

**TOWN OF PATTERSON  
ZONING BOARD OF APPEALS**

*December 16, 2014*

**AGENDA & MINUTES**

|   | Page    |  |
|---|---------|--|
| <b>1) Peter Ruisi Case #09-14</b>                                 | 1 – 2   | Public hearing remained opened;<br>Applicant was not present – Application tabled pending owners of Thunder Ridge filing a Use Variance application.   |
| <b>2) Stephen Tavano Case #19-14</b>                              | 2       | Public hearing postponed until Jan. per applicant’s request.   |
| <b>3) Doreen Fiorentino Case #22-14</b>                           | 2 – 6   | Public hearing closed;<br>Granted – Area Variance for shed to be located in front yard.  |
| <b>4) Scott &amp; Jean Heller Case #23-14</b>                     | 6 - 22  | Public hearing opened;<br>Site walk date to be determined.   |
| <b>5) Other Business</b>  |         |  |
| <b>A) Town Planner: Restaurant Memo</b>                           | 22 - 32 | Town Planner introduced a memo addressing a possible change to the Town Code regarding the definition of a restaurant; topic to be revisited by ZBA at next meeting.                                     |
| <b>B) Upcoming Use Variance Case: Possible Resolution Changes</b> | 32 - 38 | Town Attorney discussed a former case for which the ZBA granted a use variance; Case may come before the Board again at a later date, with changes to the initial resolution conditions being necessary. |
| <b>C) Minutes</b>   | 38      | Minutes from November 18, 2014 ZBA meeting approved.   |
| <b>D) Site Walk</b>   | 38 – 42 | Case #23-14: Site walk date proposed for 1/12/15, with snowstorm date scheduled for 1/13/15.   |
| <b>E) Rescheduling Meeting Date</b>                               | 42 – 44 | Board Member Burdick requested that meeting currently scheduled for 4/15/15 be rescheduled; new date to be determined at next ZBA meeting.   |

**PLANNING DEPARTMENT**

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**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF APPEALS**

Lars Olenius, Chairman  
Howard Buzzutto, Vice Chairman  
Mary Bodor  
Marianne Burdick  
Michael Carinha

**PLANNING BOARD**

Shawn Rogan, Chairman  
Thomas E. McNulty, Vice Chairman  
Michael Montesano  
Ron Taylor  
Edward J. Brady, Jr.

**Zoning Board of Appeals  
December 16, 2014 Meeting Minutes**

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

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

Chairman Olenius called the meeting to order at 7:04 p.m.

There were approximately 10 members of the audience.

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

Chairman Olenius led the salute to the flag.

Roll Call:

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

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

No one was present to represent the application.

The Secretary read the following legal notice:

**NOTICE IS HEREBY GIVEN BY THE TOWN OF PATTERSON BOARD OF APPEALS** of a public hearing to be held on Tuesday, December 16, 2014 at 7:00 p.m. at the Patterson Town

Hall, 1142 Route 311, Patterson, Putnam County, New York to consider the following applications:

**Peter Ruisi (Liberty Paintball Games) Case #09-14 – Area Variance: Held over from the April 16, 2014, May 21, 2014, June 18, 2014, July 16, 2014, August 20, 2014, September 17, 2014, October 15, 2014, and November 18, 2014 meetings**

Chairman Olenius stated it's my understanding that the applicant again requested, um, a little more time to get everything ironed out over there, with the, uh, change in... management, I guess. Not ownership, but management. So, we'll grant – we'll grant that another month.

**2) Stephen Tavano Case #19-14 – Interpretation of Zoning Code**

No one present to represent the application.

The Secretary stated the following:

**Stephen Tavano Case #19-14 – Interpretation of Zoning Code**

Applicant is seeking an interpretation that they are not in violation of §154-10; Separate lot for each building; and §154-52; Continuance of existing uses, of the Patterson Town Code. The Town has determined that the existing accessory building on the property currently being utilized as a second residence does not qualify as a pre-existing, non-conforming use in a single-family, residential zoning district. Property is located at 17 Wesley Road (RPL-10 Zoning District).

Chairman Olenius stated again, with this case we received a letter from, um, actually, the applicant's counsel, um, requesting a – one month to gather their information. We will grant that for another month as well.

**3) Doreen Fiorentino Case #22-14**

One person was present to represent the application.

The Secretary stated the following:

**Doreen Fiorentino Case #22-14 – Area Variance: Held over from the November 18, 2014 meeting**

Chairman Olenius stated okay. Good evening.

Mrs. Fiorentino stated hello.

Chairman Olenius stated just state your name for the record one more time.

Mrs. Fiorentino stated Diana Fiorentino.

Chairman Olenius stated thank you. Did everything go well with your closing.

Mrs. Fiorentino stated no, it was the closing from hell, quite frankly.

[Laughter.]

Chairman Olenius stated I know when we were out there for the site walk...

Mrs. Fiorentino stated lawyers screaming at each other – oh, you had to be there.

Chairman Olenius stated I thank you for, uh – your son was very helpful that day...

Mrs. Fiorentino stated well, good.

Chairman Olenius stated showing us around and everything...

Mrs. Fiorentino stated right...

Chairman Olenius stated and he said it was taking a lot longer than anyone had anticipated, I guess, but...

Mrs. Fiorentino stated that's for sure.

Chairman Olenius stated um, we did take a walk of the property.

Mrs. Fiorentino stated yeah.

Chairman Olenius stated we looked around, um... it was somewhat obvious to me, due to the topography of the land, that there aren't a whole lot of places, uh, to site a shed on that property. Um, we did walk around the back and everything. It was a lot of large stone outcroppings. The whole – the house, the residence itself is sited back on the lot, so there's not a lot of backyard to begin with.

Mrs. Fiorentino stated right.

Chairman Olenius stated um...

Board Member Bodor stated it drops off on the back, too.

Board Member Burdick stated yeah.

Board Member Carinha stated yeah.

Chairman Olenius stated right. There was a slope, too. That's right. It was a little dark but we had a flashlight for looking around. Um...there was plenty of room from the shed to the sideline, it looked like. We walked around there, too, and saw the cable that's keeping it in place from sliding down off the hill, which seemed like a good idea. I really don't have too much more on it. It was pretty...

Board Member Fox stated it pretty much backs up to the – your neighbor's accessory structure, too.... A shed or garage or whatever it is.

Board Member Carinha stated yeah.

Mrs. Fiorentino stated or a combination thereof...

Board Member Fox stated combination of two...

Mrs. Fiorentino stated yes.

Chairman Olenius stated yes.

Board Member Fox stated yeah.

Chairman Olenius stated good point. It wasn't, like, standing out like a sore thumb... and it was well-screened, also. There was a lot of bushes and plantings...

Mrs. Fiorentino stated right.

Chairman Olenius stated around it, and whatnot. Does anybody from the audience have input on this case. I'm hearing none. I'll make a motion to close.

Board Member Burdick stated second.

Chairman Olenius stated all in favor.

*Motion passed by a vote of 5 – 0.*

Chairman Olenius stated okay.

Chairman Olenius read the following resolution.

**IN THE MATTER OF THE APPLICATION OF  
*Doreen Fiorentino, Case #22-14*  
For an Area Variance for an Existing Shed**

**WHEREAS, *Doreen LeViness, James Fiorentino, John Fiorentino, and Daniel & Diana Fiorentino* are the owners of real property located at 281 McManus Road North (R-4 Zoning District), also identified as **Tax Map Parcel #23.10-1-14**, and**

**WHEREAS, *Doreen Fiorentino* has made application to the Patterson Zoning Board of Appeals for an area variance pursuant to §154-27 A(12)(a) of the Patterson Town Code; Permitted accessory uses, in order to legalize an existing 8' x 10' shed, and**

**WHEREAS, §154-27 A(12)(a) of the Patterson Town Code states that accessory structures shall not be located in the front yard; Existing shed is located in front of the principal dwelling, 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 *November 18, 2014 and December 16, 2014*, and a site walk was conducted on *November 24, 2014* to consider the application; and

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

1. the proposed application *will not* produce an undesirable change in the character of the neighborhood *because the shed, in its current location, is very well screened.*
2. the benefit sought by the applicant *cannot* be achieved by any other feasible means *because of the topography of the property and other large rock outcroppings, and...*
3. the variance requested *is not* substantial *because of the way in which the main dwelling is situated to the rear of the lot and the shed is, uh, pushed off to the side as much as possible.*
4. the proposed variance *will not* have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district *because of its small size and, in reality, the length of time that it's already existed in its current location.*
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 *Doreen Fiorentino* for *an area variance* pursuant to §154-27 A(12)(a) of the Patterson Town Code, Permitted accessory uses, to allow the existing 8' x 10' shed to remain in the front yard of the property.

Board Member Burdick stated second.

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

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

Chairman Olenius stated have a very Merry Christmas...

Mrs. Fiorentino stated and you, too. All of you...

Chairman Olenius stated I'm glad it all worked out.

Mrs. Fiorentino stated thank you.

Chairman Olenius stated thank you. [To the Secretary] Fire away.

**4) Scott & Jean Heller Case #23-14 – Area Variance**

Two people were present to represent the application.

The Secretary stated the following:

**Scott & Jean Heller Case #23-14 – Area Variance**

Applicant is requesting an area variance pursuant to §154-15 of the Patterson Town Code; Fences, stone walls, and masonry walls, in order to allow for an existing 12 ft. high fence to remain on the property. Patterson Town Code states that fences shall not be more than 6 ft. in height measured from ground level to the highest point of any portion of the fence. Applicant's fence is 12 ft. in height. Variance requested is for 6 ft. in height. Additionally, the applicant wishes to extend the length of the fence from 74.5 ft. to 165.5 ft. This property is located at 433 Mooney Hill Road (R-4 Zoning District).

*[Editor's Note: the Secretary misspoke – the total length of fence that the applicant is requesting is 156.5 ft, not 165.5 ft; the measurements were noted correctly on documents submitted by the applicants, as well as in the legal notice.]*

Chairman Olenius stated good evening.

Mr. Heller stated good evening.

Chairman Olenius stated could you just stated your name and address for the record, please.

Mr. Heller stated yes. My name is Scott Heller. I reside at, uh, 433 Mooney Hill Road in Patterson. I will try to be brief, however, it is not, and typically I'm not, so, uh... but, I will try to be brief and concise. Um, I've lived on Mooney Hill Road since July of 1988, so for about 26 ½ years. My wife and I have raised all our children there, um, our youngest being 20 years old. Uh, I had never been to a Zoning Board meeting until this September. I've been here every month since. Uh, tonight I'm here to ask you for two variances: one for the existing, uh, privacy fence, and then I'd like to break it into, uh, the one for the... the extension. Um, the loss of privacy, function, and utility caused by the construction of this – uh, the accessory building – at 425 Mooney Hill Road will be, you know, how... how I'll focus the extension on. Um, the other – the other length of fence was actually, uh, put up probably 10 years before. So, I'll go through and do the section – the first section – uh, the one where I'm asking for, uh, a variance for an existing violation.

Chairman Olenius stated that's been there – I'm sorry, that's been there 10 years, so – about?

Mr. Heller stated yes, 10... approximately 10 years.

Chairman Olenius stated okay.

Mr. Heller stated yep. I'll try to keep it brief, but, as I said before, I want to lay out the facts before you, so you can make an informed judgment. Because it's an existing violation, as you probably know, I've already – I've been, at least partially, punished for my crime, um, because the fees have doubled. As you recently walked the property – and I think that gives us a little bit of a leg up, because you've already been out to the house...you've seen the fence, you've seen the, the topography – uh, you have a good idea of the layout and topography that makes the properties on that particular stretch of Mooney Hill Road somewhat unique. The plots are really quite narrow. Uh, the two adjoining plots – mine at 433 [Mooney Hill Road] and the Romans at 425 [Mooney Hill Road] – are approximately 155 feet wide at Mooney Hill and as they go to the rear they narrow to about 120 feet [wide]. So, the plots are – are particularly, what I would consider, narrow. Uh, Mr. Roman's ascends quickly as you travel from east to west up Mooney Hill. Um, I'm trying to give you the direction of the slope... a 6 foot [tall] privacy fence is adequate, um, on most plots, however, when a property ascends – and I can back this up with the, um, some of the documentation that was submitted for the earlier, uh, I think the earlier variance and violations and things like that... so, we already have some heights that are set there, and we can understand a little bit about the slope of the land – so, when I say that it ascends as much as 6 feet in as little as a 90 foot span, there's some documentation to support that. Um, so a 6 foot fence affords little privacy. When a deck was added to, uh, 425 Mooney Hill – this is many years back; this goes back probably around 2000, 2001 time frame – um, much as mine, the deck starts at 3 feet on the western side, and then, as you walk to the eastern side of the deck, you're 6 feet off the ground. Um, so a 6 foot [tall] guy, such as myself, standing on that deck is now walking 12 feet in the air. A 6 foot privacy fence doesn't afford any privacy, so that's the point I'm trying to make. A 6 foot privacy fence in many situations is... it gives you privacy. In this particular case, because of the slope of the property, uh, it does not afford privacy. So, uh... I didn't, however, just throw the fence up. I consulted with my neighbors, uh, the then, current – uh, the neighbors at that time were Gloria & Mike Denalis [sic]. Uh, Lori is nice enough to be here tonight, and can tell you the – uh, or corroborate – my story as how I approached it. Uh, Lori still resides here in Patterson, and was kind enough to come out this evening. Um, she also has provided a couple of photos of the shed that I'm going to use when we talk about the second variance. Um... when, when I spoke to the Denalises about putting the fence up, the general agreement was it provided as much privacy for them as it did for me, and, basically, uh, they were advocates for me putting it up, rather than – so there was no problem with that. So, I'm going to flash forward a little bit. Um, when they sold the property to Mr. Roman, as far as I know, it was never an issue. Um, I did discuss that issue – the fence – with Mr. Roman in 2000, was it 2000... God, what is Superstorm Sandy. What is it. 2010. Well, to make it quick, uh, after Superstorm Sandy, I lost a series of trees that transversed [sic] our property line. Um, one of them crashed through the fence and hit his deck. So, uh, I approached him about splitting the cost of one of the remaining trees that was healthy, and I was afraid it might hit his house. We'd split it, but would he be okay if I extended that fence by another 12 feet. And his comment to me basically was he didn't have any problem with it, and that his – and I remember this vividly – he said: I don't really want you to see me on the back porch in my underwear, so, I sort of remember those things. So, again, uh, the two neighbors that had been there since that fence was erected had no problem to my knowledge, or at least in conversations with me. So, that's really where I'm gonna go on the, the first stretch of fence. Um, did you have any questions or additional detail that you would need from me. Do – I have plenty of photos.

Chairman Olenius stated the fence has been in there approximately 10 years, you stated. How is a fence that tall supported.

Mr. Heller stated um, what are they. 8 x 8s. I'm, you know, I'm not in the trades...

Chairman Olenius stated okay.

Mr. Heller stated you know, um, but it's, you know, it's, um, it's cedar, you know, uh, cedar. Very sturdy. I mean, the – they're huge posts. Um...

Board Member Bodor stated are they sunk in cement.

Mr. Heller stated yes. Yeah.

Board Member Bodor stated and for some depth, then. I mean 12 feet is quite high in the air.

Mr. Heller stated it is. It is. Um, they are – yeah, they're... I think they're 8 x 8s. They sunk them very deep. There's, I mean, they're incredibly strong. I mean, you certainly – again, you're welcome to come – you can't move these at all. They were really well done. Um... I never even considered that, you know, as, uh, as an issue. Um, you know, over time, maybe the... the fence itself – the... the, uh, slided fence – may have to be replaced in spots, you know. Vines will grow it between it and things like that, but...

Board Member Bodor stated what are the panels. Are they vertical, or...

Mr. Heller stated yeah.

Board Member Bodor stated they're vertical...

Mr. Heller stated and – and the nice side faces the neighbor, so...

Board Member Bodor stated and they're cedar.

Mr. Heller stated yes. Well, here, let me... I took these photos for a reason, so... So, this was the picture...

Don Rossi stated no, pass – we'll pass them around.

Mr. Heller stated this is a picture – oh, I'm sorry...

Don Rossi stated I'll catch it...

Mr. Heller stated sorry, this is a picture actually taken today.

The Secretary stated is it okay if I hold on to anything you submit...

Mr. Heller stated sure.

The Secretary stated just to – if you need copies, we can...

Mr. Heller stated yes, everything's digital...

The Secretary stated okay.

Mr. Heller stated yes.

Mr. Rossi stated yeah...

The Secretary stated okay.

Mr. Rossi they should be kept in that – in the file.

Board Member Bodor stated now these panels are 12 feet, one piece...

Mr. Heller stated no...

Board Member Bodor stated or are they...

Mr. Heller stated no, you take, uh...

Board Member Bodor stated panels on top of each other.

Mr. Heller stated they're like – yes. Yes, exactly.

Board Member Bodor stated 4 – probably 4 feet high. 3 panels.

Mr. Heller stated yeah. They could be – I think they used 6 footers...

Board Member Bodor stated and then...

Mr. Heller stated you know, and then, yeah, and then... you know, maybe two 6 footers...

Board Member Bodor stated okay.

Mr. Heller stated but you have to slice – either invert it or slice – the, you know, the... the stockade piece off, right. So it's got to be flat, right, to put them together.

Board Member Fox stated that's right, there's two sixes. Okay, so [inaudible – speaking away from microphone]... let's say it's two sixes, because you can see the joint at the top.

Chairman Olenius stated okay.

Board Member Bodor stated okay.

Chairman Olenius stated so the initial purpose of the 70... I'm just going to say 75 foot section – I know there's feet and inches involved – was for deck privacy.

Mr. Heller stated no, it was actually privacy for – maybe from their deck – but it was privacy around my pool, so...

Chairman Olenius stated okay.

Mr. Heller stated so, the reason I'm asking for an extension: because beyond that when we look at – at photograph #64 here, um, we'll see that – that, you know, there was nothing in the area where the forsythia is to – in fact, the photo that I've given you actually, uh, points this out. [To the Secretary] I'm sorry, if I can refer back to that... so in other words, there was – the 10 foot, 12 foot forsythia was adequate to provide privacy because there was no structure back there. Now, we'll talk briefly about that, because there was an indication in the October minutes that it replaced an existing shed. While that's true to some extent – it was a, a shed that was 10 feet tall and, you know, was 275 square feet, and so we have some photographs to support that – you know, we'll actually see... um, but, I was trying to keep these two separate, because you can strike me down on one and not the other. Or strike me down on both, right, so I wanted to kind of keep the issues separate, um, because there's different documentation that I would provide for each. But, at that point, that was adequate to provide privacy around the swimming pool.

Don Rossi stated keep – if I could, Lars – just keep them out, because they'll be part of the public hearing...

The Secretary stated yes.

Don Rossi stated if any of the people in the audience was to see it...

The Secretary stated yes.

Don Rossi stated they'll be handy for us.

Chairman Olenius stated I'm sorry, the way this was read in, it doesn't appear to be two...

Board Member Bodor stated no...

Chairman Olenius stated it appears just to be one application...

Mr. Heller stated uh, it is one application, but I thought that I broke it out... I have to refer to my letter here...

Chairman Olenius stated it was really just for fence height.

Board Member Burdick stated yes.

Mr. Heller stated yes, so, the way I put it in the letter to the town:

*Dear Mr. McCarthy,*

*I am in receipt of your letter from the office today (Notice of Violation – Order to Remedy) regarding a fence on my property measuring more than 6 feet in height. I hereby request a variance for the fence height (12 feet at the highest point, as outlined in the notice), and request that the variance extend to accommodate an additional 75 feet of fence to remediate privacy issues resulting from the recent construction on an adjacent property.*

Chairman Olenius stated you – the Code allows you to put a fence in, it just doesn't allow you to put a fence in that high, so, really, the only variance you're seeking is for the additional height.

Mr. Heller stated yeah, but this one – I'm, I'm coming to you first, right, rather than, uh, asking for a, you know, an apology and seeking, uh, forgiveness.

Chairman Olenius stated oh, I see. [To Don Rossi] Wouldn't... if a variance was granted for fence height, it would only be for existing, it wouldn't go for new...

Don Rossi stated what – no, you could grant a variance for a new, also, uh, that might permit...

Chairman Olenius stated it would have to be two separate matters, though...

Don Rossi stated well, I think – the letter to the building inspector is the request of the building inspector that ultimately resulted in his denial...

Mr. Heller stated right...

Don Rossi stated from a...

Mr. Heller stated that's correct...

Don Rossi stated from a little – this board acts on a petition to them, so it's not so much the letter to the building inspector that forms the part of the record that the board acts on. It's your petition. So, I'm just going to turn to that for a second and see exactly how that reads to see if, in effect, what you requested was in the alternative, or afford – for the board to consider to separate fence height variances. Okay, so... which I – from reading it, and... from reading it today, I don't think it was done that way, um, so there could be a technical issue with regard to the underlying petition, and while we don't like, oftentimes, to have form over substance, we did – it is the record that if, uh, this matter is ever reviewed by a court, for example this is the... this is the basis. So, we have to be very particular as to how the request is. Um... I think there's also some flexibility on the board's part if the variance request is for a, what, 100 foot section of fence – I don't know if that's exactly it – but, the board could grant a lesser variance than requested, also. So, I think you probably do have the flexibility to do it. But, what's... what's important and what – again, form over substance – if the matter is noticed in such a way that it reads as if it's only a variance for the fence height overall and doesn't ask for a reduced one, there might be some concern on the board's part as to whether to actually vote on this without having that amended.

Board Member Burdick stated [inaudible; speaking away from microphone]...

Chairman Olenius stated yes.

Board Member Bodor stated but this is [inaudible – speaking away from microphone]...

Don Rossi stated so... and I – what I have in the application is privacy – privacy fence and extension is the one request that's in paragraph one: maintain privacy around pool and backyard and mitigate privacy and property value loss. Additional fence height required to compensate for grade fence height. So, I, uh... if you look at it as having requested the height fence – height

variance – for the entire fence, I – I, quite frankly, am thinking of it here – I think you do have the authority to reduce the extent of the variance requested and grant a lesser variance.

Chairman Olenius stated okay.

Don Rossi stated so, if you wanted to grant the fence height variance for a shorter stretch of fence, I think you're able to do that.

Chairman Olenius stated okay.

Mr. Heller stated okay. Just for clarification for me, um... because I would be okay with them ruling on the existing violation, which is time-based, right. So, I have a certain amount of time to remediate that. Whereas the other request is really part of my Plan B, right, to, you know, because I'm not – the ground's going to be frozen. It's very likely this isn't going to happen in, in January. I would be amazed if it happened in January. But, and as long as I'm here before you, um, it seem – and the, uh, in an effort to be efficient, um, and they're connected, and everybody is familiar with the case – it seemed, to me, expedient, if not, uh, technically correct, to request them in one, you know, in one meeting. So, um, you know, I'll defer to the board...

Don Rossi stated yes.

Mr. Heller stated and to the legal authorities on which way to go about it. Um, one is, I think, more pressing than the other because, as I said, um, the other one is a plan... is a Plan B at some point in the future – probably in the Spring – to address that one, along with, you know, tree planting and things like that.

Chairman Olenius stated I – I agree with you. That's kind of why I brought that up. I'd kind of rather get the whole thing nailed down as... as one piece, but... on the other hand, to do that... I don't deny that we were out there. But, when we were out there I really wasn't taking a lot of notice of the fence. I mean, I looked at it, um...my – I'm just speaking for myself – my biggest concern now is the requested additional length. I kind of... I'm unfamiliar as to where that lands...

Mr. Heller stated I understand.

Chairman Olenius stated from looking at this [referring to submitted survey].

Board Member Bodor stated yes.

Mr. Heller stated well, I will say, Mr. Chairman, that at least that indicates it blends in fairly well – the existing piece of fence – if you didn't notice it. So, it doesn't produce an eyesore. Um, that said I understand if you needed to do another, uh, walk of the property to look at it from there. Essentially, though, the picture – you know, a picture's worth 1,000 words, but not necessarily worth going to look – the same as going and looking at it yourself...

Chairman Olenius stated yes.

Mr. Heller stated um... but, it does – it does show where the structure now is placed. It's a... we all know is a concern. I mean, other than this came in as an 11 inch – or, excuse me, a 9 inch

variance – um, and 4 out of the 5 board members... I'm not picking on you, Chairman – Mr. Chairman... but, uh, you know, found that... that, even at 9 inches, um, this was a significant imposition, so... so, it's justified, but I completely understand that you'd want to see does it justify that length, right. Am I – am I going too far with it.

Chairman Olenius stated yes, that's, really, in my mind's eye, what I... I don't know. That's what I was trying to visualize.

Board Member Bodor stated I'll agree. When we were there, yes, the fence was there. However, the picture that you have shown us today makes it much more evident that it's there. There was still some natural screening...

Mr. Heller states yes...

Board Member Bodor stated at that time...

Mr. Heller stated that's true. That...

Board Member Bodor stated there were leaves – some leaves...

Mr. Heller stated the cherry tree was still on there...

Board Member Bodor stated exactly...

Board Member Burdick stated yes.

Mr. Heller stated absolutely...

Board Member Bodor stated so it kind of, you know...

Mr. Heller stated yeah, it, actually, that tree holds its leaves a lot...

Board Member Bodor stated it softened that look.

Mr. Heller stated yes.

Board Member Bodor stated right now, it's a fence. Definitely a fence...

Mr. Heller stated yes.

Board Member Bodor stated and I'd like to see how much further – I... I can look at numbers here, but visually I'd like to walk it and see, you know, here's a stake, and now I know it's going to be as long as this room, or whatever it is added on...

Mr. Heller stated yes, I understand.

Board Member Bodor and that height. How that's going to look at that point, too, because that land back there is pretty much vacant other than, uh, the shed...

Mr. Heller stated yes.

Board Member Bodor stated you know, there's nothing there, pretty much. A few trees, a few shrubs. But, how stark is a 12 foot wall going to appear. That's my thought.

Mr. Heller stated I understand.

Chairman Olenius stated does anybody else from the audience have a comment on this matter.

Mr. Roman stated how's everybody doing tonight.

Chairman Olenius stated can you just state your name for the record, please, one more time.

Mr. Roman stated yes. My name is Lou Roman. I live at 425 Mooney Hill Road.

Chairman Olenius stated thank you.

Mr. Roman stated thank you. I'm here to talk about the situation between me and my neighbor, um, Scott Heller. Uh, everybody probably thinks that I'm here for something else tonight, but I couldn't agree more with everything that he said tonight. I'm not here in any form or means to oppose what he's looking to do or the variance that he's seeking for. This board already came out and looked at the situation that we have. That 12 foot fence that separates my property from his, in my opinion, is very important, because it's the only privacy that we have between my deck and his house when Scott and his family are having dinner outside, and I'm doing a barbeque or something. I'm going to read from a script just so that I don't get lost, but... what's going on here – it's a bit unfortunate. I don't know how we came to this point, again, because I'm not a confrontational person, and, um... again, I'm not here to oppose the variance in any form or way. I don't know how in God's name we came in this, you know, into this situation. The fence that is there should remain the way it is, since it allows us privacy, and I don't see any reason – I don't see any reason to object to it. And I don't see this man or his family going through the expense of taking it down, uh, for the sake of privacy. I think our main issue where we live – and, again, this board came out to inspect this job – is the, uh, topography, geography, and the location of where we live. We live – whether we like it or not – we live on a steep hill. I have a family just like he does. I like going on my deck in my underwear to use my Jacuzzi, and I don't want to be seen by him, his family, or Lori Denali, alright. I just – I'm not that type of person, I'm not into, you know, I'm not into those games. Uh, what the situation that he was talking about... with the additional 75 feet, is for the, uh, forsythia bushes, whatever you call them, that extend to the right of this particular fence, uh, and I would imagine – and this is just an assumption, and if I'm insulting anybody I apologize – I'm imagining that Scott might think that I'm going to eliminate the bushes, and that would really wipe out his privacy to his pool. So, the fence there also would be a great idea. I think it would be a great idea, you know, if the board would come out and revisit the site, okay, because it would prove, you know, what this fence offers both to him and to me. He had come to me previously during the Sandy situation. The tree did take out a chunk of the fence. We agreed to fix it. I had no objection to that, and, uh... the fence shakes. You know, when you get a storm like Sandy it's going to shake, but it's, you know, it's held its own. It's not going anyplace, so, I really would like the board, you know, to, um, reconsider this, and see how we can resolve this matter. Evidently, he's been there for 28 years. I am in Putnam County myself for 25. I think I'm in this – in the house now approximately, um, 8 years. I don't think that Scott can say that I'm confrontational. I'm not. It's all approach, and, uh, for the most part we live in a pretty

quiet neighborhood. I think all neighbors, for the most part get along, and, you know, with this board, I hope that he gets what he wants, because I think it's important. I think a site through [walk] would be very important, and with that being said, I would like some consideration from this board. If you guys could please help me out, to please, um, reconsider my 9 inch height variance [Case #16-14]. I had gone back to the town to ask how I could go about that, and if it would be inappropriate to mention it. Okay. I would love for you guys to reconsider my case based on what's happening here tonight alone. That, if I came here and acted like a different type of neighbor and asked for that fence to be removed – which 12 feet is a definite violation – it would take away a tremendous amount of privacy from us. So, again, I'm not here for any, you know, confrontation. I want this man to get the variance, but at the same time I would like this board to, at the very least, reconsider helping me out, uh, with me... with my 9 inch variance. I had applied for 20 feet 4 inches and I came in 19 foot 7 [inches], which is a small height difference, but it's important to my structure, you know, and I don't think that I... I took the time to make it clear why, and this is not the night for that, because this is not, you know – this is not my night. This is his night. But, I would like to know, what is the procedure to ask this court to reconsider opening my case and possibly taking a look at it. Other than that, putting that aside, I would love for Scott, my neighbor, to get...

Don Rossi stated I think... I...

Mr. Roman stated to get the variance.

Don Rossi stated I'm at a bit of a loss, because I don't regularly sit with the board, but, there should definitely be a method for you to reapply to the board.

Mr. Roman stated I would...

Don Rossi stated the board can't...

Mr. Roman stated I would appreciate that.

Don Rossi stated the board cannot, uh, consider it tonight...

Mr. Roman stated no, sir.

Don Rossi stated because they don't have a matter pending...

Mr. Roman stated yes.

Don Rossi stated but, there are a couple of options available. One would be a reapplication. I know there's – subject to checking and confirming – a reapplication, or even, potentially, a board member could move the board to reopen consideration. So, I think that's something for you to be in touch with Mary [Schartau, the Secretary], and certainly our office also. Uh, we're the town attorneys, and, uh, we'll – if the board is of a mind – we can...

Mr. Roman stated much...

Don Rossi stated have that reconsidered...

Mr. Roman stated much appreciated...

Don Rossi stated you have a...

Mr. Roman stated there's a couple of – couple...

Don Rossi stated right to reapply.

Mr. Roman stated okay. A couple of pictures here that I want to point out, and possible leave with the, uh, Zoning Board of Appeals referencing Scott's property. Um, this – may I step up a little bit.

Chairman Olenius stated yes.

Mr. Roman stated this is the 12 foot fence that he has. Where he's looking to put the 75 feet would be over here...

Chairman Olenius stated okay.

Mr. Roman stated which would give him the privacy, at least... at least for his swimming pool. They were not... I... these are all pictures from when we had that case in the past couple of months, but this is my swimming pool. Right behind this fence – you can't see because of the trees right now – his house and his whole deck sits behind that fence.

Don Rossi stated same one.

Mr. Roman stated yes, pretty much...

Don Rossi stated are they the same pictures.

Board Member Carinha stated thanks.

Mr. Roman stated yes. You can keep those.

Chairman Olenius stated okay.

Board Member Fox stated you take this fence [inaudible – speaking away from microphone]...

Board Member Carinha stated yes.

Chairman Olenius stated yes, that works. It does look a little different with the greenery...

Board Member Carinha stated yes.

Chairman Olenius stated and the screening [inaudible – speaking away from microphone]...

Board Member Bodor stated yes.

Board Member Fox stated what.

Chairman Olenius stated it's a lot different with the greenery on the...

Board Member Fox stated oh, sure.

Mr. Roman stated very.

Board Member Fox stated yes.

Mr. Roman stated very. I'd also like to mention in good faith, and I think Scott can attest to this, when I received the letter I think a week ago – whatever it was – during the course of this past week, I gave him a phone call, uh, to talk about this, because I'm sure he didn't think that this is – that I was – I don't think anybody expected me to come up here and kind of, sort of, you know, push for him to get this variance. [To Mr. Heller] But, that was the reason for my phone call, sir. [To the Board] Okay, thank you...

Chairman Olenius stated thank you very much.

Mr. Roman stated Mr. Chairman...

Board Member Carinha stated thank you.

Mr. Roman stated the Board...

Board Member Fox stated thank you.

Mr. Roman stated Scott. [To Don Rossi] Thank you, sir.

Don Rossi stated yes.

Mr. Heller stated okay, well, I'm going to feel like the Grinch here. Um... sorry, I've got to be in front of here... um, I said I'm going to feel like the Grinch here. Um... I think that's fine if they want to reopen it, but, what I would formally request is that a neutral party do the measurement, the elevation. I had a conversation with Rich Williams, uh, this week – this past week – which did not go particularly well. Where... I basically went and reviewed the elevation document, and found that it was flawed, to say the least. Uh, there are two things that the Town Code specifies regarding height. One is that it be an average, and I think we all know that in order to have an average you'd have more than one data point. There's only a single data point on the elevation. The other piece is the highest, uh, side is the only side that you consider. There's no averaging. There's uh – I have a very long dissertation that I'd be happy to go through.

Board Member Burdick stated this is...

Don Rossi stated is this on the fence, or on the shed.

Board Member Burdick stated no, this is on the shed.

Mr. Heller stated this is – this is on... on the height. And I'm only – I'm not reopening the case...

Don Rossi stated yes.

Mr. Heller stated because I can't. But, what I can speak to is my request for the fence is partially to offset the fact that the building is too high. So, Rich Williams looked at me – I am under oath – and said: You're right, but the case is closed. So, if it gets reopened, it gets remeasured. I think... I'm going to share with you a photo... and, I think the best way to do this – and I'm sorry, this is... sometimes it's a little difficult to work up here, okay. This is the elevation that was done. Do you want me to hang it up over there... would that help. Okay, this is the elevation that's done. The highest elevation on this side is the east side of the house. The highest elevation on here should be the east side, yet it's taken on the north side. Gentle reminder – the north side is the one with the garage door, so the slope is built up to the garage, okay. It can't be. Mooney Hill – here's a picture – Mooney Hill, as you know, ascends from east to west. So, if you build a level structure on that hill, okay... the hill is coming up like this. It's not the west side, and, in fact, if you read the notes – you read the last... it would be September's minutes – and I can give you the exact reference. Bob [McCarthy, Building Inspector] says he measured the west and the north side. The west is the lowest side. It's simple. This is really quite elementary, okay. So, they took the wrong side...

Board Member Burdick stated Lars, we should...

Mr. Heller stated and they didn't take the average.

Chairman Olenius stated this is... we're getting...

Board Member Burdick stated this is...

Chairman Olenius stated really off track here...

Board Member Burdick stated this is...

Board Member Carinha stated we're still trying to...

Mr. Heller stated well, I'm...

Board Member Carinha stated this is...

Chairman Olenius stated this is about the fence tonight.

Mr. Heller stated but, what I – what I'm saying is, this is – but, I have all the documentation. It's all...

Don Rossi stated yes, it's more than...

Mr. Heller stated it's all there...

Chairman Olenius stated it's not pending.

Don Rossi stated it's more than that, though. It's technical – it's technical rules that the board goes by. They're having a public hearing on your fence height application, not on the shed. If Mr. Roman elects to reopen it, you'll have plenty of opportunity to comment on it.

Mr. Heller stated okay. Okay.

Don Rossi stated also, I – also, one other thing. You mentioned having a neutral party measure it. The board – the board does not do that type of work for applicants or for objectors to projects. If you... you're going to have somebody measure it other than yourself and explain it, you – you have to hire someone or have some expert-type testimony for it. I mean, uh, I just... you can testify to it yourself, but, in your testifying it – to it – the board might give it different weight than a... a surveyor or someone who would...

Mr. Heller stated huh.

Don Rossi stated do that type of thing. So...

Mr. Heller stated alright.

Don Rossi stated just bear that in mind. It's not – it's not a matter of just laymen's measurement on these things. Okay, so... and the board really does have a, uh, an ethical and procedural, uh, roadblock to hearing testimony about another application that's been closed and not reopened...

Mr. Heller stated right...

Don Rossi stated okay...

Mr. Heller stated and that's why I was very...

Don Rossi stated because it's not...

Mr. Heller stated and I...

Don Rossi stated it's not what it sits here for...

Mr. Heller stated I respect what you're saying...

Don Rossi stated because you...

Mr. Heller stated and I'm only introducing it here as justification for my putting up, uh... asking for a variance...

Don Rossi stated yes.

Mr. Heller stated and I was very careful about this and thought about it, you know...

Don Rossi stated yes.

Mr. Heller stated I understand. It's for – it's a closed case. But, if I know that, the, perhaps, that, uh, elevation is flawed, it would... it could carry some weight in my request for the variance.

Don Rossi stated okay.

Mr. Heller stated in other words, it's not 9 inches over. Maybe it's 29 inches over, and in which case...

Don Rossi stated oh.

Mr. Heller stated I need some, uh, capability – some way of addressing or mediating my financial loss as a result of however that came to be, okay. And I'm insinuating it was, uh, sinister, or... but it was incorrect.

Don Rossi stated okay.

Mr. Heller stated alright. It was – it was done incorrectly... substantiated by Rich Williams. I'm under oath, you know. He said: you're right, it's wrong, but it's closed. Got it.

Rich Williams stated wait, wait...

Mr. Heller stated I, I...

Rich Williams stated let's – wait a minute. When you're going to start talking for me, then I'm going to stand up. I explained to you the procedure for doing that. I told you at the time that I had not reviewed it. I am not getting in the middle of this and I am not saying it's 9 inches high or 29 inches high. I explained to you the section of the Code, and that's all I... that's all I've done on this...

Mr. Heller stated you said: you're right, you know, but it's closed. And... and I remember that very specifically. Okay, so – and I only mention it as part of my rationale for asking – I'm not in the trades, but I can read and I have caught a number of discrepancies, okay. Um, just being able to hit Control-F on a pdf file and going through and reading, okay. I, uh, I... you know, you should probably know by now – and I'm not going to take this lying down – how serious I am about this. I think it talks about good governments, governance. It talks about our faith in the system. Okay. I was very pleased with what the board found, but I don't think all the data that the board was supplied with was necessarily accurate. And I'll leave it at that.

Chairman Olenius stated okay. Anyone else have any comment on this case. Okay, hearing none. We're going to schedule a site walk for this, so we'll table this until the next, uh, January meeting.

Don Rossi stated does the...

Chairman Olenius stated the secretary will be in touch with the date...

Mr. Heller stated sure...

Chairman Olenius stated once we come up with one...

Mr. Heller stated that's fine.

Chairman Olenius stated because it's kind of tough to get one this time of year, but...

Don Rossi stated and, Lars, just because I'm not familiar with the process, you table it but leave the public hearing open, right...

Chairman Olenius stated correct, yes...

Board Member Bodor stated yes.

Chairman Olenius stated yes.

Don Rossi stated great.

Chairman Olenius stated just until we have the site walk...

Don Rossi stated I know. Great. Just...

Chairman Olenius and we can reconvene...

Don Rossi stated yes.

Chairman Olenius stated in January. We can do the date now, since, uh...

Board Member Fox stated the sixth...

Chairman Olenius stated January 21<sup>st</sup> is the January meeting, so... it is a Wednesday. Yes. This is an odd one.

Mr. Heller stated okay. I – I may, uh, make my wife the surrogate for this. I'm probably going to be in Ann Arbor. I have some work I'm doing for General Electric and it's out of their technology center. So...

Chairman Olenius stated as you heard before...

Mr. Heller stated the flights are a little pricey out of there right now, so...

Chairman Olenius stated as you heard before, you have every right to – I mean, we've have plenty of requests to stay, you know, one, until the following month...

Mr. Heller stated I noticed a couple...

Chairman Olenius stated if that works better for you...

Mr. Heller stated yes...

Chairman Olenius stated you know...

Mr. Heller stated yes...

Chairman Olenius stated so, you have every right to do that, as well...

Don Rossi stated and it also relates to the pending violation, because, my understanding from looking at the file is that you're – the violation – the... any enforcement proceeding on it is stayed while you have this application pending. So, the time frame...

Mr. Heller stated okay. That's good...

Don Rossi stated that might have been – if you saw, if you saw time frames referred to in Notices to Remedy or anything like that, that is stayed once this application is put in.

Mr. Heller stated okay. Yes, I will be doing a fair, you know, a fair amount of traveling, so...

Chairman Olenius stated okay.

Mr. Heller stated but, yes, you know, Jean [Heller] can certainly fill in for me, or, you know, if we can... you know, if we can put it off until February, that would be great.

Chairman Olenius stated that would be – that's entirely up to you. You know what I mean, once we...

Mr. Heller stated I love putting things off, so...

[Laughter.]

Chairman Olenius stated once we've done the site walk, we'll, uh... we'll be back. Well, we'll be in touch for the site walk and then we can make a decision at that point, because that, more than likely – the time of the month that it is now, it isn't going to be until January. The site walk's not going to be until sometime in January.

Mr. Heller stated it's very likely there... last year in February you wouldn't have been able to get back there.

Chairman Olenius stated yes.

Mr. Heller stated um...

Chairman Olenius stated I remember.

Mr. Heller stated and let's hope that doesn't happen.

[Laughter.]

Mr. Heller stated thank you for your time. I do appreciate it.

Chairman Olenius stated no problem.

Mr. Heller stated sometimes I get a little animated, but, uh, I do appreciate your time...

Chairman Olenius stated yes.

Mr. Heller stated and your... your sincerity with my issues.

Chairman Olenius stated okay.

## **5) Other Business**

### **A) Restaurant Memo**

Chairman Olenius stated alright. We're down to Other Business already.

Board Member Bodor stated yes.

Chairman Olenius stated Mr. Williams. You want to take the floor for your other business...

Rich Williams stated sure.

Chairman Olenius regarding the restaurant memo.

Rich Williams stated sure. So, this has been referred over from the Town Board. They are wrestling with an issue, uh, regarding restaurants and what an – what activities can and cannot be conducted at a restaurant. Uh, this has all been, uh, precipitated by a situation over in Putnam Lake where we had a restaurant that was an Italian restaurant, take-out food. It was sold off... uh, the new owners opened a barbeque place. They do a lot of smoked meat there. They smoke, uh, for extended periods of time. The neighbors are unhappy about the fact that the, uh, restaurant has changed to a barbeque place, um... they made it – they raised a number of issues. Uh, some of them are very legit... um, and that's, uh, caused the Town Board to look at both the definition of restaurants, and also, um, looking at ways to put better triggers within our Code for review of commercial, uh, uses that, um, may potentially impact, you know. Especially on, uh, where there's adjacent residential properties. So, I drafted up something very quickly, um, which has been circulated to both the ZBA, the Planning Board, and the Town Board, um, as far as a potential change to our Code. In addition, we're looking at the definition of restaurant. I've provided a number of other definitions from various locations on, uh, how they define restaurants... so, you know, we're looking at, you know, any recommendations the ZBA may have on both the potential Code change and the definition of restaurant, um, to, uh, further clarify what the, you, what may or may not be permitted uses at a restaurant.

Chairman Olenius stated what would – what triggers the town now to know, other than... if I was to buy that restaurant right now...

Rich Williams stated right.

Chairman Olenius stated how would you know. What triggers you to know at that point, because doesn't the Health Department... that's like a county-level thing, too.

Rich Williams stated the county-level... yeah, the Health Departments would get involved because you need an operating permit for food service. [To Board Member Burdick] Correct, right.

Board Member Burdick stated correct.

Rich Williams stated um, but on the town level, there are no triggers if you were just going to buy the restaurant and operate it in the same manner, except for the fact that you may want to change the name or the sign.

Chairman Olenius stated okay.

Rich Williams stated so, we would know if the – you know, a sign permit comes in. Typically, the trigger, though, is you're going to make some renovations to the restaurant. You're going to be talking with the Building Department about whether a building permit is needed, and often a building permit is needed. So, the Building Department takes a look at it. They make the initial determination. If there, you know, if there's no real change of use, then, you know, they proceed onward. Um, if there is a change of use, there's a provision within our Code that it gets referred back to the Planning Department. We have to take a look at it for any potential impacts it may have to the site improvements, um, and if there are changes that are needed to the site improvements to support the business, then it gets kicked back to the Planning Board.

Chairman Olenius stated okay. I was just curious what...

Rich Williams stated yes, and... and the problem is, you know, as we're going through this – and in this case in particular, it was a restaurant – the continued use was going to be a restaurant. There's no change in use, so there was no real trigger for further evaluation, um... you know, having thought about it, there could be all sorts of ramifications. Mom and Pop little breakfast place in Putnam Lake has been operating for 20 years. Now somebody wants to come in and put in a 24-hour truck stop restaurant. It's still a restaurant, so technically there's no change in the use, but – and so, there's no trigger – but, still, there's a huge impact to the residents.

Board Member Burdick stated yes.

Chairman Olenius stated yes.

Rich Williams stated so...

Chairman Olenius stated I see...

Rich Williams stated so, that's what we're looking to do is plug up this... this hole that we have in our Code.

Chairman Olenius stated some of – when I read this memo, too, a lot of the pieces in here, um, just have little things like, uh, where less than 50% is take-out... how do we monitor that. Like, it – if it becomes 75% catering and 25%... I mean, how do...

Rich Williams stated always... always difficult. Are you doing it on economics, you doing it on volume of food. You know, how do you do it.

Chairman Olenius stated yes.

Rich Williams stated you know, at some point...

Chairman Olenius stated I'm just wondering, how we end up policing this in the end...

Don Rossi stated you...

Chairman Olenius stated once its...

Don Rossi stated you end up interpreting what's going on...

Chairman Olenius stated yes.

Rich Williams stated yes.

Don Rossi stated it comes to your board, probably, to take a look at....

[Laughter.]

Rich Williams stated to date, we haven't had a – had a need...

Chairman Olenius stated yes.

Rich Williams stated you know. Um, when there's need, we're going to come up with a method.

Don Rossi stated yes.

Chairman Olenius stated okay.

Don Rossi stated and it – this came about because of complaints with regard to odors. But, any... just as Rich has said, you can – a restaurant can still be a restaurant, but suddenly it's more of a night spot, so people are, uh, you know, there a lot later. The business suddenly takes off, and the parking is no longer adequate, so the – I think one of the key aims is to eliminate, uh, any confusion under the Code so that when a new owner comes in to operate, the Planning Board will have an opportunity to look at it and assess it, and, um, it's a... could be a potential problem, I'm sure.

Chairman Olenius stated it kind of holds suit with the previous tenant of that space, where they went now... kind of in light of what you said, where it was a day – a day thing. Now it's becoming a real night hotspot, you know...

Rich Williams stated yes.

Chairman Olenius stated I notice when I drive by, and that was... the previous where that was... was vacant for how many years...

Rich Williams stated you know, you would drive by all the time – who whole lifetime – and I never knew it was open...

Chairman Olenius stated yes.

Rich Williams stated you know, and people would tell me they got great pizza out of there...

Chairman Olenius stated yes.

Rich Williams stated I never knew they were selling pizza out of there, I used to hang out in the Lake for many, many years.

Chairman Olenius stated right, and now you can't miss it [laughter]...

Board Member Fox stated right. No, definitely not. Um, I get – I know that we're going to... the goal of this is to look at the big picture, um, but I guess me question, not really knowing the full history of that particular site... when it was Zegarelli's, um, before it changed over to the barbeque place, it was still considered a restaurant and not a fast food establishment based on the definition that was in the Code.

Rich Williams stated based on the decision that was made in 1989, it was based on it being a restaurant.

Board Member Fox stated okay. And then the, this – the definition of fast food establishment was added later, correct, in 2000...

Rich Williams stated in 2004, 2005...

Board Member Fox stated okay.

Rich Williams stated I believe we added that in.

Board Member Fox stated alright.

Rich Williams stated so...

Board Member Fox stated I mean, clearly its new location I would consider a restaurant. But, I'm not sure when it was in its old location... and, I haven't been to the barbeque place, so I don't know if it has seats or... I don't know...

Rich Williams stated it has a few...

Board Member Fox stated a few.

Chairman Olenius stated a few, yes.

Board Member Fox stated yes.

Chairman Olenius stated it's kind of like Zegarelli's used to be...

Rich Williams stated yes.

Chairman Olenius stated I mean it used to be...

Stephanie Fox stated right.

Chairman Olenius stated  $\frac{3}{4}$  kitchen...

Board Member Burdick stated right.

Chairman Olenius stated  $\frac{1}{4}$  seating. I think it's probably still about the same. It didn't look like it was much more.

Rich Williams stated yes. In hindsight, we probably should have taken a harder look at, you know, this whole operation before it went in, but...

Board Member Fox stated right.

Rich Williams stated you know...

Chairman Olenius stated yes.

Rich Williams stated we relied on the Building Department to do that, and things got missed...

Chairman Olenius stated and their... I read your comparisons from the other villages and towns that you included here, and they're wide-ranging.

Rich Williams stated yes. Yep.

Chairman Olenius stated so, your goal is to try and make – not necessarily take a little piece of each, but see... look for the best parts, and...

Rich Williams stated uh, actually, I'm not so comfortable with any of them. I... my preference would be to take our existing definition and tweak it a little bit to be more encompassing about what we're looking to have in these locations. The type of activities.

Chairman Olenius stated okay.

Rich Williams stated I...

Board Member Burdick stated do you want me to send you the language out of the sanitary code for food services...

Rich Williams stated sure...

Board Member Burdick stated tomorrow.

Rich Williams stated yes, I'd love it.

Board Member Fox stated I guess my other question is about when a new, um... again, the policing, I guess, is hard if they're not really changing too much, but... certainly, you know, when you're talking about building code issues, you're talking about assembly space and travel distances and things like that, um, and if they're changing ownership, even though the layout

might not be dramatically different... again, the type of services that they're providing might change its configuration and use, and then, therefore, impact those types of things... and, um, you know... I don't know if there's anything on a Building Department level to sort of help it all come together.

Rich Williams stated there is a provision within our Code that is not used, which, um, a former Building Inspector insisted on, that requires a change of ownership to come in and get a Certificate of Compliance from the Building Department so that they could track ownership of individual places. He insisted on having it in there. It's never been used.

Chairman Olenius stated how... a Certificate of Ownership. And that was a thing...

Board Member Burdick stated Certificate...

Rich Williams stated Certificate of Compliance, so that we...

Chairman Olenius stated that was an annual thing...

Rich Williams stated so that – no...

Chairman Olenius stated okay.

Rich Williams stated anytime there was a change of ownership...

Chairman Olenius stated oh, okay.

Rich Williams stated so that we could track ownership, so we, you know, would know who to contact if there was an inspection due, or...

Board Member Fox stated but ownership and leasing, you know... if you lease the space, then maybe that doesn't... does that apply to leasing, as well.

Rich Williams stated it applied to any, you know...

Board Member Fox stated yes.

Rich Williams stated whoever was operating the business.

Board Member Fox stated oh, okay.

Chairman Olenius stated huh.

Board Member Burdick stated we would just have to be careful with that, because people may assume that that's also giving them permit to operate...

Rich Williams stated yes.

Board Member Burdick stated and then they don't come to the agency that's supposed to be permitting them for the food service.

Rich Williams stated yes. We generally like to try to work with our fellow agencies, and make sure they have all the permits. It doesn't always work the other way around – more on the state level. The county is... the county is fairly cooperative. We work well with the county Health Department.

Chairman Olenius stated how soon did you – were you looking to...

Rich Williams stated I don't think there's any great rush on this right now. If you want to digest it and come back to the next meeting and if you have any thoughts or recommendations, that would be fine.

Don Rossi stated it's not on tomorrow's Town Board agenda, I can tell you that.

[Laughter.]

Board Member Burdick stated I think what needs to be considered is the history of the place, like you were saying, because way back when, it was like a breakfast place, and then it morphed. Then Zegarelli's built and built his business, and it just... kept growing of use. So, it definitely changed what was going on in the neighborhood.

Rich Williams stated well... going back to the beginning, as I identified in the memo, it was in a residentially-zoned district...

Board Member Burdick stated yes.

Rich Williams stated you know, and... I don't know what's going on. Don and I were talking earlier, um, and we've got another issue to talk about with the board...

Don Rossi stated I – it seems things are being unearthed everyday [laughter]...

Rich Williams stated yes. Everyday we've got another one of these that have come up as of late that, you know, we try to wrestle with.

Don Rossi stated yes, and... and, uh, one of the things here that is – it doesn't give much comfort to the... to the neighbors is that this could always be handled as a private, uh, wrong, if they're – if they've now gone beyond what was contemplated when the place was approved, or whatever approvals it had. They could sue in the nature of nuisance, because it's creating such a – in their mind, at least – a, uh, an unacceptable situation. But, I think that's all part of this, is... where does – when does government step in. Where is it appropriate to, uh, to regulate something. Is it a big enough potential problem. And I... I just – Rich and I are kind of in sync on this. It... as the uh, when you... the ability to monitor the changes in use... I think – I think the Certificate of Ownership is a little Draconian, if that.... In that it certainly allows the town to know that the property has changed hands. That the town has a mechanism for that through the Assessor's Office to know if a deed comes in. So if someone – if someone is going to just step into the shoes of an ongoing restaurant and operate in exactly the same manner, than that – that businessman is going to be a little bit reluctant to go to the town and say: I'm now the owner, and I'm, you know, coming to you and telling you what I'm doing – I'm not changing anything. But, uh, I, uh... I think that mechanism has to be backed up by a right for the Planning Board to assess a change.

Just coming in and registering as the owner and saying: I now own the place – doesn't get to the enforcement, you know. It doesn't I don't think provide for what is going on there. Does he have to make representations as to what the operating is going to be and all under that...

Rich Williams stated you know, I think in an ideal world... in an ideal world, I think, it would be appropriate for the Building Department to do the initial evaluation, and if there are any changes, um, they would flag them and then send it back to the Planning Board. The problem that we've had traditionally, and not just with Patterson – that I've seen with almost every municipality – is Building Inspectors are trained to look at the 4 walls and the interior, and they forget that there's anything that exists outside of those 4 walls...

Board Member Bodor stated right...

Rich Williams stated so, you know, when they come in, if they're replacing the kitchen, they're looking at all the kitchen appliances...

Board Member Carinha stated yes.

Rich Williams stated and, you know, how they're putting the walls up. They're not thinking about parking. They're not thinking about stormwater runoff. They're not thinking about exterior lighting...

Don Rossi stated loading, loading docks...

Rich Williams stated or signage. And those are important – really important – aspects of commercial businesses within the Town of Patterson for our residents and our community as a whole. Maintaining the appearance that we want to see within our community.

Board Member Fox stated right.

Rich Williams stated so... they're actually more important to the community than they are, you know, the interior of the restaurant, though we never want to forget about safety.

Don Rossi stated right.

Board Member Fox stated and so it's – you think it would be a deterrent and sort of cumbersome to the Planning Board to sort of require a review. Is that...

Rich Williams stated I think it's cumbersome to the – to the applicant to have... every time a business owner wants to change the type of business he's operating to go back to the Planning Board. They're only meeting once or twice a month, you know. Generally they, you know, they have a process you have to go through, where, um, from experience, if somebody comes into my office, you know, my girls or – or, I shouldn't say my girls... my assistants, and, uh, sorry [laughter] – you know, or myself, we review the plan and, you know, we take a look at, you know, what they're proposing to do to see if there's any need to address anything on the site.

Board Member Fox stated alright, because, well, I mean, certainly when you're changing – I haven't read the parking code of recent, so I'm not going to quote anything – but, certainly when

you change the use of a space... say you were going from... like, I know doctors' offices require a lot of parking spaces. I mean, that would certainly be a red flag, I would assume, right, and...

Rich Williams stated yes.

Board Member Fox stated it would be...

Rich Williams stated yes, we look at the parking demand of the various uses and whether they have sufficient parking on the site...

Board Member Fox stated yes.

Rich Williams stated sometimes they do, and... and sometimes they don't.

Board Member Fox stated okay.

Rich Williams stated okay.

Chairman Olenius stated what was NS-2 Zoning.

Rich Williams stated Neighborhood Shopping 2. There was NS-1 and NS-2...

Chairman Olenius stated okay.

Rich Williams stated they had the same basic uses, but, if I – if I recall it right, they had different lot area requirements.

Chairman Olenius stated and... and how did it get confused initially.

Rich Williams stated you've got to look.

Chairman Olenius stated okay.

Rich Williams stated it – you know, the... I mean...

Chairman Olenius stated was – did it end next to it, like where the gas station is...

Rich Williams stated well, no. The problem was RPL-5. If you look at the zoning map and look at how it follows the... the property lines, clearly this property was in the RPL-5 Zoning District, not a Commercial District. Not the NS-1 Zoning District.

Chairman Olenius stated even though it's all semi-commercial, I said that, around it – like, there's a hairstylist to one side and a...

Board Member Bodor stated yes.

Rich Williams stated it – it is...

Chairman Olenius stated gas station to the other.

Rich Williams stated it is now, but the hairstylist didn't come in until the mid-90s.

Board Member Fox stated so what...

Chairman Olenius stated I'm just curious...

Board Member Fox stated is that boundary line then at... at the gas station.

Rich Williams stated well, I – you know, with the new changes to the zoning in 2005, because they were commercial properties, they are now in the GB zoning district...

Board Member Fox stated oh.

Rich Williams stated so the uses are now legal.

Board Member Fox stated legal...

Board Member Carinha stated okay.

Board Member Fox stated okay.

Chairman Olenius stated I was just curious. I've never seen an NS before. I had no idea what...

Rich Williams stated before your time, boy...

[Laughter.]

Chairman Olenius stated I guess so.

Rich Williams stated that's a good thing. I remember the NS-1. That's a bad thing.

[Laughter.]

Chairman Olenius stated alright, so we'll...

Rich Williams stated okay.

Chairman Olenius stated digest that, I mean, a little bit, just to...

**B) Upcoming Use Permit Case: Possible Resolution Revision**

Rich Williams stated alright. We have one more issue that we've been talking about today that we'd like to bring to your attention. Um, down on Route 22 in an area that was NS-1 many years ago...

[Laughter.]

Rich Williams stated uh, near Empire Tool – that’s the best landmark that I can probably throw out... um...

Board Member Fox stated [inaudible – speaking away from microphone]...

Rich Williams stated gas station – Justin’s Gas Station...

Board Member Carinha stated Garage. Yes.

Rich Williams yeah, Garage.

Board Member Carinha stated yes.

Board Member Bodor stated yes.

Board Member Fox stated right.

Rich Williams stated um...

Board Member Fox by Justin’s. Okay.

Rich Williams stated there... there is an...

[Cell Phone Vibrating]

Board Member Fox stated is that me.

Chairman Olenius stated no.

Rich Williams stated my whole – uh, we’re all getting it. I don’t know what’s going on here.

[Laughter.]

Rich Williams stated uh, there was many years ago an application to the Zoning Board of Appeals for a, uh, automotive reposition business...

Board Member Bodor stated yes.

Rich Williams stated remember.

Board Member Bodor stated yes.

Rich Williams states um, he came in as a Special Use Permit. The Board was advised that you can’t do a Special Use Permit, you should do a Use Permit. Ultimately, um, the Board, um, approved a Use Permit, but they did so with the standards – most of the standards – very, very loosely for a Use Variance so the Town Attorney, I believe, and I are in agreement that a Use Variance was issued, um.... But, it was issued with the condition that there be a 1 year review of the Use Permit, um, which we both have some concerns with, um...

Don Rossi stated it speaks – if I could, Rich – it says the variance is granted for a... for a period of 1 year subject to annual reviews by the Zoning Board.

Rich Williams stated correct. Uh, it's a commercial site... we're semi in agreement, I think, that it needed site plan approval in some form. Most commercial sites do simply to... to establish the layout. They were never required to do this, and... And I'm bringing this all up now because the, uh, current property owner who's been running the businesses for many years is falling on some difficult times and she's looking to get some affairs in order so that she can move forward, potentially find somebody else to run the business, and/or look to sell it in the future, and wants to make sure everything is legal and right on the property. [To Don Rossi] Um, then I'm going to hand it off to you...

Don Rossi stated yes.

Rich Williams stated about how we're going to...

Don Rossi stated it's...

Rich Williams stated move forward...

Don and I don't know how it – I don't know if you all have been privy to this, although some of you remember the application. Uh, there are a lot of discrepancies in the record of... of what's gone on here. The – uh, Rich mentioned there was no site plan approval. There's some potential argument that under the old code, site plan approval might not have been thought necessary because it was a Use Variance that was being granted, uh... and the specific wording in the old ordinance said site plan approval is required for permitted uses, special permit uses, and change – changes in non-conforming uses. So, there's... while it certainly would – goes against the grain to think that a new operation of a commercial nature would not have gone for a site plan approval, there's potentially some discrepancy or some claim on the owner's part that they didn't have to. But, I think, it's safe to say that as this goes forward we think it appropriate for them to come before the Planning Board for a site plan review for all of the reasons that we were just talking about on the last matter. So, there was a discrepancy in the original resolution because it referred to something called a Use Permit, which – there is a Special Use Permit, but not a Use Permit – but then the... the Board approved it as a variance, and it has... certainly has variance language, and it actually says: resolve that a use variance is to be granted. Uh, there is a... a time period that has been attached to it, which is typically not done, and I'd question whether the Board has jurisdiction to say to someone: you have a Use Variance, but it's only good for a year. Okay, because obviously, as you all know, someone goes forward and makes investments, and, uh, commits their lives to their new business, uh, and for the Board to say: well, we're giving it you for a year and then, after a year, come back with your hat in your hand to us and ask again... is not something that I think comes within the, uh, umbrella of authority that you have to impose conditions. You certainly can impose conditions, but to... to put a, uh, time limit on it is something I don't think is – was – appropriate to begin with. So, I don't think we'd get very far in arguing that the variance ended in 1997 or whenever... a year after it was granted. So, as a potential method of kind of righting the ship here, uh, we talked about the possibility of entering into a stipulation or agreement with the owner that, uh, confirms that the, um, that – if she – the use, as it has existed for many years would continue, but in the event that there is a change of ownership, that any... any new owner or any – you know, certainly a change of use, but even if it's the same use – that they would be subject to going for a site plan, which really is something

that should have been done some time ago, so... it's... maybe we're fashioning a homespun remedy a little bit, but we're kind of, you know, weighing the – weighing and balancing the equities, and, uh, from the Town's perspective, if – if we did get into an enforcement mode and said: you lost your variance after the first year was up, or you, uh... it was jurisdictionally defective from the start because you never had site plan approval... then we could be involved in a pretty lengthy litigation where equity is, uh, relied on by the... by the applicant. You know, as general rule, there's no estoppel against the Town, alright, if a mistake was made. If a, um, god-forbid someone uh, was bribed in order to issue a Building Permit, the Town's not estopped from, uh, opening that case up in the – if there's something that was discovered. Here, we're not, I would think from a very technical standpoint, we wouldn't be estopped from trying to enforce the strict letter of what was done, but under all concepts of fairness I think it would be unreasonable, so... So, we – that's how we're proposing...

Chairman Olenius stated doesn't a Use Variance stop with – when ownership changes, though or no...

Don Rossi stated no...

Chairman Olenius stated it doesn't...

Don Rossi stated no...

Chairman Olenius stated it stays with the property...

Don Rossi stated yes.

Chairman Olenius stated okay,

Don Rossi stated as opposed to – well, there is some... there's some latitude with imposing conditions, but typically a Use Variance and an Area Variance run with the land...

Chairman Olenius stated okay.

Don Rossi stated uh, as opposed to Special Permits, which oftentimes are... are conditioned on no change in ownership, so...

Chairman Olenius stated we do so few Use Variances, I have to be reeducated every time one comes up...

Don Rossi stated yes.

Chairman Olenius stated because it's...

Don Rossi stated well, what's – what was interesting about the resolution that was adopted in this case, was it outlined – the Code, at that time, had 6 or 7 factors to consider for the grant of a Use Variance, which tracked state law, uh... and actually went a little beyond state law.

Chairman Olenius stated yes.

Don Rossi stated but, the... the key one was not referred to in the resolution. And, uh, to me the key one. They're all – they're all important, but, the key one being that the property cannot yield a reasonable if used for permitted uses. So, if there's one use in the district that a property can be put to and a reasonable return on the investment could be earned, then you're, technically, not entitled to a Use Variance. So, all the other ones, uh, unique to the property, not to the neighborhood as a whole – because then otherwise a rezoning maybe would be, uh, appropriate of an area – um, consistent with the essential character of the neighborhood. All of these Use Variance factors were highlighted, but the reasonable return one was not in there, so... So, I will tinker a little bit with it. I don't – I don't think it, uh, gets to a point where it has to come back to your Board to reassess it, I mean...

Rich Williams stated well, we had talked about...

Don Rossi stated do you think.

Rich Williams bringing it back here to just to get rid of that one condition.

Don Rossi stated get – to... to clear up that condition, that's right, too. So...

Rich Williams stated the one...

Don Rossi stated similar to what Mr. Heller was asking, we'll find the appropriate procedural way for your Board...

[Laughter.]

Don Rossi stated to reopen a previous determination. Typically, I think, on motion of one of the members, and then if a majority agrees, it could be reopened...

Rich Williams stated that's not a majority. It's – it's unanimous. It has to be...

Don Rossi stated is it unanimous.

Rich Williams stated unanimous.

Don Rossi stated okay.

Rich Williams stated it has to be unanimous.

Don Rossi stated alright, so...

Rich Williams stated so, by motion, I mean... getting off track here, but procedurally, it could be done by an application. It would be done by a letter. But, as long as one board member...

Don Rossi stated right.

Rich Williams introduces a motion to rehear, seconded unanimous vote that you can rehear a case where there is no change in the underlying circumstances...

Chairman Olenius stated okay.

Don Rossi stated so that applies to the shed, also. If, uh, if you were requested to do that, so... um... so, either the landowner will do it – let the landowner do it on application to them. Is that...

Rich Williams stated yeah, he's got – he's got to submit something...

Don Rossi stated yes.

Rich Williams stated and he's already been apprized of that.

Don Rossi stated okay, great.

Rich Williams stated but, you know, he was hoping to come in here and – and I told him not to do it, but he tried to do it anyway – he wanted to do a little quid pro quo. I'll support the application, you support rehearing and giving me my 9 inches. But, as you heard, opening that door may not be so clean.

Don Rossi stated well, you – one might think that Mr. Heller would go along with that compromise, but...

[Laughter.]

Rich Williams stated not a chance.

Don Rossi stated but, from – guess not, huh.

[Laughter.]

Rich Williams stated no.

Chairman Olenius stated I'm not seeing that, but...

Rich Williams stated no. Mr. Heller's convinced that – that the Town has been wrong and... and, straight-up, I have no idea whether he is right or wrong. I – I have not looked.

Don Rossi stated oh, I'm imagining – yeah, huh, well... 12 foot's a pretty high fence. I use a basketball net.

Rich Williams stated huh.

Don Rossi stated 2 – 2 foot higher than a basketball hoop. [Laughter] Pretty tall.

Chairman Olenius stated that's why I asked how it was supported...

Board Member Burdick stated yes.

Chairman Olenius stated because I was concerned...

Board Member Burdick stated right.

Chairman Olenius stated it's a – it's a big wind...

Board Member Carinha stated yes.

Chairman Olenius stated it's a big sail...

Board Member Burdick stated yes.

Rich Williams stated yes.

Chairman Olenius stated and – and 12 feet's tall coming down.

Don Rossi stated well, there just – there is something to be said for, at least, an offer of compromise, but I guess it's... it's not really possible if he's that... he's that adamant about it, so...

Chairman Olenius stated no, I don't think so. Is that it.

Rich Williams stated that's it. We're done.

### **C) Minutes**

Chairman Olenius stated alright. I read through the minutes. They look good. So, I'll make a motion to accept them as...

Board Member Carinha stated I read through them, too...

Chairman Olenius stated submitted.

Board Member Carinha stated I read through them, too. I'll second it.

Chairman Olenius stated all in favor.

*Motion passed by a vote of 5 – 0.*

### **D) Site Walk**

Chairman Olenius stated and site walk.

Board Member Fox stated oh.

[Laughter.]

Rich Williams stated wait. Wait, let's postpone it until February so it gets really cold.

[Laughter].

Board Member Fox stated no...

Board Member Carinha stated no...

Chairman Olenius stated I'm just going to open up January because, I know I'm just looking at dots every day up...

Board Member Bodor stated oh yeah...

Chairman Olenius stated through the holidays...

Board Member Bodor stated I'm not...

Chairman Olenius stated right here, so I don't...

Board Member Bodor stated I'm not doing a site walk...

Chairman Olenius stated yeah, you're – you've been busier, you were saying that.

Board Member Bodor stated but, I don't have my calendar.

Chairman Olenius stated the meeting is the 21<sup>st</sup>...

The Secretary stated yes.

Chairman Olenius stated how's the week of the 12<sup>th</sup> for everybody...

Board Member Carinha stated it's fine with me.

Board Member Burdick stated yes.

Board Member Fox stated one, two, three, four, five, six, seven... okay. That's good.

Chairman Olenius stated it doesn't have to be the 12<sup>th</sup>, I'm just saying..

Board Member Fox stated no, I know...

Chairman Olenius that that week...

Board Member Fox stated that week is good. Yeah, no. I think about my husband's schedule...

Chairman Olenius stated oh.

Board Member Fox stated because he's got to get home.

Chairman Olenius I got you.

Board Member Fox stated or maybe, maybe... that... the week of 12<sup>th</sup> is fine.

Board Member Burdick stated it's fine with me.

Chairman Olenius stated it is good.

Board Member Bodor stated the Monday...

Chairman Olenius stated what about you.

Board Member Bodor stated Monday looks good.

Chairman Olenius stated Monday, the 12<sup>th</sup>...

Board Member Bodor stated Monday – Monday and Tuesdays are always better for me.

Chairman Olenius stated well, how about we do Monday, the 12<sup>th</sup>...

Board Member Fox stated Tues...

Chairman Olenius stated and Tuesday as a snow date...

The Secretary stated okay.

Chairman Olenius stated a snow storm date. There may be snow – we have to go out if there's snow. But, if there's a storm, we can put it off...

Board Member Fox stated um... oh, yeah, what time are we looking at, like again...

Board Member Bodor stated oh yeah. But it gets dark early.

Board Member Carinha states yes.

Chairman Olenius stated no, it will be getting lighter then...

Board Member Carinha stated oh, wait, no. Actually, it's getting lighter, yeah.

Board Member Bodor stated yes.

Board Member Fox stated maybe by 5:00 it will still be light.

Chairman Olenius [to Board Member Burdick] can you get there by 5:00.

Board Member Fox stated no.

Chairman Olenius stated or not. No, you can't. 5:15, right.

Board Member Burdick stated yeah, but I could... I could do like an 8:30 – 4:30 or something...

Chairman Olenius stated you can change your shift...

Board Member Burdick stated I can try.

Board Member Carinha stated you've got it like that...

Board Member Burdick stated I can try.

Chairman Olenius stated does that work for everybody else.

Board Member Bodor stated yeah, what time are you saying...

Board Member Fox stated [inaudible – too many speaking]...

Board Member Carinha stated 4:30...

Board Member Bodor stated 5:00...

Board Member Fox stated 5:00...

Chairman Olenius stated that would be 4:45...

Board Member Fox stated 4:45...

Board Member Burdick stated do you want me – I can do 8:00 – 4:00 and be there by 4:15. Do you want to do that.

Chairman Olenius stated you just want to get out early that day, don't you.

Board Member Burdick stated doesn't matter. I usually put in 9-hour days anyway, so it doesn't matter. Do you want to do that one. Do 4:15 if it works for him.

Board Member Fox stated that's fine.

Board Member Carinha stated I'm good with that.

Chairman Olenius stated fine by me.

Board member Bodor stated okay.

Board Member Carinha stated 4:15.

Chairman Olenius stated oh, 15. I almost wrote 1/12/14. That would be bad.

Board Member Carinha stated yes.

[Laughter.]

Board Member Fox stated what number. 423...

Chairman Olenius stated you weren't there...

Board Member Fox stated I was...

Chairman Olenius stated oh, okay.

Board Member Fox stated I just don't remember the address.

Chairman Olenius stated I was going to say I thought you were there.

Board Member Fox stated 420... one's 430...

The Secretary stated the house number is 433.

Board Member Fox stated oh, 433.

The Secretary stated 433. Yes, yeah.

Board Member Carinha stated yeah, I think his neighbor was, what, 420...

The Secretary stated 425.

Board Member Carinha stated yeah.

The Secretary stated yes.

Board Member Carinha stated Roman was 425.

Board Member Fox stated 433 Mooney Hill.

### **E) Rescheduling Meeting Date**

Board Member Burdick stated I will not be available the April 15<sup>th</sup> meeting date. Is it too early to talk about...

Chairman Olenius stated tax day.

[Laughter.]

Chairman Olenius stated I was looking at that when I put it in my phone. I was like, oh, we're meeting on tax day.

[Laughter.]

Chairman Olenius stated um...

Board Member Burdick stated do you want to wait until next month to...

Chairman Olenius stated no...

Board Member Burdick stated talk about...

Chairman Olenius stated we can start. [To the Secretary] Can you – can you, maybe... now that we know that that's a bad date, maybe you can find out good dates so we can discuss it next month.

The Secretary stated okay.

Chairman Olenius stated so we – does that work.

Board Member Burdick stated yes.

Chairman Olenius states that way it's... it's out there.

Board Member Burdick stated yes.

Chairman Olenius stated see what's available on the calendar. Then maybe we can get something... done right then and there.

Rich Williams stated day before any good, or...

Board Member Burdick stated um...

Rich Williams stated you out that week.

Board Member Burdick no, I'm going to be – I'm going to be away that week.

Rich Williams stated okay...

The Secretary stated okay.

Rich Williams stated so that week's out.

Board Member Burdick stated taking...

The Secretary stated so the whole week...

Board Member Burdick stated taking the baby to Disney.

Don Rossi stated good.

Board Member Carinha stated nice.

Chairman Olenius stated nice. You should do that in February when it's cold.

Board Member Carinha stated it's actually not that warm down there. You're going to get like...

Board Member Burdick stated in April, yeah.

Chairman Olenius stated April will be nice.

Don Rossi stated February...

Board Member Carinha stated yes.

Board Member Burdick stated [inaudible – too many speaking]...

Don Rossi stated right, February can be like that.

Board Member Fox stated I have to get me some of those rubber bands... Geez...

[Laughter.]

Board Member Fox stated never lose a paper [inaudible – speaking away from microphone]...

Chairman Olenius stated that's how these bundles usually come, and I save them...

Board Member Carinha stated yes.

Chairman Olenius stated because I've dropped a few things out of here and get embarrassed at meetings because I didn't have them.

Board Member Bodor stated yes. Do we have something... [inaudible – speaking away from microphone]

Chairman Olenius stated something what.

Board Member Bodor stated a red envelope.

Chairman Olenius stated oh, geez.

[Laughter.]

Board Member Carinha stated should we end the meeting.

Rich Williams stated are you going to adjourn first, please.

Chairman Olenius stated yes, we'll make a motion to adjourn.

Board Member Bodor stated I'll second it.

Chairman Olenius stated all in favor.

*Motion passed by a vote of 5 – 0.*