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by the Huffs and now they are coming in for a building permit for a modification of the front porch which will balance the house. Mr. Flemming feels it is a harmless situation but it comes down to legality.

Attorney Gallina said that he reviewed the resolution and the minutes from the meeting along with his notes. The plans do not show any proposal to expand the porch. If they are planning to extend the porch to the end of the house, they will be increasing the non-conformity because the side yard is currently in violation. Mr. Flemming concurred that the existing walkway is in violation. Mr. MacQueen said he remember someone talking about a porch near the end of the meeting. Mr. Flemming stated that he had brought it up at the meeting since it wasn't on the plans. Mr. Flemming said that the footprint is basically the same. Attorney Gallina said the letter of the law says they would have to come back and ask the board to amend the resolution and have the survey/plan show what they want to do which would be by the book and would have to be done. Mr. Flemming stated that there is an existing walkway that they want to make into a porch. During the discussion, Mr. MacQueen asked if the applicant would have to notice all the property owners. Attorney Gallina answered yes. At the conclusion of the discussion, it was decided the applicant would have to come back before the board if they choose to build the porch, have the survey/plan reflect what they want to do and request an amendment to the resolution.

The next item addressed by Mr. Flemming was the property of Thomas Tsakalacos at 52 Hollow Road. It is a severely undersized lot. Mr. Tsakalacos applied for an addition which was conforming to the setbacks on an undersize lot. The previous zoning officer signed off on it. On his plans it clearly shows footings for "a too be built garage", but on the plot plan submitted all the plot plan shows was the addition not with a porch. The footings were put in at the time of the addition. Mr. Tsakalacos came in for a permit on the porch which basically by your interpretation is not in violation of the setback. But the zone that he is in requires a 20' yard side setback with a total of 50' for both. If we go from the addition to the porch we're fine with the 50', but if we go from the existing structure which is already in violation he will have a problem with the side yard setback. The one side is 20'+ on the existing house but the side where the porch will be 25' so we don't have the 50' required. The question is do we penalize the owner on a pre-existing situation for side yard setback. Mr. Flemming said, if that's the case, then would the board consider the concept having 20' minimum combined in the zone. Ms. Glashoff asked which zone the property was in. Mr. Flemming answered the R 1½ zone.

Mr. Flemming asked if he had the authority to approve the zoning permit under the circumstances or does it have to come before the board. Attorney Gallina stated if the lot is undersized, any non-conformity it would have to come before the board. Mr. Flemming stated that if the addition is conforming it doesn't have to come before the board. Attorney Gallina said if your addition is conforming and it doesn't increase the non-conformity and you meet all other zoning requirements then you don't have to come before the board, but if the lot is undersized it's an exception because you are not allowed any other non-conformities. Mr. Flemming stated that he has not been sending applicants to the board that are on private lanes and are on undersized lots or basically undersized lots anywhere. Attorney Gallina said that he will take a look at the ordinance. The board said that undersized lots have always come before them. Per Mr. Flemming, undersize lots for new construction have come in. Mr. MacQueen questioned the issue of the porch. Mr. Flemming said it depends how you interpret the ordinance.

During the board's discussion, Attorney Gallina noted the section of the ordinance, **Section 400-51 & 400-52** stating that #51 refers to Expansion of nonconforming single family dwellings located on conforming lots and read that section of the ordinance. Then he read #52 which is additions to single family dwellings on undersized lots. Mr. Flemming noted that he has not been sending people to the board under Section 400-52 but he will and recommends that the board change that section of the ordinance and explained why to the board. Mr. MacQueen suggested Mr. Flemming write a letter to the Planning Board with his recommendation. Attorney Gallina reminded the board that this section only refers to additions, not garages, barns, sheds. The board continued with the discussion. Mr. Flemming noted that several zoning officers have signed off on zoning permits. Mr. MacQueen agrees with both John Gallina and John Flemming that things have not always been followed correctly. During the discussion, Mr. MacQueen reiterated that Mr. Flemming needs to write a letter the Planning Board explaining what he wants changed and why he wants it changed. The board agreed.

Mr. MacQueen asked that Attorney Gallina and Planner Bolan get a copy of the letter. At the conclusion of the board's discussion, Mr. Flemming spoke to Attorney Gallina at the Dias and

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Shown him a copy of the Tsakalakos survey regarding the addition since Attorney Gallina wanted to see if the would be in conformance with the setbacks.

FYI:

- a. Amended Fee Schedule introduced on August 20, 2008 with Public Hearing scheduled for September 17, 2008.

Ms. Glashoff informed the board that she had the Planning Board approve her recommendations for amending the Fee Schedule because of the problems she had collecting escrow monies. This FYI is just to let the board know what is happening. Ms. Glashoff went over the problems that she has had. She especially reviewed the private road escrow monies and the reason for the increase from \$1,000.00 to \$2,000.00. Ms. Glashoff said that she would prefer to give monies back that are not used then to be chasing after the applicant for additional monies. The board discussed at length wording that could be put in the resolution to cover so there would not be a problem in collecting escrow monies after the initial approval.

Ms. Glashoff informed the board of what was on the Agenda for September 24, 2008. Ms. Glashoff stated that the Patrick Allen application will be on for Completeness and Waivers before the Public Hearing for Transtar. It is important that everyone is present.

Being no further business to come before the board, nor comments from the public, motion by Mr. MacQueen and seconded by Mr. Perry to adjourn the meeting at 8:40 p.m. Unanimously approved.

VICE CHAIRMAN ABE ABUCHOWSKI

GAIL W. GLASHOFF, BOARD SECRETARY