 111 Haviland Drive (RPL-10 Zoning District), also identified as **Tax Map Parcel #36.23-1-40, and**

WHEREAS, Fabio Lucas has made an application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-27A(12)(a) of the Patterson Town Code; Permitted accessory uses, in order to locate an 18 ft. round above-ground pool with an attached deck in the front yard, and

WHEREAS, §154-12 of the Patterson Town Code; Corner lots and through lots, states that property boundaries adjacent to streets are considered front yards and are required to meet front yard dimensional requirements; Applicant's lot has property boundaries adjacent to two streets and, therefore, has two front yards, and

WHEREAS, §154-27A(12)(a) of the Patterson Town Code; Permitted accessory uses, states that accessory structures shall not be located in the front yard; Applicant's pool with an attached deck will be in the front yard; **Variance requested is to allow the 18 ft. round above-ground pool with an attached deck to be located in the front yard,** 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 **December 15, 2015,** to consider the application; and

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

1. the proposed application **will not** produce an undesirable change in the character of the neighborhood **in light of the fact that the actual front yard is on the opposite street.**
2. the benefit sought by the applicant **cannot** be achieved by any other feasible means **in light of the fact that he has a through lot with, uh, two road frontages.**
3. the variance requested **is not** substantial **in light of the fact that there was previously a pool in the same location since 1975.**
4. the proposed app – the proposed variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, **uh, as previously stated, in light of the fact that there was – was and has been a pool there for quite some time.**
5. the alleged difficulty necessitating the variance **was not** self-created, and **is not** sufficient so as to cause a denial of the requested variance.

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby **grants** the application of **Fabio Lucas** for **an area variance** pursuant to §154-27A(12)(a) of the Patterson Town Code; Permitted accessory uses, **in order to allow an 18 ft. round above-ground pool with an attached deck to be located in the front yard.**

Board Member Carinha: Second.

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

Chairman Olenius - Yes.

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

Chairman Olenius: One more.

Chairman Olenius read the following resolution:

**IN THE MATTER OF THE APPLICATION OF
*Fabio Lucas, Case #26-15***

For Area Variance to Construct an Attached Pool Deck 3.5 ft. from the Side Property Line

WHEREAS, *Fabio Lucas* is the owner of real property located at 111 Haviland Drive (RPL-10 Zoning District), also identified as **Tax Map Parcel #36.23-1-40, and**

WHEREAS, *Fabio Lucas* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-7 of the Patterson Town Code; Schedule of regulations, in order to construct a pool deck 3.5 ft. from the side property line, and

WHEREAS, the proposed deck will be attached to an 18 ft. round above-ground swimming pool, and

WHEREAS, §154-7 of the Patterson Town Code requires accessory structures to meet a side yard setback of 10 ft.; Attached deck will be 3.5 ft. from the side property line; ***Variance requested is for 6.5 ft., and***

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

WHEREAS, a public hearing was held on the Application at the Patterson Town Hall, 1142 Route 311, Patterson, New York on ***December 15, 2015,*** to consider the application; and

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

1. the proposed application ***will not*** produce an undesirable change in the character of the neighborhood, ***um, in light of the fact that this new deck and pool is replacing one from circa 1975 that was in, uh, dilapidated condition.***
2. the benefit sought by the applicant ***cannot*** be achieved by any other feasible means ***in light of the siting of his existing subsurface septic system, um, on the other side of the pool.***
3. the variance requested ***is*** substantial, ***however, not so much so as to cause a denial of the requested variance.***
4. the proposed variance ***will not*** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district ***in light of the size of the lot; it's not close to the impervious coverage limitations for RPL-10.***
5. the alleged difficulty necessitating the variance ***was not*** self-created, and ***is not*** sufficient so as to cause a denial of the requested variance ***in light of the narrowness of the lot and the predetermined siting of the existing septic system.***

NOW, THEREFORE BE IT RESOLVED, that the Patterson Zoning Board of Appeals hereby ***grants*** the application of ***Fabio Lucas*** for ***an area variance*** pursuant to §154-7 of the

Patterson Town Code; Schedule of regulations, *of 6.5 ft. from the 10 ft. required for a side yard setback* in order construct an attached pool deck 3.5 feet from the side yard property line.

Board Member Bodor: I second.

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

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

Chairman Olenius: Good luck. The weather's warm – you might be able to get it in before the frost hits.

[Laughter.]

Mr. Ferrera: It's gonna be a springtime job, I think. Right?

Mr. Lucas: Yep.

Chairman Olenius: I don't blame you one bit. Thank you and have a...

Mr. Ferrera: Okay...

Chairman Olenius: Happy Holiday. Good luck.

Mr. Ferrera: You, too.

Board Member Burdick: Thank you.

Chairman Olenius: You're all set.

Mr. Ferrera: Likewise.

Chairman Olenius: The Building Department will have...

Mr. Ferrera: *[To the Secretary]* I think he owes you a form, right? Something had to be...

The Secretary: Perfect.

Mr. Ferrera: That was it, right?

The Secretary: Just that signature. Yep.

Mr. Ferrera: Okay.

The Secretary: That's all I needed.

Mr. Ferrera: Alright. Thank you.

Board Member Fox: Thank you.

Board Member Carinha: You got it.

Board Member Burdick: Have a good night.

The Secretary: Thank you.

Chairman Olenius: Thank you. Take care.

Board Member Carinha: Take care.

3. Other Business

A. Minutes: November 17, 2015

Chairman Olenius: No site walk. For the minutes... I read over. I didn't notice anything.

Board Member Fox: Me neither.

Board Member Burdick: No.

Board Member Carinha: No.

Chairman Olenius: Anybody else did? I'll make a motion to approve the minutes from November as presented.

Board Member Bodor: Second.

Board Member Burdick: Second.

Chairman Olenius: All in favor?

Motion passed by vote of 5 – 0.

Chairman Olenius: Any other business?

The Secretary: Not that I see.

Chairman Olenius: Counselor? Are we good?

Board Member Carinha: The schedule looks good?

Mr. Rossi: All good.

Chairman Olenius: Oh, the schedule?

Board Member Carinha: Yeah.

Chairman Olenius: The schedule we adopted last month, though, right?

The Secretary: Yes.

Board Member Carinha: Yep.

Board Member Burdick: Mm hmm. Yep.

Board Member Fox: Has this already been coordinated with the...

The Secretary: The Town Board – we haven't interfered with any of their meetings, so...

Board Member Fox: Oh.

The Secretary: That's set as it is, but, it's subject to...

Board Member Fox: It's subject. Okay.

The Secretary: Like always – subject to change if we need to.

Board Member Fox: Just wondering. Okay. I'll clear my calendar for that.

[Laughter.]

Chairman Olenius: Okay? I'll make a motion to close the public hearing.

Board Member Burdick: Second.

Chairman Olenius: All in favor?

Motion passed by vote of 5 – 0.