

# **ZONING MINUTES**

**2003**

TOWN OF BRUNSWICK  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 - FAX: (518) 279-4352

**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on January 27, 2003, at 6:00 P.M.

Present at the meeting were: Amy Serson, Member  
Joseph Jabour, Member  
Caroline Trzcinski, Member

Also present was Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary. John Kreiger, Superintendent of Utilities & Inspections, was absent,

At approximately 6:10 P.M., the meeting was called to order. Since the Chairman was absent. Member Serson made a motion to elect Member Trzcinski temporary chairman for the purpose of conducting this meeting. Member Jabour seconded. The motion carried 3 - 0 and Member Trzcinski thereupon became temporary chairman.

The Board noted that there were no new agenda items. The meeting was not canceled due to the pendency of the matter involving the Forest Meyer operation on the Gary and Christine Morris property located on Route 7 and Flower Road. The Planning Board deferred acting on the pending site plan application until a preliminary determination is made by the Superintendent of Utilities and Inspections as to whether the current operations on the site fall within the existing use variance on the property. It appears that Mr. Kreiger has not acted at this point. There was therefore no action the Board needed to or could take at this time. There was no one present from the public. The Board noted that the next meeting would be held on February 24, 2003.

There being no further business, Member Serson moved to adjourn. Member Jabour seconded. The motion to adjourn carried 3 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
February 3, 2003

Respectfully submitted,

  
THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 24th day of February, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of ERNEST and NANCY BEATTY, owners-applicants, dated January 3, 2003, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an addition to an existing residence on a lot located at 41 Genesee Street, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-9 District in that 30' feet is required but 10' 1 1/8" is proposed and also violates the side yard setback (on Green Street) in an R-9 District, in that 30 feet is required but 15' 11 5/16" is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said ERNEST and NANCY BEATTY, owners-applicants, have petitioned for said area variances, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
February 3, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

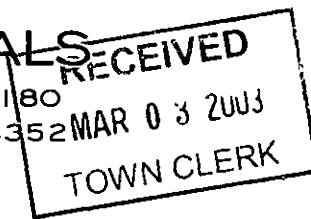


THOMAS R. CIOFFI  
Town Attorney

Posted 2/7/03

TOWN OF BRUNSWICK  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 - FAX: (518) 279-4352



DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on February 24, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Joseph Jabour, Member  
Caroline Trzcinski, Member  
James Hannan, Chairman

Also present was Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary. John Kreiger, Superintendent of Utilities & Inspections, was absent.

At approximately 6:00 P.M., the meeting was called to order. The first item of business was approval of the minutes of the December 16, 2002, meeting. Member Schmidt noted that the draft minutes as prepared indicate on page 1, third paragraph, that he both made and seconded a motion. Member Jabour made a motion to approve the minutes of December 16, 2002, as corrected to indicate that Member Serson made the motion in question and Member Schmidt seconded it. Member Trzcinski seconded the instant motion. The motion carried 4 -0.

The next item of business was approval of the Minutes of the January 27, 2003, meeting. Member Trzcinski made a motion to approve the minutes as prepared. Member Jabour seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of ERNEST and NANCY BEATTY, owners-applicants, dated January 3, 2003, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an addition to an existing residence on a lot located at 41 Genesee Street, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-9 District in that 30' feet is required but 10' 1 1/8" is proposed and also violates the side yard setback (on Green Street) in an R-9 District, in that 30 feet is required but 15' 11 5/16" is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Mr. & Mrs. Beatty appeared. Mr. Beatty presented photographs showing the location. He also mentioned the previous variance granted by the Board with respect to this property. He stated that the proposed construction would not have any visual impact on his neighbors.

The Chairman asked if anyone present wished to speak. John Spain, 89 Oneida Avenue, stated that he is 100% in favor of the variance, as is Mario Federici, who resides next door to him. He stated that the house is beautiful and that the Beattys are fine neighbors. Mr. Beatty added that Genesee and Greene Streets are narrow and there is no place to park on the street. The expanded garage will enable them to put some of their vehicles in the garage.

Member Schmidt and Member Jabour stated they had no problems with the variance. The Chairman noted that this is an expansion of a previously granted variance and the building was getting "tight" on the property lines. Mrs. Beatty stated that they needed to expand the garage beyond the previous variance because she just got married and her husband needs room for his vehicle and a workshop.

Member Jabour made a motion to classify the matter a Type 2 action under SEQRA. Member Schmidt seconded. The motion carried 4 - 0. Member Jabour thereupon offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of ERNEST and NANCY BEATTY, owners-applicants, dated January 3, 2003, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an addition to an existing residence on a lot located at 41 Genesee Street, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-9 District in that 30' feet is required but 10' 1 1/8" is proposed and also violates the side yard setback (on Green Street) in an R-9 District, in that 30 feet is required but 15' 11 5/16" is proposed., the Zoning Board of Appeals:***

***1. Finds and determines as follows:***

- a) That the variance will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;***
- b) That the relief requested cannot be obtained except by way of an area variance;***
- c) That the variance is not excessive given the circumstances and the neighborhood; and***
- d) That the need for the variance was not self-created.***

Member Trzcinski seconded. The proposed Resolution was then put to a vote as follows:

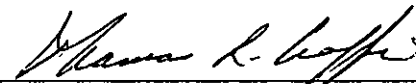
<b><i>Member Serson</i></b>	<b><i>Absent</i></b>
<b><i>Member Schmidt</i></b>	<b><i>Aye</i></b>
<b><i>Member Jabour</i></b>	<b><i>Aye</i></b>
<b><i>Member Trzcinski</i></b>	<b><i>Aye</i></b>
<b><i>Chairman Hannan</i></b>	<b><i>Aye</i></b>

The foregoing Resolution was thereupon duly adopted.

There being no further business, Member Jabour moved to adjourn. Chairman Hannan seconded. The motion to adjourn carried 4 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
March 1, 2003

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas R. Cioffi", is written above a horizontal line.

THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17<sup>th</sup> day of March, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of STUART and LINDA PALMER, owners-applicants, dated February 5, 2003, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located designated as Rensselaer County Tax Map Parcel 82-2-9.2, located adjacent to 1548 NY Route 7, in the Town of Brunswick, because the proposed construction violates the lot width requirement in an A-40 District in that 180 feet is required but 112.37 feet is proposed.


FURTHER NOTICE IS HEREBY GIVEN that said STUART and LINDA PALMER, owners-applicant, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York

March 1, 2003 (Posted March 3, 2003)

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
THOMAS R. CLOFFEY  
Town Attorney

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17<sup>th</sup> day of March, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of SAXTON SIGN CORP., applicant, dated February 12, 2003, for variances pursuant to the Sign Law and Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a free standing advertising sign on a lot located at 560 Hoosick Street, in the Town of Brunswick, because the proposed construction violates:


1. The side setback in that a distance equal to the height of the sign, which is 15 feet, is required, but 3 feet is proposed; and
2. The minimum required road frontage for a free standing sign, because 150 feet is required, but 132.79 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said SAXTON SIGN CORP., applicant, has petitioned for said variances, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
March 1, 2003 (Posted March 3, 2003)

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
THOMAS R. CIOPPA  
Town Attorney



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17<sup>th</sup> day of March, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of DAVID KENT, owner-applicant, dated February 3, 2003, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located at 30 Banker Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback requirement in an R-15 District in that 35 feet is required but 15 feet is proposed.

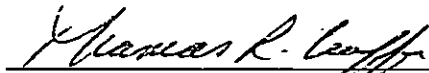
FURTHER NOTICE IS HEREBY GIVEN that said DAVID KENT, owner-applicant, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York

March 1, 2003 (Posted March 3, 2003)

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK



THOMAS R. CIOFFI

Town Attorney

TOWN OF BRUNSWICK  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 - FAX: (518) 279-4352

**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on March 17, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Joseph Jabour, Member  
Caroline Trzcinski, Member  
Amy Serson, Member  
James Hannan, Chairman

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

An informal workshop portion of the meeting commenced at approximately 5:30 P.M. Members present informally reviewed files and discussed agenda matters.

At approximately 6:00 P.M., the meeting was called to order. The first item of business was approval of the minutes of the February 24, 2003, meeting. Member Jabour made a motion to approve the Draft Minutes as prepared. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of STUART and LINDA PALMER, owners-applicants, dated February 5, 2003, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot designated as Rensselaer County Tax Map Parcel 82-2-9.2, located adjacent to 1548 NY Route 7, in the Town of Brunswick, because the proposed construction violates the lot width requirement in an A-40 District in that 180 feet is required but 112.37 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Stuart Palmer appeared. He stated that he has spoken to all his neighbors and none has a problem with the variance. He submitted a note from Joanne Tarbox indicating that she had no objection. No one from the public wished to speak. Member Trzcinski asked Mr. Palmer why they could not simply move the property line with their adjacent lot so this lot will meet the minimum width requirement. Linda Palmer expressed concern that that might make the adjoining lot illegal. Mr. Palmer added that to do so would cut into the septic field on the existing lot. Member Schmidt asked whether the Palmer's knew the lot was not buildable when they bought it. Mr. Palmer said "not really". The lot is over two acres. Member Serson said she really did not see a problem with this. Joanne Tarbox stated that she had not objection to the variance but also stated that they will

be building a road to get to their fields and she wanted the Palmers to know this.

Attorney Cioffi asked Mr. Kreiger if taking enough land from the adjoining parcel to make this lot legal would make the adjoining lot illegal. Mr. Krieger said it would not. Mr. Palmer said it would cut into his leach field. Attorney Cioffi explained that the Board has to inquire as to whether there is any way for the applicants to achieve their objective without obtaining a variance. A variance may be granted only as a last resort.

The Chairman asked Mr. Palmer how he could have an orchard over his leach field. Mr. Palmer said the orchard is in front of the leach field. There was further discussion among the Members regarding the adjoining lot. John Tybush, 62 Tybush Lane, said that he has lived there since 1960. The Palmers are good neighbors. He has no problem with the variance.

The Chairman said he wanted verification of where the leach field is located. Mr. Palmer said that moving the lot line would cause a loss of road frontage on the existing house lot. Mr. Krieger said that the loss of frontage would not make the existing house lot illegal. Member Schmidt observed that moving the lot line would give the new lot better frontage than that which would be left on the existing house lot.

The Chairman again stated he would like to see the leach field on paper. Attorney Cioffi said that since the application involved property on a State road, a referral had to be made to County Planning. Member Jabour thereupon moved to continue the public hearing and put the matter over to the April 28, 2003, meeting for those purposes. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of DAVID KENT, owner-applicant, dated February 3, 2003, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located at 30 Banker Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback requirement in an R-15 District in that 35 feet is required but 15 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Mr. Kent did not appear. Barbara Plehan, 28 Banker Avenue, said that she has serious concerns about this. Darryl Enfield, 88 Bleakely Avenue, said that he has questions for Mr. Kent. Highway Superintendent Doug Eddy was also present on this matter.

Since it did not know whether Mr. Kent had a good reason for not being present, the Board decided to adjourn the matter to the April 28, 2003, meeting. If Mr. Kent is not present and prepared to go forward, the application will be denied and dismissed. Member Trzcinski so moved. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of SAXTON SIGN CORP., applicant, dated February 12, 2003, for variances pursuant to the Sign Law and Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a free standing advertising sign on a lot located at 560 Hoosick Street, in the Town of Brunswick, because the proposed construction

violates the side setback in that a distance equal to the height of the sign, which is 15 feet, is required, but 3 feet is proposed, and the minimum required road frontage for a free standing sign, because 150 feet is required, but 132.79 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Pat Boni from Saxton Signs appeared with the owner of the property Umran Saracoglu. The owner stated that the sign on his gas station is being taken down by the State due to the Route 7 work. Mr. Boni handed up a photo simulation of what they are proposing. Member Serson asked why they were putting the sign at the far end of the property. Mr. Saracoglu said there is another gas station next door to him on the other side and he wants to keep the sign away from there. He submitted a letter from John Mainello stating that he had no objection to the sign. There was some discussion of where Mr. Mainello's adjoining property is located. Mr. Saracoglu thought he was an owner of the Gateway Plaza but the Board noted that he owned other nearby property.

The Chairman and Member Trzcinski asked why the sign could not go on the gas island. Mr. Boni said there may be a problem with the island being able to hold the footings for the sign. Attorney Cioffi asked whether anyone on the Board had any problem with the road frontage issue or the fact that the gas station building is not setback at least 50 feet from the road. The Board indicated their only concern was the side yard setback of the sign being reduced to 3 feet. Chairman Hannan said that was very close to the adjoining line and there might well be other options.

Since there had been no referral to County Planning, it was suggested that the Board put the matter over to do so and to give the applicant the opportunity to research whether the sign could be put on the island without great expense to the owner. Member Serson made a motion to continue the public hearing to April 28, 2003. Member Trzcinski seconded. The motion carried 5 - 0.

Linda Palmer, accompanied by John Tarbox, asked to again address the Board about her application. They said that it was unfair of the Town to have approved the creation of the lot and now say it cannot be built on. Attorney Cioffi suggested that Mr. Krieger research the subdivision issue to determine what, if anything, the Planning Board had to do with the creation or approval of the lot, which apparently does not meet zoning.

There being no further business, Member Serson moved to adjourn. Chairman Hannan seconded. The motion to adjourn carried 5 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
April 1, 2003

Respectfully submitted,



THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING

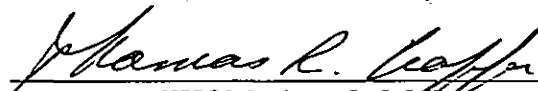
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 28th day of April, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of AT & T WIRELESS, applicant, dated February 20, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) telecommunications antenna panels to be affixed to an existing 190 foot self-support lattice tower located at 806 Hoosick Road, in the Town of Brunswick, at a centerline height of 150 feet, together with a 6' x 10' concrete pad at the base of said tower upon which two (2) outdoor equipment cabinets will be placed, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said AT & T WIRELESS, applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
April 1, 2003, *Posted*

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK



THOMAS R. CIOFFI

Town Attorney

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 28th day of April, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of AMY and AUSTIN SERSON, owners-applicants, dated March 23, 2003, for area variances pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a new and larger deck on a single family home located at 142 McChesney Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-25 District in that 15 feet is required but 9' 3" is proposed, and the rear yard setback in an R-25 District in that 40 feet is required but 33' 3" is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said AMY and AUSTIN SERSON, owners-applicants have petitioned for said area variances, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
April 1, 2003, *Posted*

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
THOMAS R. CIOFFI  
Town Attorney

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 28th day of April, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of SAXTON SIGN CORP., applicant, dated March 28, 2003, for variances pursuant to the Sign Law and Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a free standing advertising sign on a lot located at 562 Hoosick Street, in the Town of Brunswick, because the proposed construction violates:

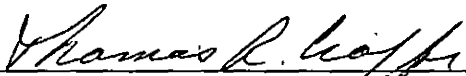
1. The side setback in that a distance equal to the height of the sign, which is 17 feet, is required, but 3 feet is proposed; and
2. The minimum required road frontage for a free standing sign, because 150 feet is required, but 139 feet is proposed; and
3. The minimum setback from the abutting road, because 15 feet is required, but 10 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said SAXTON SIGN CORP., applicant, has petitioned for said variances, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
April 5, 2003  
April 7, 2003 - Posted

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney

TOWN OF BRUNSWICK  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 -- FAX: (518) 279-4352

**RECEIVED**

**MAY 15 2003**

TOWN CLERK

**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on April 28, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Joseph Jabour, Member  
Caroline Trzcinski, Member  
Amy Serson, Member  
James Hannan, Chairman

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

An informal workshop portion of the meeting commenced at approximately 5:30 P.M. Members present informally reviewed files and discussed agenda matters.

At approximately 6:00 P.M., the meeting was called to order. The first item of business was approval of the minutes of the March 17, 2003, meeting. Member Serson made a motion to approve the Draft Minutes as prepared. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of DAVID KENT, owner-applicant, dated February 3, 2003, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located at 30 Banker Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback requirement in an R-15 District in that 35 feet is required but 15 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Thomas Duval, Mr. Kent's builder, appeared. He stated that Mr. Kent wants him to build a house on this small lot. A large fill septic system is required, so to meet well separation distance requirements, he needs to build closer to Banker Avenue than is allowed. He notes that Banker Avenue is a "paper road" in the area in question. The road does not really exist. It is a wooded area.

No one from the public wished to speak in favor of the application. Barbara Plekan, 28 Banker Avenue, stated that there is a real drainage problem in this area. When this lot was cleared, debris was placed on it which caused water to back up. The ground on her property was totally saturated. She had to have her septic tank pumped. Water backed up into her house. She informed John Kreiger of the problem. Mr. Kreiger said he had not been to the premises. Mr. Duval said it



was hard to believe that a little mound of debris caused all these problem. Member Jabour noted that Highway Superintendent Doug Eddy was at the last meeting and wanted to be heard on this matter.

Attorney Cioffi explained that the applicant was essentially saying that the front setback from Banker Avenue should be varied because there was no road actually there. A "paper street" is a street which is dedicated to the town as part of a subdivision which, for whatever reason, never actually gets built. The town no longer accepts dedication of roads until they are actually built. Mr. Duval said there are two parts of Banker Avenue which have not been built.

Mr. Duval said that he met Warren Fane and an engineer on the site last Fall. They told him that the drainage problem could be resolved. Mr. Plekan stated that the debris has been on the property since last December. She never had this water problem before. This is a major concern for her. The Chairman read a letter submitted by Mrs. Plekan.

Attorney Cioffi stated that the applicant should get an engineer to look into the drainage issue. He stated that the Town could hire an engineer at the applicant's expense to review the applicant's engineering.

Member Serson made a motion to continue the public hearing to May 19, 2003. Member Jabour seconded. The motion carried 5 - 0. Member Serson stated that David Kent should appear at the next meeting. Mr. Duval agreed that Mr. Kent would be there.

The next item of business was further consideration of the appeal and petition of STUART and LINDA PALMER, owners-applicants, dated February 5, 2003, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot designated as Rensselaer County Tax Map Parcel 82-2-9.2, located adjacent to 1548 NY Route 7, in the Town of Brunswick, because the proposed construction violates the lot width requirement in an A-40 District in that 180 feet is required but 112.37 feet is proposed..

Stuart Palmer appeared. Mr. Kreiger reported that he had received the referral back from County Planning, which indicated that local considerations should prevail. He also stated that he had researched the Planning Board Minutes and determined that the lot in question had been approved as part of a subdivision waiver application on July 6, 2000. The Chairman read the applicable portion of the Minutes. Essentially a parcel of land was purchased from someone named Leopold, to be split between the Tarboxs and the Palmers. The Planning Board granted the waiver on the basis that the portion of the land purchased by the Tarboxs would be used to access other property of theirs, and the portion purchased by the Palmers would be added to their existing adjacent parcel. It was clear that the Planning Board did not approve the portion of the land purchased by the Palmers as a separate building lot. That is the lot for which a variance is now sought.

Mr. Palmer submitted a hand drawing showing the location of the septic system and leach field. Attorney Cioffi explained that the Planning Board did not approve this lot as a separate building lot. Mr. Palmer said he was not at the Planning Board meeting when that occurred. Nor was

he involved in that process. Mr. & Mrs. Palmer stated that they were under the impression that the lot was buildable since it met the minimum lot size.

After some discussion, Attorney Cioffi stated that Mr. Palmer would have to go to the Planning Board first to get permission to subdivide his property, which includes the lot which is in question here. Mr. Palmer insisted that he cannot subdivide the property into two lots which will meet the minimum width requirement without compromising the septic filed on his existing home. Attorney Cioffi explained that if Mr. Palmer submitted a plan to the Planning Board which proposed making the lot in question a separate building lot, the Planning Board would have to refer the matter to this Board for a variance, before it could approve the subdivision, since the lot does not meet the minimum width requirement. This Board would then have to decide whether to grant the variance. The Planning Board would make a recommendation on that to this Board. Attorney Cioffi said they could keep the application active pending action by the Planning Board. He said he would contact the Planning Board Attorney and explain the situation.

Member Serson made a motion to continue the matter to the May 19, 2003, meeting. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of SAXTON SIGN CORP., applicant, dated February 12, 2003, for variances pursuant to the Sign Law and Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a free standing advertising sign on a lot located at 560 Hoosick Street, in the Town of Brunswick, because the proposed construction violates the side setback in that a distance equal to the height of the sign, which is 15 feet, is required, but 3 feet is proposed, and the minimum required road frontage for a free standing sign, because 150 feet is required, but 132.79 feet is proposed.

Pat Boni from Saxton Signs appeared with the owner of the property Umran Saracoglu. Mr. Krieger reported that the referral had been received back from County Planning, which indicated that local considerations should prevail. Mr. Boni indicated that the applicant decided to put the sign on the gas island as suggested by the Board, so the side setback variance was not required. They still need the other two, however. It was noted that the Board had said at the last meeting that it did not have a problem with the other variances.

Mr. Boni then asked whether a variance was needed to change the lighting on the site. The Board indicated that would be a site plan issue for the Planning Board. They would have to seek an amendment of the site plan.

Dean Pausley, 1 Cooper Avenue, said that the discussion of additional lights concerns him since his home is right behind the gas station and the lights shine into his home as it is. Mr. Pausley said that the lights are very distracting, and with the realignment of Hoosick Street, they will be losing some trees, which will make the light situation worse still. He does not oppose the sign, or people doing business. He would just like to keep the brightness down some. Mr. Boni indicated that the sign background was designed to be less bright. Mr. Pausley stated he was concerned with both the lighting on the proposed sign and additional lighting on the site. The Board indicated it could only address the light on the sign itself. The other lighting was an issue for the Planning

Board.

The Board discussed limiting the hours that the sign could be lighted. The owner stated that the hours of operation are 6:00 A.M. to 10:00 P.M. The light on the sign would go off at 10:00 P.M. Mr. Pausley indicated that was acceptable, though he noted that all of the changes on Hoosick Street were adversely affecting his very old neighborhood located only one block away.

The Board stated that it had to comply with SEQRA before acting on the requested variances. Mr. Boni stated that he had not prepared a short-form EAF. Mr. Kreiger gave him a blank form and the Board said it would call the matter again later this evening.

The next item of business was the appeal and petition of SAXTON SIGN CORP., applicant, dated March 28, 2003, for variances pursuant to the Sign Law and Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a free standing advertising sign on a lot located at 562 Hoosick Street, in the Town of Brunswick, because the proposed construction violates:

1. The side setback in that a distance equal to the height of the sign, which is 17 feet, is required, but 3 feet is proposed; and
2. The minimum required road frontage for a free standing sign, because 150 feet is required, but 139 feet is proposed; and
3. The minimum setback from the abutting road, because 15 feet is required, but 10 feet is proposed.

Attorney Cioffi read the Notice of Public Hearing aloud.

Pat Boni from Saxton Sign Corp. appeared with the property owner, Bill Ozbay, 1941 Guilderland Avenue, Schenectady, NY. The Board noted that there will be two USA gas stations next to each other. Mr. Ozbay explained that his gas station will be self-service while the other station will be full service. Mr. Boni said the State took the old sign. It is not an option to put the new one where the old one was. Mr. Ozbay said they need a sign to show the price of the gas. Mr. Boni said the sign requested is not a large one. It is 35 sq. ft. per side or 70 sq. ft. The old sign was 216 sq. ft. The sign would be illuminated from within.

Attorney Cioffi explained the three variances being requested. Mr. Ozbay said that the hours of operation would be 5:00 A.M. to 12:00 Midnight. The Chairman noted that there may have been a problem with the hearing notifications. Mr. Kreiger stated that he may have inadvertently used the same list of adjoining owners as he used for the 560 Hoosick Street application. It was agreed that he would compile a correct list and all adjoining owners would be notified for the next hearing session.

Judy Pausley, 1 Cooper Avenue, said that this sign is more intrusive than the other one and having it on until midnight will be a further hardship. Mr. Ozbay said he needs to have the option

of staying open until midnight so he can compete if other stations in the area stay open that late. He said he needs to have the sign light on when he is open or people will think he is closed. Attorney Cioffi noted that the Board could impose reasonable restrictions on any variance it issued and also that the Planning Board may consider the hours of operation in its site plan review.

Dean Pausley, 1 Cooper Avenue, questioned why the sign had to be 17 feet high. Mr. Boni said that the concern was that the lower portion could be reached and tampered with by people walking under it. Member Jabour said the sign should not be lowered; rather, the sign should be shut off at 10:00 P.M. Mr. Ozbay maintained that he wanted to have the flexibility of opening early and staying open late so he could compete with other gas stations. Attorney Cioffi said, ultimately, that the Board would have to consider all of the evidence and make a decision, and if it conditioned the variances on a restriction on the hours the sign could be lit, Mr. Ozbay's options would be to obey the restriction, not put up a sign at all, or sue the Town to invalidate the condition.

Mr. Pausley said he is not asking that the gas station close at 10:00 P.M. He would ideally like the light to go off at 10:00 P.M. Mr. Boni said there is no way to dim or reduce the lighting after 10:00 P.M.

Mr. Ozbay asked if he agreed to shut off the light to the sign at 10:00 P.M., would the Board have a problem with the variances. The Chairman said that there is still the issue about the all the adjoining property owners not having been notified. Attorney Cioffi also noted that a short form EAF had to be submitted.

Member Jabour made a motion to continue the public hearing to May 19. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of AMY and AUSTIN SERSON, owners-applicants, dated March 23, 2003, for area variances pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a new and larger deck on a single family home located at 142 McChesney Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-25 District in that 15 feet is required but 9' 3" is proposed, and the rear yard setback in an R-25 District in that 40 feet is required but 33' 3" is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Amy Serson, who is a Member of this Board, stepped down to present her application. She stated that the whole deck will not be 10 feet wide. It will be no closer than 9' 3" from Mr. Di Giovanni's property line. They want to extend a bit more than the existing deck on the side. The rear encroachment will be no more than the existing deck.

Michael McDonald, Esq., 15 Green Acres Drive, Latham, NY, representing John Di Giovanni, stated that he was opposing the application. He stated that Mr. Di Giovanni's land abuts on the West and the South. The application incorrectly states that the property line between the Serson parcel and the Di Giovanni parcel is in dispute. In fact, it is not. There is a written Boundary Line Agreement dated 12/26/90 which resolves any property line issues. The boundary line dispute was resolved before Ms. Serson took title. Ms. Serson said she agrees with that. He also stated that

Ms. Serson claims financial hardship in her application, yet she has submitted no proof. Nor does Ms. Serson address why the deck cannot be on the other side of the property where it will not affect Mr. Di Giovanni. He also stated that the deck currently on the property, built by the former owner, violates zoning requirements. The applicant is now asking for a more serious violation of the code. He also submitted pictures to the Board and had Mr. Di Giovanni describe each of them.

John Di Giovanni said the deck was not there when he bought his property. The deck was added by the former owner before the Serson's purchased the property. He claims that the deck affects him and his tenants. He put up a fence between the properties for privacy. Now he will be looking at a deck which will be above the fence. Ms. Serson said that she would not be increasing the elevation of the existing deck. If anything, it will be a little lower. Ms. Serson also noted that the deck constructed by the former owner may not have been in violation of the Code before the Boundary Line Agreement was signed. Ms. Serson explained that if she were to put the deck on the other side of the house it could be no more than 2' to 3' in width.

Wendy Di Giovanni stated she opposes the variance. The measurements Ms. Serson is proposing are not accurate given the survey. The proposed deck would be much closer than 9' 3" to their property. Ms. Serson said that would not happen. She is assuring the Board and the Di Giovanni's that in no event would the deck be closer than 9' 3" to the property line.

Mr. Di Giovanni said he has three families that have to look at this deck. He can see the Sersons now when they are sitting on their deck. The upstairs tenant looking down can see them even better. This affects his property value. Ms. Serson's existing deck violates the Code. Mr. Kreiger could find no permit for the deck under the name of the former owner. Ms. Serson stated that Mr. Di Giovanni has not complained to the Town before now that the deck violated the Code. Mr. Di Giovanni said that he did not complain to the Town when the existing deck was built.

The Chairman wondered whether the parties could work something out which they could all live with. Attorney McDonald said he would be willing to discuss a solution but they would like to see exact plans for the deck. There was discussion of holding the public hearing open to May 19, 2003. Ms. Serson stated she saw no reason for there to be a precise plan; she is proposing a deck to be no closer than 9' 3' to the property line and having no greater elevation than the present deck. The Chairman suggested that Mr. Di Giovanni and his attorney discuss the matter to see if some accommodation could be reached this evening. They agreed and the Chairman stated the matter would be called again later in the meeting. Member Serson resumed her position on the Board.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of AT & T WIRELESS, applicant, dated February 20, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) telecommunications antenna panels to be affixed to an existing 190 foot self-support lattice tower located at 806 Hoosick Road, in the Town of Brunswick, at a centerline height of 150 feet, together with a 6' x 10' concrete pad at the base of said tower upon which two (2) outdoor equipment cabinets will be placed, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing

aloud.

Melissa Nixon, Esq., appeared on behalf of AT & T. She stated that the AT & T presently has no coverage on the Town of Brunswick and they need to build out into the Town as a condition of their FCC license. She stated all documents required by the Town's Telecommunications Law were included with the application. Attorney Cioffi noted that the required report from the RF engineer was not signed. Ms. Nixon said that the engineer who prepared the report, Scott Heffernan, was with her and could sign the report this evening. Attorney Cioffi also noted that the referral to County Planning had come back, indicating that local considerations should prevail.

No one from the public wished to comment on the application. Member Serson asked about AT & T's future plans in the Town. Ms. Nixon said, so far as she is aware, this was to be their only location in the Town. None of the other Board Members had any questions or concerns, nor did Mr. Kreiger. Attorney Cioffi asked whether anything on the plans did not comply with the special use standards set forth in the Town's Telecommunications Law. Ms. Nixon said, to her knowledge, all standards were complied with. Attorney Cioffi mentioned several of the standards. Ms. Nixon agreed they would be complied with. Ms. Nixon noted that the pad and equipment shelter would be located within the existing compound. Ms. Nixon also confirmed that there are now 3 antennae on the tower, this would be the fourth.

There being no further questions or comments from the Board or from the public, Member Serson made a motion to close the public hearing. Member Jabour seconded. The motion carried 5 - 0. The Board indicated that there would be a written decision on this. Attorney Cioffi reminded the applicant that if the Board were to grant the special use permit, they would still have to go to the Planning Board for site plan approval.

The Chairman recalled the Saxton Sign Corp. application pertaining to the sign on the gas station located at 560 Hoosick Street. Pat Boni submitted the completed short-form EAF to the Board. Member Serson made a motion to close the public hearing. The Chairman seconded. The motion carried 5 - 0. Attorney Cioffi reviewed the EAF with the Board. In completing Part 2 of the EAF, the Board did not identify any potential negative effects on the environment as a result of granting the variances requested, except that some concerns were expressed regarding the hours during which the sign would be lighted, which concerns could be mitigated by placing restrictions on the hours that the sign could be illuminated. Member Schmidt made a motion to issue a negative declaration under SEQRA on this unlisted action. Member Serson seconded. The motion carried 5 - 0.

Member Jabour thereupon offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of SAXTON SIGN CORP., applicant, dated February 12, 2003, for variances pursuant to the Sign Law and Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a free standing advertising sign on a lot located at 560 Hoosick Street, in the Town of Brunswick, because the proposed construction violates:***

1. *The minimum building setback to qualify for a free-standing sign, which is 50 feet, but 34 feet is proposed; and*
2. *The minimum required road frontage for a free standing sign, because 150 feet is required, but 132.79 feet is proposed.,*

*the Zoning Board of Appeals finds and determines as follows:*

1. *That the requested variances are necessary for the reasonable use of the land and buildings;*
2. *That the variances requested are in harmony with the general purposes and intent of the Sign Law;*
3. *That the variances requested will not be injurious to the neighborhood character or otherwise detrimental to the public welfare;*
4. *That denial of the variances would result in practical difficulty or unnecessary hardship for the owner;*
5. *That the variances be and hereby are granted upon the condition that the sign may not be illuminated before 6:00 A.M. nor after 10:00 P.M.*

The Chairman seconded the Resolution. The Resolution was thereupon put to a roll call vote as follows:

<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Jabour</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

The Chairman then recalled the Serson application. Attorney McDonald stated that he had discussed the matter with his clients, and their opposition would be withdrawn on the condition that the deck be no closer at any point than 9' 3" to their property line, and that the elevation be no higher than that of the existing deck. They would also still like to see a final plan before a permit is issued. They have no problem with the 33' 3" in the rear. They want to see the plan because they want to be sure that what is actually built is a deck and not a porch or something like that. Member Jabour suggested that rather than requiring that a detailed plan be provided, the Board could simply condition the variances on the elevation not exceeding that of the current deck and the structure being an open deck and not a porch or some other type of structure. The elevation would be measured at the top of the planks on the deck where people stand or sit. Also, in no event would the deck ever be closer at any point to the property line than 9' 3". The Building Inspector would verify the elevation of the current deck.

Member Jabour made a motion to classify the matter a Type 2 action under SEQRA. The Chairman seconded. The motion carried 5 - 0.

Attorney Cioffi summarized what was agreed as follows: The rear setback would be reduced from 40' to 33' 3". The side yard setback would be reduced from 15' to 9' 3" on the conditions that (1) the proposed deck be no closer at any point to the Di Giovanni property line than 9' 3" (2) that the elevation of the sitting area of the proposed deck be no higher than that of the existing deck, such elevation to be independently verified by the Building Inspector prior to demolition of the existing deck, and (3) that the only structure authorized to be built is an open air deck similar to the existing one.

Ms. Serson said she wanted to be clear that the property line, from which the 9' 3" would be measured, is the existing chain link fence. Mr. Di Giovanni stated that, actually, that fence is 8 inches onto his property, so the property line is not the fence. Ms. Serson said she understood that the fence was the boundary. There was considerable discussion on this issue. Ms. Serson was concerned that the deck will not be wide enough if the 9' 3" is measured from some line other than the chain link fence. She made her measurements believing that the fence was the property line. Attorney Cioffi stated that the survey presented to the Board appears to confirm that the fence is not right on the property line, rather it is slightly onto the Di Giovanni property. There was further substantial discussion on this issue.

Member Jabour subsequently offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of the appeal and petition of AMY and AUSTIN SERSON, owners-applicants, dated March 23, 2003, for area variances pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a new and larger deck on a single family home located at 142 McChesney Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-25 District in that 15 feet is required but 9' 3" is proposed, and the rear yard setback in an R-25 District in that 40 feet is required but 33' 3" is proposed, the Zoning Board of Appeals:***

***1. Finds and determines as follows:***

***a) That the variances will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;***

***b) That the relief requested cannot be obtained except by way of an area variances;***

***c) That the variances are not excessive given the circumstances and the neighborhood; and***

***d) That the need for the variances was not self-created.***

***2. Grants the variances as requested on the following conditions:***



*a) That in no event may the proposed deck, at any point, be closer to the actual property line between the Serson property and the Di Giovanni property, as depicted on the survey map referred to in the parties' Boundary Line Agreement, than 9' 3".*

*b) That the elevation of the sitting area of the proposed deck shall not exceed that of the existing deck, which is to be verified by the Building Inspector prior to the demolition of the existing deck or the issuance of the building permit for the proposed deck.*

*c) That the only structure which is authorized to be built in accordance with this variance is an open air deck similar to the existing deck.*

*d) No building permit shall be issued until County Planning determines that local considerations shall prevail with respect to this application or issues a recommendation which is not inconsistent with the other terms of this Resolution.*

The Chairman seconded.. The proposed Resolution was then put to a vote as follows:

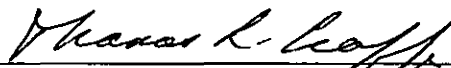
<i>Member Serson</i>	<i>Abstain</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Jabour</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

There being no further business, Member Jabour moved to adjourn. Chairman Hannan seconded. The motion to adjourn carried 5 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
May 15, 2003

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

## NOTICE OF PUBLIC HEARING

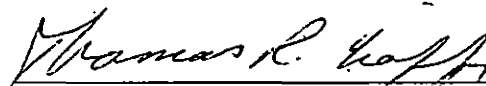
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 19th day of May, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of PATRICIA WATT, owner-applicant, dated April 25, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 308 Carroll's Grove Road, in the Town of Brunswick, because the proposed construction violates the side yard setback in an A-40 District in that 25 feet is required but 13.5 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said PATRICIA WATT, owner-applicant, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
May 5, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK



---

THOMAS R. CIOFFI  
Town Attorney

TOWN OF BRUNSWICK  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 - FAX: (518) 279-4352

RECEIVED  
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TOWN CLERK

**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on May 19, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Joseph Jabour, Member  
Caroline Trzcinski, Member  
Amy Serson, Member  
James Hannan, Chairman

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

An informal workshop portion of the meeting commenced at approximately 5:30 P.M. Members present informally reviewed files and discussed agenda matters.

At approximately 6:04 P.M., the meeting was called to order. The first item of business was further consideration of the appeal and petition of DAVID KENT, owner-applicant, dated February 3, 2003, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located at 30 Banker Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback requirement in an R-15 District in that 35 feet is required but 15 feet is proposed.

Thomas Duval, Mr. Kent's builder, appeared. He stated that the Board had directed that the applicant consult with an engineer regarding the drainage issues on the site. Mr. Duval said that Mr. Kent does not wish to incur that expense at this time. He would like to leave the matter pending. The Chairman suggested that the application be withdrawn and that Mr. Kent re-file later should he be so inclined. Mr. Duval agreed to withdraw the application. Barbara Plekan and Brent Little, 28 Banker Avenue, complained that the activities on the site were still causing drainage problems on their property. Attorney Cioffi explained that this Board had no power to bring proceedings to compel Mr. Kent to alleviate any conditions on his property. He suggested that Mr. Kreiger inspect the site to ascertain whether there were any Code violations for which enforcement proceedings could be brought by the Town. Otherwise, they would have to bring a private lawsuit against Mr. Kent. Member Jabour made a motion to accept the withdrawal of the application. Member Trzcinski seconded. The motion carried 5 - 0.

The next item of business was approval of the minutes of the April 28, 2003, meeting. Member Schmidt made a motion to approve the Draft Minutes as prepared. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of AT & T WIRELESS, applicant, dated February 20, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) telecommunications antenna panels to be affixed to an existing 190 foot self-support lattice tower located at 806 Hoosick Road, in the Town of Brunswick, at a centerline height of 150 feet, together with a 6' x 10' concrete pad at the base of said tower upon which two (2) outdoor equipment cabinets will be placed, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Melissa Nixon, Esq. appeared on behalf of AT & T.

Attorney Cioffi explained that the Board had before it a draft Resolution and Determination with respect to this matter. However, in reviewing the documentation in detail, he noted that there were certain discrepancies between the documentation submitted and the statements by the AT & T representatives at the hearing. He alerted Ms. Nixon to the discrepancies last week and she agreed to remedy them by this evening. Attorney Cioffi went on to state that one outstanding discrepancy still exists. Specifically, the structural report submitted as part of the application is based upon the assumption that the T-Mobile antenna array which was originally at 178 feet was being moved to 100 feet. At the public hearing, the AT & T engineer stated that the T-Mobile array had not been moved and that the move was mere speculation. At this point, there is no structural report stating that the addition of the AT & T array will be safe with the T-Mobile array at 178 feet.

Attorney Nixon stated that she was advised by T-Mobile that the array had already been moved. This could not be independently confirmed. Ms. Nixon stated she could not obtain a structural report with the T-Mobile array at 178 feet for this evening.

Ms. Nixon asked that the Board grant the permit contingent on the verification of the present location of the T-Mobile array and the submission of an appropriate structural. Attorney Cioffi said that was up to the Board, but he expressed concern that in a co-location situation, one of the most important points to consider is whether the addition of the additional antenna will affect the structural safety of the tower. Right now, the Board does not have all the information in that regard. He stated that the public hearing closed on April 28, 2003, and the Board has 60 days to act. The Board is under no compulsion to act this evening. The Chairman said his preference was to put the matter over to the June 16 meeting and he offered a motion to that effect. Member Serson seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of SAXTON SIGN CORP., applicant, dated March 28, 2003, for variances pursuant to the Sign Law and Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a free standing advertising sign on a lot located at 562 Hoosick Street, in the Town of Brunswick, because the proposed construction violates:

1. The side setback in that a distance equal to the height of the sign, which is 17 feet, is required, but 3 feet is proposed; and
2. The minimum required road frontage for a free standing sign, because 150 feet is required, but 139 feet is proposed; and
3. The minimum setback from the abutting road, because 15 feet is required, but 10 feet is proposed.

Pat Boni from Saxton Sign Corp. appeared with the property owner, Bill Ozbay, 1941 Guilderland Avenue, Schenectady, NY. Attorney Cioffi stated that all adjoining property owners had been advised of this evening's hearing. Also, the referral from County Planning had been received indicating that local considerations should prevail. Mr. Boni handed up a completed short form EAF. He also noted at the name of the gas station was being changed to "Ocean Gas".

Attorney Cioffi explained the three variances being requested. The Chairman made a motion to classify this matter an unlisted action under SEQRA. Member Serson seconded. The motion carried 5 - 0. The Board then went completed Part 2 of the EAF. No significant environmental impacts were found. Member Jabour made a motion to issue a negative declaration under SEQRA. The Chairman seconded. The motion carried 5 - 0. Member Jabour thereupon offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of SAXTON SIGN CORP., applicant, dated March 28, 2003, for variances pursuant to the Sign Law and Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a free standing advertising sign on a lot located at 562 Hoosick Street, in the Town of Brunswick, because the proposed construction violates:***

***The side setback in that a distance equal to the height of the sign, which is 17 feet, is required, but 3 feet is proposed; and***

***The minimum required road frontage for a free standing sign, because 150 feet is required, but 139 feet is proposed; and***

***The minimum setback from the abutting road, because 15 feet is required, but 10 feet is proposed.***

***the Zoning Board of Appeals finds and determines as follows:***

1. ***That the requested variances are necessary for the reasonable use of the land and buildings;***
2. ***That the variances requested are in harmony with the general purposes and intent of the Sign Law;***
3. ***That the variances, as conditioned hereafter, requested will not be injurious to the***

*neighborhood character or otherwise detrimental to the public welfare;*

4. *That denial of the variances would result in practical difficulty or unnecessary hardship for the owner;*
5. *That the variances be and hereby are granted upon the condition that the sign may not be illuminated before 6:00 A.M. nor after 10:00 P.M.*

The Chairman seconded the Resolution. The Resolution was thereupon put to a roll call vote as follows:

<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Jabour</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was the appeal and petition of PATRICIA WATT, owner-applicant, dated April 25, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 308 Carroll's Grove Road, in the Town of Brunswick, because the proposed construction violates the side yard setback in an A-40 District in that 25 feet is required but 13.5 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Flint Watt appeared with his wife, Patricia. He stated that they want to build a two car detached garage. To put it anywhere other than where requested would require that they cut into a steep hill, resulting in additional excavation and possible drainage problems. Also, their existing driveway goes right up to the spot where they want to put the garage. Member Trzcinski noted that the hill is not that steep. Mr. Watt said it rises up about ten feet. Member Schmidt noted that if they put the garage where no variance would be required would mean they would need an "S" curve to get to the garage from the existing driveway.

Member Serson made a motion to classify the matter a Type 2 action under SEQRA. Member Schmidt seconded. The motion carried 5 - 0. Member Serson thereupon offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of appeal and petition of PATRICIA WATT, owner-applicant, dated April 25, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 308 Carroll's Grove Road, in the Town of Brunswick, because the proposed construction violates the side yard setback in an A-40 District in that 25 feet is required but 13.5 feet is proposed., the Zoning Board of Appeals:***

1. *Finds and determines as follows:*

*a) That the variance will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;*

*b) That the relief requested cannot be obtained except by way of an area variance;*

*c) That the variance is not excessive given the circumstances and the neighborhood;  
and*

*d) That the need for the variance was not self-created.*

*2. Grants the variance as requested.*

Member Schmidt seconded. The proposed Resolution was then put to a vote as follows:

<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Jabour</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

There being no further business, Member Serson moved to adjourn. Member Jabour seconded. The motion to adjourn carried 5 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
May 30, 2003

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING

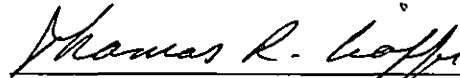
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 16th day of June, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of the SARAH D. CALHOUN LIVING TRUST, owner-applicant, dated April 30, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing vacant building located at 691 Hoosick Road, in the Town of Brunswick for offices and supply and vehicle storage, because the proposed commercial uses are only allowed in a non-commercial district upon the issuance of a use variance by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said SARAH D. CALHOUN LIVING TRUST, owner-applicant, has petitioned for said use variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
May 30, 2003  
Posted June 2, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK



THOMAS R. CIOFFI

Town Attorney



TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 - FAX: (518) 279-4352

RECEIVED

JUL 14 2003

TOWN CLERK

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on June 16, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Joseph Jabour, Member  
Amy Serson, Member  
James Hannan, Chairman (arrived late)

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

An informal workshop portion of the meeting commenced at approximately 5:30 P.M. Members present informally reviewed files and discussed agenda matters. At approximately 6:10 P.M., the meeting was called to order. Attorney Cioffi noted that the Chairman was absent. He advised that the first item of business would be for the Board to elect a Temporary Chairman. Member Serson made a motion to elect Member Jabour Temporary Chairman. Member Schmidt seconded. The motion carried 3 - 0, and Member Jabour assumed the role of Chairman.

The next item of business was approval of the Minutes of the May, 2003, meeting. Member Schmidt made a motion to approve the Draft Minutes as submitted. Member Serson seconded. The motion carried 5 - 0. The next item of business was the Application for Zoning Permit and Request for Special Use Permit of AT & T WIRELESS, applicant, dated February 20, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) telecommunications antenna panels to be affixed to an existing 190 foot self-support lattice tower located at 806 Hoosick Road, in the Town of Brunswick, at a centerline height of 150 feet, together with a 6' x 10' concrete pad at the base of said tower upon which two (2) outdoor equipment cabinets will be placed, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Melissa Nixon, Esq. appeared on behalf of AT & T.

Attorney Cioffi explained that this matter was before the Board for issuance of a determination by the Board. The Board had considered doing so at last month's meeting but there were outstanding issues that precluded it from doing so at that time. The Board was mainly concerned that the engineering certification supplied with the application, which addressed the tower's ability to withstand the load of this additional antenna array, was unclear as to the presence and exact location on the tower of the other arrays. Attorney Nixon then submitted to the Board revised plans and drawings of the site, which resolved all issues pertaining to what antennae were

currently on the tower and their exact locations, as well as a revised engineering certification that clearly states that the tower is capable of handling the additional load of the AT & T array. The Board reviewed and discussed the additional submissions. Attorney Cioffi noted that the Board had before it a written draft Determination which included all necessary SEQRA findings and determinations, as well as a written draft Resolution adopting the Determination. Essentially, the draft Determination issues a Negative Declaration under SEQRA and grants the special use permit. After a brief discussion, Member Serson offered the draft Resolution Adopting Determination. Member Schmidt seconded. The Resolution was adopted by the affirmative votes of Member Serson, Member Schmidt and Member Jabour. Copies of the Resolution and the Determination are annexed to these Minutes.

The next item of business further consideration of the appeal and petition of STUART and LINDA PALMER, owners-applicants, dated February 5, 2003, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located designated as Rensselaer County Tax Map Parcel 82-2-9.2, located adjacent to 1548 NY Route 7, in the Town of Brunswick, because the proposed construction violates the lot width requirement in an A-40 District in that 180 feet is required but 112.37 feet is proposed. Stuart and Linda Palmer appeared.

Attorney Cioffi recounted the history of this application. The Palmers applied for this variance to permit construction on a lot which did not meet the minimum width standards. Upon its review, this Board realized that when the lot in question was authorized to be subdivided off and purchased by the Palmers, the Planning Board did so on the assumption that the lot would be added to the Palmers' adjoining lot. It was not intended by the Planning Board to be a "stand alone" building lot. Therefore, this Board advised the Palmers that they would have to apply to the Planning Board for permission to subdivide the lot in question from their existing parcel, with which the Planning Board had deemed it had been merged. The Palmers did apply to the Planning Board and, as required by the Town Law, the Planning Board noted that it could not grant approval without a variance from this Board because it would create a lot which did not meet minimum lot width zoning requirements. The Planning Board recommended that this Board grant the variance, apparently being convinced that there was no other viable way to subdivide the property without a variance, given the location of the Palmers' existing septic system leach field. The original application for an area variance is now back before this Board.

Chairman Hannan arrived during this discussion and assumed the Chairman role. After some further discussion, Chairman Hanna offered a motion to classify the matter a Type 2 action under SEQRA. Member Serson seconded. The motion carried 4 - 0. Member Jabour thereupon offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of STUART and LINDA PALMER, owners-applicants, dated February 5, 2003, for an area variance pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located designated as Rensselaer County Tax Map Parcel 82-2-9.2, located adjacent to 1548 NY Route 7, in the Town of Brunswick, because the proposed construction violates the lot width requirement in an A-40 District in that 180 feet is required but 112.37 feet is proposed., the Zoning Board of Appeals:***

1. *Finds and determines as follows:*

- a) *That the variance will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;*
- b) *That the relief requested cannot be obtained except by way of an area variance;*
- c) *That the variance is not excessive given the circumstances and the neighborhood; and*
- d) *That the need for the variance was not self-created.*

2. *Grants the variance as requested.*

Member Schmidt seconded. The proposed Resolution was then put to a vote as follows:

<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Jabour</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>Absent</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was the appeal and petition of the SARAH D. CALHOUN LIVING TRUST, owner-applicant, dated April 30, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing vacant building located at 691 Hoosick Road, in the Town of Brunswick for offices and supply and vehicle storage, because the proposed commercial uses are only allowed in a non-commercial district upon the issuance of a use variance by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud. Sarah D. Calhoun, 267 Grange Road, appeared, along with her son, Peter Calhoun, 440 Grange Road, and a friend, Reid Bissell, 54 Deepkill Road.

The applicant stated that she owns the land and building formerly occupied by the State Police. They would like to rent the property to a third party who would use it for commercial purposes. Peter Gardenier, 41 Bornt Lane, stated that he is the proposed new tenant. He wants to put an office there for his business. He is a low voltage contractor. There would be no retail sales. They do security system installs and other work on location. He would store his trucks and equipment there. He would be using mainly the rear of the building and would like to rent out the front to some other business.

Attorney Cioffi explained that to grant a use variance, the Board would have to find that the owner of the property could not derive a reasonable return from its investment in the property by utilizing the same for a use permitted by the zoning ordinance. In order to make that determination,

the applicant would have to provide competent, financial proof. Attorney Cioffi suggested that the applicant may want to consult with an attorney or other professional to assist them in this, as it is a fairly complicated and technical process. Attorney Cioffi also advised the applicant that she would have to file a long-form EAF so the Board could complete the SEQRA process. Once again, Attorney Cioffi noted that this is a technical and complicated process, for which they may want to seek assistance. The applicant was provided with the EAF form in any event.

Mr. Gardenier stated that if it was just a matter of filling out a form, that was no problem but he could not see why there should be any problem with this. The building has not been used as a residence for years. It has been used by the State Police. Attorney Cioffi stated that a use variance is not simply a matter of filling out some forms. It is the applicant's burden to submit proof which supports the grant of a use variance. It is not the Board's obligation to prove the applicant's case. Moreover, the use of the building by the State Police did not require a use variance since governmental buildings are allowed in all districts. This proposed use of the building for various commercial purposes requires a use variance.

Mrs. Calhoun stated that she was not aware that this was such a complicated process. They had consulted with a realtor and a surveyor and they expected someone to be there with them tonight, but no one came. Mr. Calhoun stated that he understood that proof had to be submitted. They will consider whether to seek professional assistance. The Board continued the matter to the June 21, 2003, meeting.

Christopher Brown, 1 Kenworth Avenue, asked to address the Board. He stated that he had filed an application for an area variance to construct a storage shed on his property. He understood from Mr. Kreiger that it would be on the agenda this evening. Attorney Cioffi explained that by the time he received the completed application it was too late to get it on the agenda for this month, given the 10 day advance newspaper publication requirement. Mr. Kreiger acknowledged that he had to revise and re-do some of the forms, and there was a delay getting it to Attorney Cioffi. The Board apologized to Mr. Brown and stated his application would be on the July 21, 2003, meeting agenda.

There being no further business, Member Serson moved to adjourn. Member Schmidt seconded. The motion to adjourn carried 4 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
July 14, 2003

Respectfully submitted,



THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**June 16, 2003**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, the Application for Zoning Permit and Request for Special Use Permit of AT&T Wireless PCS, LLC., dated February 20, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of up to six (6) panel antennae on an existing 190 foot self-support lattice tower ("tower") located at 806 Hoosick Road, Town of Brunswick, at a centerline height of 150 feet, and two (2) outdoor equipment cabinets to be placed on a 6' x 10' foot concrete pad having been duly filed because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals; and

**WHEREAS**, the matter have duly come on for public hearing on April 28, 2003; and ,

**WHEREAS**, the Board having caused to be prepared a written Determination with respect to the said appeal and petition, which is annexed hereto; now, therefore, after due deliberation

**BE IT RESOLVED**, that the annexed Determination be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Member Serson and seconded by Member Schmidt, was duly put to a roll call vote as follows:

<b>MEMBER SERSON</b>	<b>VOTING</b> <u>Aye</u>
<b>MEMBER SCHMIDT</b>	<b>VOTING</b> <u>Aye</u>
<b>MEMBER JABOUR</b>	<b>VOTING</b> <u>Aye</u>
<b>MEMBER TRZCINSKI</b>	<b>VOTING</b> <u>Absent</u>
<b>CHAIRMAN HANNAN</b>	<b>VOTING</b> <u>Absent</u>

The foregoing Resolution was (~~not~~) thereupon declared duly adopted.

Dated: June 16, 2003

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

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In the Matter of the Application of

AT&T WIRELESS PCS LLC.,

Applicant

DETERMINATION

For the Issuance of a Special Use Permit Under the Zoning  
Ordinance of the TOWN OF BRUNSWICK

---

This matter involves the Application for Zoning Permit and Request for Special Use Permit of AT&T Wireless PCS, LLC., dated February 20, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of up to six (6) panel antennae on an existing 190 foot self-support lattice tower ("tower") located at 806 Hoosick Road, Town of Brunswick, at a centerline height of 150 feet, and two (2) outdoor equipment cabinets to be placed on a 6' x 10' foot concrete pad.

This application is brought pursuant to Local Law No. 1 for the Year 1999 which provides for the regulation of personal wireless telecommunications facilities in the Town of Brunswick. Basically, the application is for a special use permit to authorize the placement and attachment of up to six (6) additional antennae on the existing lattice tower located at 806 Hoosick Road. The tower is 190 feet high. There are currently three (3) antenna arrays on the tower. If approved, this will be the fourth. The antennae are proposed to be placed at a centerline height of 150 feet. The 6' x 10' concrete pad and the two (2) outdoor equipment cabinets will be situated below the tower within a proposed extension of the existing fenced compound. No additional access road or parking is proposed or required.

The applicant has submitted all of the application materials required for a minor personal wireless telecommunications service facility by the local law. The application was deemed complete by the Board. At the public hearing, for which all adjoining property owners were notified, and notice of which was duly published in the Town's official newspaper, no one from the public expressed any opposition to the proposed facility. There were few questions or comments from the Board, which is probably a function of the completeness of the application.

The Board takes notice of the fact that the Town Board, in enacting the Town's telecommunications law, expressed a clear intent that minor personal wireless facilities be used whenever possible. The law provides, essentially, that once the applicant submits all the information and materials required for a minor facility, if it appears that the modifications to the existing building or structure are insignificant, the permit should be granted. In this case, the applicant has submitted all of the required information and documentation, including an engineering report which establishes that the structural integrity of the tower will not be compromised in any way by the proposed construction.

The Board hereby classifies this matter an unlisted action under SEQRA. The Board has reviewed Part 1 of the EAF submitted by the applicant as well as Part 2 of the EAF prepared at the behest of this Board. The Board has also considered the Visual Addendum to the EAF. The applicant has provided sufficient materials to evaluate the visual impact of the tower. The Board notes that the tower exists at present and is really not being added to in any significant way, at least from a visual standpoint. The height of the tower will not be increased. It does not appear that the visual impact of the tower will be significantly greater with the addition of the proposed antennae than it is now. It is also noted that this tower is located in a commercial zone on NYS Route 7 (Hoosick Road), which is the most commercial area of the Town. It should be further noted that the telecommunications facility is being built without the necessity of a new telecommunications tower, which would most certainly have a much greater environmental impact. Based upon a careful review of the EAF, and the record before us, we conclude that this action will not have an adverse effect on the environment and, accordingly, a negative declaration shall issue. Copies of Part 1 and 2 of the EAF, and the Negative Declaration, are annexed hereto.

Turning to the merits of the application, under State law, and the Zoning Ordinance, the general criteria for the grant of a special use permit are as follows:

1. The granting of the Special Use Permit is reasonably necessary for the public health or general interest or welfare; and
  2. The special use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities; and
  3. The off street parking spaces required for the special use under the Zoning Ordinance are adequate to handle expected public attendance; and
  4. Neighborhood character and surrounding property values are reasonably safeguarded;
- and

5. The special use will not cause undue traffic congestion or create a traffic hazard; and
6. All conditions or standards contained in the Zoning Ordinance for the special use are satisfied; and
7. All governmental authorities having jurisdiction have given necessary approval.

The Board finds that it is in the public interest to grant the requested special use permit. In this day and age, wireless communications are commonplace and, indeed, in many cases, a necessity. So, too, cellular providers have been recognized by the courts as "public utilities". This application is meant to increase the availability of this technology to the public. The applicant has demonstrated its lack of service in this area and the necessity that it provide such service as a requirement of its FCC license. It is also significant that a minor facility is being sought, which is clearly preferred and in the public interest, due to the lesser environmental impacts.

There are no issues here relating to location in relation to necessary facilities or to public parking, or to traffic. This facility is not open to the public, nor is it "manned". No other government approval is required at this stage. Details regarding the site plan itself, including strict adherence to the specific site requirements set forth in the telecommunications law, will be dealt with subsequently by the Planning Board.

The Board finds that the neighborhood character and property values will not be impacted by the grant of this permit. As previously stated, this tower has been in existence for several years and is located in the most commercial part of Town. Clearly, the only significant visual impact here is the power transmission tower itself, which is, of course, pre-existing. The addition of the antenna panels, which will add nothing to the height of the tower, and the ground equipment, will have no effect on community character or property values that does not already exist as a consequence of the tower itself.

The Board also finds that all of the specific special use standards for Personal Wireless Telecommunications Service Facilities imposed by the Town's telecommunications law have been satisfied to the extent that they are applicable to this proposed facility.

Finally, in accordance with Article VIII, Section 5.B. of the Zoning Ordinance, as amended by Local Law No. 1 for the Year 1999, the Board finds that all necessary documentation has been submitted and the proposed modifications to the tower are insignificant.

Accordingly, the requested special use permit to construct and operate a minor personal wireless telecommunications service facility, consisting of up to six (6) panel antennae on an existing



190 foot self-support lattice tower located at 806 Hoosick Road, Town of Brunswick, at a centerline height of 150 feet, and two (2) outdoor equipment cabinets to be placed on a 6' x 10' foot concrete pad. is granted upon the following conditions:

1. All site requirements set forth in the Town's telecommunications law, to the extent deemed applicable by the Planning Board in its site plan review, shall be fully complied with.

2. The applicant, or its agents, successors, etc., shall maintain liability insurance against damage to person or property during the construction and life of this minor personal wireless telecommunications facility with minimum limits of \$1,000,000.00/\$3,000,000.00, which coverage shall name the Town of Brunswick, and its agents, servants, employees and boards, as additional insureds. A certificate of insurance documenting such coverage shall be required prior to the issuance of the permit.

Dated: Brunswick, New York

June 16, 2003

**PART 1 - PROJECT INFORMATION**  
**PREPARED BY PROJECT SPONSOR**

Notice: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

NAME OF ACTION: Collocation of PCS antennas on existing tower owned by Spectrasite Comm. (ALBYNY0066)			
LOCATION OF ACTION: Brunswick Drive, Troy, Rensselaer County, New York (include street address, municipality and County)			
NAME OF APPLICANT/SPONSOR: AT&T Wireless PCS, LLC,		BUSINESS TELEPHONE: 516-677-6503	
by AT&T Wireless Services, Inc., its member			
15 East Midland Ave	Paramus	NJ	07652
STREET ADDRESS	CITY/PO	STATE	ZIP
NAME OF OWNER: Spectrasite Communications (IF DIFFERENT)		BUSINESS TELEPHONE:	
400 Regency Forest Drive	Cary	NC	27511
STREET ADDRESS	CITY/PO	STATE	ZIP
DESCRIPTION OF ACTION: Collocation of AT&T Wireless antennas on an existing telecommunications tower at a centerline height of 150'-0" AGL and installation of related equipment at the base of the tower within the existing compound.			

Please complete each question - Indicate N.A. if not applicable.

**A. SITE DESCRIPTION**

Physical setting of overall project, both developed and undeveloped areas.

1. Present land use:  Urban  Industrial  Commercial  Residential(suburban)  Rural (non-farm)  
 Forest  Agriculture  Other Existing Wireless Communications Facility

2. Total acreage of project area: 0.003 acres.

<u>APPROXIMATE ACREAGE</u>	<u>PRESENTLY</u>	<u>AFTER COMPLETION</u>
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) Communications Compound	<u>0.003</u> acres	<u>0.003</u> acres

3. What is predominant soil type(s) on project site? Nassau-Manlius complex, undulating

a. Soil drainage:

- well drained 100% of site  
 Moderately well drained \_\_\_\_\_ % of site

Poorly drained \_\_\_\_\_ % of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? N/A Acres (See 1 NYCRR 370):

4. Are there bedrock outcroppings on project site?  Yes  No.  
a. What is depth to bedrock? +1.5' (in feet):
5. Approximate percentage of proposed project site with slopes?  
 0-10% %  10-15% %  15% or greater %.
6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the National Registers of Historic Places?  Yes  No
7. Is project substantially contiguous to, to a site listed on the Register of National Natural Landmarks?  
 Yes  No
8. What is the depth of the water table: +10' (in feet)
9. Is the site located over a primary, principal, or sole source aquifer?  Yes  No.
10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes  No.
11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?  
 Yes  No. According to: NYSDEC Letter 6/28/2001; USFWS Letter 12/21/2001.  
Identify each species: Please see attached letters.
12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations)?  Yes  No.  
Describe:
13. Is the project site presently used by the community or neighborhood as an open space or recreation area?  
 Yes  No.  
If yes, explain:
14. Does the present site include scenic views known to be important to the community?  Yes  No.
15. Streams within or contiguous to project area? None.
16. Lakes, ponds, wetland areas within or contiguous to project area?
- |                  |                            |
|------------------|----------------------------|
| Name: <u>N/A</u> | Size (in acres) <u>N/A</u> |
| Name: <u>N/A</u> | Size (in acres) <u>N/A</u> |
| Name: <u>N/A</u> | Size (in acres) <u>N/A</u> |
17. Is the site served by existing public utilities?  Yes  No.  
a. If yes, does sufficient capacity exist to allow connection:  Yes  No.  
b. If yes, will improvements be necessary to allow connection:  Yes  No.
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No.
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?  Yes  No.

20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No.

## B. PROJECT DESCRIPTION

1. Physical dimensions and scale of project (fill in dimensions as appropriate).

- a. Total contiguous acreage owned or controlled by project sponsor 0.003 acres.
- b. Project acreage to be developed: 0.003 acres initially; 0.003 acres ultimately.
- c. Project acreage to remain undeveloped 0.00 acres.
- d. Length of project, in miles: N/A (if appropriate).
- e. If the project is an expansion, indicate percent of expansion proposed 0 (Zero) %
- f. Number of off-street parking spaces existing 1 (One); proposed 1 (One).
- g. Maximum vehicular trips generated per hour One Per Month (upon completion of project).
- h. If residential, number and type of housing units:

	One-family	Two-family	Multiple-family	Condominium
Initially	N/A	N/A	N/A	N/A
Ultimately	N/A	N/A	N/A	N/A

- i. Dimensions (in feet) of largest proposed structure 6' height; 10' width; 17' length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? N/A Ft.

2. How much natural material (i.e., rock, earth, etc.) will be removed from the site? 0 (Zero) Tons/cubic yards.

3. Will disturbed areas be reclaimed:  Yes  No  N/A
- a. If yes, for what intended purpose is the site being reclaimed? \_\_\_\_\_
  - b. Will topsoil be stockpiled for reclamation?  Yes  No
  - c. Will upper subsoil be stockpiled for reclamation?  Yes  No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 0 (Zero) acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?  
 Yes  No

6. If single phase project: Anticipated period of construction 1 (One) months, (including demolition).

7. If multi-phased:

- a. Total number of phases anticipated N/A (number).
- b. Anticipated date of commencement phase 1 N/A month N/A year, (including demolition).
- c. Approximate completion date of final phase N/A month N/A year.
- d. Is phase 1 functionally dependent on subsequent phases?  Yes  No

8. Will blasting occur during construction?  Yes  No

9. Number of jobs generated: during construction? 6 (Six); after project is complete? 0 (Zero)

10. Number of job eliminated by this project? 0 (Zero)

11. Will project require relocation of any projects or facilities:  Yes  No  
If yes, explain \_\_\_\_\_

12. Is surface liquid waste disposal involved?  Yes  No

- a. If yes, indicate type of waste (sewage, industrial, etc.) and amount \_\_\_\_\_
- b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved?  Yes  No Type: \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

Explain: \_\_\_\_\_

15. Is project, or any portion of project, located in a 100 year flood plain?  Yes  No
16. Will the project generate solid waste?  Yes  No
- a. If yes, what is the amount per month? \_\_\_\_\_ Tons.
- b. If yes, will an existing solid waste facility be used:  Yes  No
- c. If yes, give name \_\_\_\_\_; location \_\_\_\_\_
- d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No
- e. If yes, explain: \_\_\_\_\_
17. Will the project involve the disposal of solid waste:  Yes  No.
- a. If yes, what is the anticipated rate of disposal: \_\_\_\_\_ tons/month.
- b. If yes, what is the anticipated site life: \_\_\_\_\_ years.
18. Will project use herbicides or pesticides?  Yes  No.
19. Will project routinely produce odors (more than one hour per day)?  Yes  No
20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No
21. Will project result in an increase in energy use?  Yes  No  
If yes, indicate type(s) Electricity
22. If water supply is from wells, indicate pumping capacity N/A gallons/minute
23. Total anticipated water usage per day N/A gallons/day.
24. Does project involve Local, State or Federal funding?  Yes  No  
If yes, explain \_\_\_\_\_.
25. Approvals Required:

	Type		Submission Date
City, Town, Village Board	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
City, Town, Village Plng. Board	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Site Plan Review
City, Town, Zoning Board	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Special Use Permit
City, County Health Department	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Other Local Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Other Regional Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
State Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Federal Agencies	<input type="checkbox"/> Yes	<input type="checkbox"/> No	

C. ZONING and PLANNING INFORMATION

1. Does proposed action involve a planning or zoning decision?  Yes  No  
If yes, indicate decision required:

<input type="checkbox"/> zoning amendment	<input type="checkbox"/> zoning variance	<input checked="" type="checkbox"/> special use permit	<input type="checkbox"/> subdivision	<input checked="" type="checkbox"/> site plan
<input type="checkbox"/> new/revision of master plan	<input type="checkbox"/> resource management plan	Other:		

2. What is the zoning classification(s) of the site? B-15
3. What is the maximum potential development of the site if developed as permitted by the present zoning?  
N/A

4. What is the proposed zoning of the site? N/A

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?  
N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?  
Commercial, Residential (Suburban)

8. Is the proposed action compatible with adjoining/surrounding land uses within a ¼ mile?  Yes  No

9. If the proposed action is the subdivision of land, how many lots are proposed? N/A

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No

11. Will the proposed action create a demand for any community provided serviced (recreation, education, police, fire protection)?  Yes  No

a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No

12. Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No

a. If yes, is the existing road network adequate to handle the additional traffic?  Yes  No

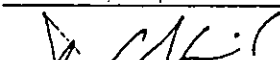
#### D. INFORMATIONAL DETAILS

Attach any additional information as may be needed to clarify your project. If there are, or may be, any adverse impacts associated with your proposal, please discuss such impacts and measures which you propose to mitigate or avoid them.

#### E. VERIFICATION

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name: AT&T Wireless PCS, LLC, by AT&T Wireless Services, Inc., its member Date: February 17, 2003

Signature:  Title: Partner (As Agent for AT&T)

*If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.*

## Appendix B State Environmental Quality Review Visual EAF Addendum

This form may be used to provide additional information relating to Question 11 of Part 2 of the Full EAF.  
(To be completed by Lead Agency)

Visibility	Distance Between Project and Resource (in Miles)				
	0-1/4	1/4-1/2	1/2-3	3-5	5+
1. Would the project be visible from:					
• A parcel of land which is dedicated to and available to the public for the use, enjoyment and appreciation of natural or man-made scenic qualities?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• An overlook or parcel of land dedicated to public observation, enjoyment and appreciation of natural or man-made scenic qualities?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• A site or structure listed on the National or State Registers of Historic Places?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• State Park?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• The State Forest Preserve?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• National Wildlife Refuges and State game refuges?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• National Natural Landmarks and other outstanding natural features?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• National Park Service lands?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Rivers designated as National or State Wild, Scenic or Recreational?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Any transportation corridor of high exposure, such as part of the Interstate System, or Amtrak?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• A governmentally established or designated interstate or inter-county foot trail, or one formally proposed for establishment or designation?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• A site, area, lake, reservoir or highway designated as scenic?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Municipal park, or designated open space?	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• County road?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• State? NYS Route 7		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Local road?		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the visibility of the project seasonal ? (i.e., screened by summer foliage, but visible during other seasons)		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>		
3. Are any of the resources checked in question 1 used by the public during the time of year during which the project will be visible?		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		

**DESCRIPTION OF EXISTING VISUAL ENVIRONMENT**

4. From each item checked in question 1, check those which generally describe the surrounding environment.

	Within	
	*1/4 mile	*1 mile
Essentially undeveloped	<input type="checkbox"/>	<input type="checkbox"/>
Forested	<input type="checkbox"/>	<input type="checkbox"/>
Agricultural	<input type="checkbox"/>	<input type="checkbox"/>
Suburban residential	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Industrial	<input type="checkbox"/>	<input type="checkbox"/>
Commercial	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Urban	<input type="checkbox"/>	<input type="checkbox"/>
River, Lake, Pond	<input type="checkbox"/>	<input type="checkbox"/>
Cliffs, overlooks	<input type="checkbox"/>	<input type="checkbox"/>
Designated Open Space	<input type="checkbox"/>	<input type="checkbox"/>
Flat	<input type="checkbox"/>	<input type="checkbox"/>
Hilly	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mountainous	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: add attachments as needed

5. Are there visually similar projects within:

- |           |   |  |
|-----------|---|--|
| *1/2 mile | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| *1 mile   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| *2 mile   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| *3 mile   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |

\*Distance from project site are provided for assistance.  
Substitute other distances as appropriate.

**EXPOSURE**

6. The annual number of viewers likely to observe the proposed project 5.9 million \*\*

NOTE: When user data is unavailable or unknown, use best estimate.

**CONTEXT**

7. The situation or activity in which the viewers are engaged while viewing the proposed action is:  Driving

Activity	FREQUENCY			
	Daily	Weekly	Holidays/ Weekends	Seasonally
Travel to and from work	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Involved in recreational activities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Routine travel by residents	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At a residence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At worksite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTES: \*\* AADT (Annual Average Daily Traffic) = 16,265 NEW YORK STATE DEPARTMENT OF TRANSPORTATION 2001 Traffic Volume Report for RENSSELAER County- From Troy City Line/Town of Brunswick to Rte 142 Brunswick Center, Year Recorded 1999.



Appendix A
State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

Purpose: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

- Part 1: Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
Part 2: Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
Part 3: If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

DETERMINATION OF SIGNIFICANCE - Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project: [X] Part 1 [X] Part 2 [ ] Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- [X] A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a negative declaration will be prepared.
[ ] B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a CONDITIONED negative declaration will be prepared.\*
[ ] C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a positive declaration will be prepared.

\* A Conditioned Negative Declaration is only valid for Unlisted Actions

Co-location of PCS Antennae on Existing Spectra Site Comm. Tower (ALBANY 066)

Name of Action

ZONING Board of Appeals, Town of Brunswick

Name of Lead Agency

James Hannan

Chairman

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

5/19/03 6/16/03

Date

## Part 2—PROJECT IMPACTS AND THEIR MAGNITUDE

### Responsibility of Lead Agency

#### General Information (Read Carefully)

- In completing the form the reviewer should be guided by the question: Have my responses and determinations been reasonable? The reviewer is not expected to be an expert environmental analyst.
- The Examples provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- The number of examples per question does not indicate the importance of each question.
- In identifying impacts, consider long term, short term and cumulative effects.

#### Instructions (Read carefully)

- a. Answer each of the 20 questions in PART 2. Answer Yes if there will be any impact.
- b. Maybe answers should be considered as Yes answers.
- c. If answering Yes to a question then check the appropriate box (column 1 or 2) to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- d. Identifying that an impact will be potentially large (column 2) does not mean that it is also necessarily significant. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the Yes box in column 3. A No response indicates that such a reduction is not possible. This must be explained in Part 3.

#### IMPACT ON LAND

1. Will the proposed action result in a physical change to the project site?  
 NO  YES

##### Examples that would apply to column 2

- Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%.
- Construction on land where the depth to the water table is less than 3 feet.
- Construction of paved parking area for 1,000 or more vehicles.
- Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.
- Construction that will continue for more than 1 year or involve more than one phase or stage.
- Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.
- Construction or expansion of a sanitary landfill.
- Construction in a designated floodway.
- Other impacts EXPANSION OF EXISTING FENCED COMPOUND; POURED 6' x 10' CONCRETE PAD

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)  NO  YES

- Specific land forms: \_\_\_\_\_

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**IMPACT ON WATER**

	<b>1</b> Small to Moderate Impact	<b>2</b> Potential Large Impact	<b>3</b> Can Impact Be Mitigated By Project Change
<p>3. Will proposed action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL) <input checked="" type="checkbox"/>NO <input type="checkbox"/>YES</p> <p><b>Examples that would apply to column 2</b></p> <ul style="list-style-type: none"> <li>• Developable area of site contains a protected water body.</li> <li>• Dredging more than 100 cubic yards of material from channel of a protected stream.</li> <li>• Extension of utility distribution facilities through a protected water body.</li> <li>• Construction in a designated freshwater or tidal wetland.</li> <li>• Other impacts: _____</li> </ul>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>4. Will proposed action affect any non-protected existing or new body of water? <input type="checkbox"/>NO <input type="checkbox"/>YES</p> <p><b>Examples that would apply to column 2</b></p> <ul style="list-style-type: none"> <li>• A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.</li> <li>• Construction of a body of water that exceeds 10 acres of surface area.</li> <li>• Other impacts: _____</li> </ul>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>5. Will Proposed Action affect surface or groundwater quality or quantity? <input checked="" type="checkbox"/>NO <input type="checkbox"/>YES</p> <p><b>Examples that would apply to column 2</b></p> <ul style="list-style-type: none"> <li>• Proposed Action will require a discharge permit.</li> <li>• Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action.</li> <li>• Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity.</li> <li>• Construction or operation causing any contamination of a water supply system.</li> <li>• Proposed Action will adversely affect groundwater.</li> <li>• Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.</li> <li>• Proposed Action would use water in excess of 20,000 gallons per day.</li> <li>• Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.</li> <li>• Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons.</li> <li>• Proposed Action will allow residential uses in areas without water and/or sewer services.</li> <li>• Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.</li> <li>• Other impacts: _____</li> </ul>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No
<p>6. Will proposed action alter drainage flow or patterns, or surface water runoff? <input checked="" type="checkbox"/>NO <input type="checkbox"/>YES</p> <p><b>Examples that would apply to column 2</b></p> <ul style="list-style-type: none"> <li>• Proposed Action would change flood water flows.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

- Proposed Action may cause substantial erosion.
- Proposed Action is incompatible with existing drainage patterns.
- Proposed Action will allow development in a designated floodway.
- Other impacts: \_\_\_\_\_

**IMPACT ON AIR**

7. Will proposed action affect air quality? NO YES

Examples that would apply to column 2

- Proposed Action will induce 1,000 or more vehicle trips in any given hour.
- Proposed Action will result in the incineration of more than 1 ton of refuse per hour.
- Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.
- Proposed action will allow an increase in the amount of land committed to industrial use.
- Proposed action will allow an increase in the density of industrial development within existing industrial areas.
- Other impacts: \_\_\_\_\_

**IMPACT ON PLANTS AND ANIMALS**

8. Will Proposed Action affect any threatened or endangered species? NO YES

Examples that would apply to column 2

- Reduction of one or more species listed on the New York or Federal list, using the site, over or near site or found on the site.
- Removal of any portion of a critical or significant wildlife habitat.
- Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.
- Other impacts: \_\_\_\_\_

9. Will Proposed Action substantially affect non-threatened or non-endangered species? NO YES

Examples that would apply to column 2

- Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.
- Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.

**IMPACT ON AGRICULTURAL LAND RESOURCES**

10. Will the Proposed Action affect agricultural land resources? NO YES

Examples that would apply to column 2

- The proposed action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

- Construction activity would excavate or compact the soil profile of agricultural land.
- The proposed action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.
- The proposed action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff)
- Other impacts: \_\_\_\_\_

**IMPACT ON AESTHETIC RESOURCES**

11. Will proposed action affect aesthetic resources?  NO  YES  
(If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)

Examples that would apply to column 2

- Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.
- Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.
- Project components that will result in the elimination or significant screening of scenic views known to be important to the area.
- Other impacts: Fourth antenna array added to existing 190' telecommunications tower

**IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES**

12. Will Proposed Action impact any site or structure of historic, pre-historic or paleontological importance?  NO  YES

Examples that would apply to column 2

- Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.
- Any impact to an archaeological site or fossil bed located within the project site.
- Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.
- Other impacts: \_\_\_\_\_

**IMPACT ON OPEN SPACE AND RECREATION**

13. Will Proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?

Examples that would apply to column 2  NO  YES

- The permanent foreclosure of a future recreational opportunity.
- A major reduction of an open space important to the community.
- Other impacts: \_\_\_\_\_

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**IMPACT ON CRITICAL ENVIRONMENTAL AREAS**

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6 NYCRR 617.14(g)? NO YES

List the environmental characteristics that caused the designation of the CEA.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Examples that would apply to column 2**

- Proposed Action to locate within the CEA?
- Proposed Action will result in a reduction in the quantity of the resource?
- Proposed Action will result in a reduction in the quality of the resource?
- Proposed Action will impact the use, function or enjoyment of the resource?
- Other impacts: \_\_\_\_\_

**IMPACT ON TRANSPORTATION**

15. Will there be an effect to existing transportation systems? NO YES

**Examples that would apply to column 2**

- Alteration of present patterns of movement of people and/or goods.
- Proposed Action will result in major traffic problems.
- Other impacts: \_\_\_\_\_

**IMPACT ON ENERGY**

16. Will proposed action affect the community's sources of fuel or energy supply? NO YES

**Examples that would apply to column 2**

- Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.
- Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.
- Other impacts: \_\_\_\_\_

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

**NOISE AND ODOR IMPACTS**

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action? NO YES

Examples that would apply to column 2

- Blasting within 1,500 feet of a hospital, school or other sensitive facility.
- Odors will occur routinely (more than one hour per day).
- Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures.
- Proposed Action will remove natural barriers that would act as a noise screen.
- Other impacts: \_\_\_\_\_

**IMPACT ON PUBLIC HEALTH**

18. Will Proposed Action affect public health and safety? NO YES

Examples that would apply to column 2

- Proposed Action may cause a risk of explosion or release of hazardous substances (i.e. oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission.
- Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)
- Storage facilities for one million or more gallons of liquified natural gas or other flammable liquids.
- Proposed action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.
- Other impacts: \_\_\_\_\_

**IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD**

19. Will proposed action affect the character of the existing community? NO YES

Examples that would apply to column 2

- The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.
- The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.
- Proposed action will conflict with officially adopted plans or goals.
- Proposed action will cause a change in the density of land use.
- Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community.
- Development will create a demand for additional community services (e.g. schools, police and fire, etc.)
- Proposed Action will set an important precedent for future projects.
- Proposed Action will create or eliminate employment.
- Other impacts: \_\_\_\_\_

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

20. Is there, or is there likely to be, public controversy related to potential adverse environmental impacts? NO YES

If any action in Part 2 is identified as a potential large impact or if you cannot determine the magnitude of impact, proceed to Part 3

**STATE ENVIRONMENTAL QUALITY REVIEW ACT  
DETERMINATION OF SIGNIFICANCE**

This notice is issued by the Zoning Board of Appeals of the Town of Brunswick ("Board"), acting as lead agency, in an uncoordinated environmental impact review, pursuant to and in accordance with Article 8 of the New York State Environmental Conservation Law and the regulations promulgated under Article 8 and set forth at Part 617 of Title 6 of the New York Code of Rules and Regulations (collectively referred to as "SEQR").

The Board has determined that the license agreement between AT&T Wireless PCS, LLC, by AT&T Wireless Services, Inc ("AT&T Wireless") and Southwestern Bell Mobile Systems, LLC ("Southwestern Bell"), authorizing AT&T Wireless to collocate antennas and install related equipment at the existing Southwestern Bell lattice tower located at 806 Hoosick Street, which lattice tower has been constructed as a result of a lease between Southwestern Bell and Capital Region Properties, LLC ("Project"), will not have a significant adverse impact upon the environment and that a negative declaration pursuant to SEQR may be issued. Reasons supporting this determination are fully explained below.

**Project Name:** Collocation of PCS Antennae on Existing Lattice Tower

**SEQR Status:** Type I \_\_\_\_\_ Unlisted: XX

**Project Description:** The Project consists of the installation of telecommunication antennas on an existing Lattice Tower and the installation of related equipment at the base thereof.

**Location:** 806 Hoosick Street, Troy, State of New York ("the Project Site").

**Reasons Supporting This Determination:**

1. The Board as Lead Agency conducting an uncoordinated review, has considered the full scope of the Project.
2. The Project Site is used for telecommunication purposes and the proposed use is thus consistent with existing land uses and will avoid the need for a new telecommunications tower in the Town of Brunswick.
3. The Project Site has no bedrock outcroppings, no slopes greater than 10%, no unique or unusual land forms (cliffs, dunes or other geological formations), and the Project Site is not used by the community as open space or recreation areas.
4. There will be no air emissions from the Project.
5. The Project will not substantially affect water discharges from the Project Site.
6. The Project will not generate solid or hazardous waste.



7. The Project will not significantly alter the visual and/or aesthetic resources in the area of the Project Site and will not have a significant adverse visual impact upon the scenic quality of the landscape.
8. While the Project will result in the removal of vegetation at the Project Site, the Project will not significantly affect plants and animals in and around the Project Site.
9. The Project will not impact agricultural land.
10. The Project is not substantially contiguous to, nor does it contain, a building, site or district listed on the State or National Registers of Historic Places, and thus will not have an adverse impact upon historic or archeological resources.
11. There are no anticipated changes in traffic flow to and from the Project Site as a result of the Project.
12. The Project will not generate any unpleasant noise or odors.
13. There will be no adverse environmental impacts as a result of the Project.

**For Further Information Contact:** Zoning Board of Appeals  
Town of Brunswick  
308 Town Office Road  
Troy, New York 12180

**Copies of this Negative Declaration** shall be filed with the Zoning Board of Appeals of the Town of Brunswick.

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Authorized Signature

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of August, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of DEBORAH A. MILOS, owner-applicant, dated July 15, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 588 Pinewoods Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said DEBORAH A. MILOS, owner-applicant, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York

August 1, 2003

Posted: August 4, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK



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THOMAS R. CIOFFI

Town Attorney

## NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of July, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of STEWART'S SHOPS CORP, owner-applicant, dated April 21, 2003, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an additional gas pump island and extension of an existing gas pump canopy on an existing convenience store/self service gas station on a lot located at 2 Brick Church Road, in the Town of Brunswick, because the proposed construction violates the front yard setback in a B-15 District on Brick Church Road in that 75 feet is required but 16 feet is proposed and violates the front yard setback in a B-15 District on Tamarac Road in that 75 feet is required but 16 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said STEWART'S SHOPS CORP, owner-applicant, has petitioned for said area variances, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
July 1, 2003  
Posted July 8, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney

## NOTICE OF PUBLIC HEARING

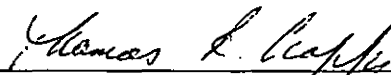
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of July, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of the LEONARD DUNCAN and RUTH DUNCAN, owners-applicants, dated June 16, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of vacant land adjacent to 151 McChesney Avenue, in the Town of Brunswick, for commercial self-storage units, because the proposed commercial use is only allowed in an R-25 District upon the issuance of a use variance by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said LEONARD DUNCAN and RUTH DUNCAN, owners-applicants, have petitioned for said use variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
July 1, 2003  
Posted July 8, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney

NOTICE OF PUBLIC HEARING

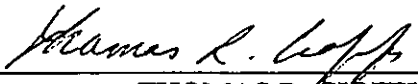
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of July, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of JOHN PADE and KATHRYN PADE, owners-applicants, dated May 31, 2003, for an interpretation as to whether, pursuant to the Zoning Ordinance of the Town of Brunswick, the applicants may construct a horse barn and maintain horses on a lot located at 70 Colehamer Avenue, in the Town of Brunswick, in a residential district.

FURTHER NOTICE IS HEREBY GIVEN that said JOHN PADE and KATHRYN PADE, owners-applicants, has petitioned for said interpretation, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
July 1, 2003  
Posted July 8, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney

## NOTICE OF PUBLIC HEARING

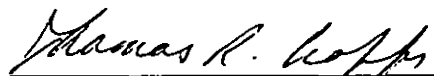
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of July, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of CHRISTOPHER BROWN, owner-applicant, dated May 20, 2003, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 1 Kenworth Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 5 feet is proposed, and violates the rear yard setback in an R-15 District in that 20 feet is required but 5 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said CHRISTOPHER BROWN, owner-applicant, has petitioned for said area variances, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
July 1, 2003  
Posted July 8, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney

## NOTICE OF PUBLIC HEARING

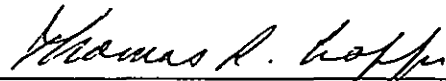
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of July, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of BERNICE PHILLIPS, owner-applicant, dated June 13, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a front porch on an existing single family residence on a lot located at 9 Jay Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback in an R-9 District in that 30 feet is required but 18 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said BERNICE PHILLIPS, owner-applicant, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
July 1, 2003  
Posted July 8, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK



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THOMAS R. CIOFFI  
Town Attorney

## NOTICE OF PUBLIC HEARING

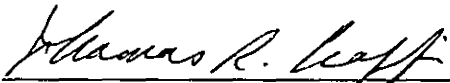
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of July at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of the SARAH D. CALHOUN LIVING TRUST, owner-applicant, dated April 30, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing vacant building located at 891 Hoosick Road, in the Town of Brunswick for offices and supply and vehicle storage, because the proposed commercial uses are only allowed in a non-commercial district upon the issuance of a use variance by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said SARAH D. CALHOUN LIVING TRUST, owner-applicant, has petitioned for said use variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
July 1, 2003  
Posted July 8, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney



# TOWN OF BRUNSWICK ZONING BOARD OF APPEALS

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180

Phone: (518) 279-3461 -- Fax: (518) 279-4352

## DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on July 21, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Joseph Jabour, Member  
Amy Serson, Member  
Caroline Trzcinski, Member  
James Hannan, Chairman

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

An informal workshop portion of the meeting commenced at approximately 5:30 P.M. Members present informally reviewed files and discussed agenda matters. At approximately 6:00 P.M., the meeting was called to order. The first item of business was approval of the Minutes of the June 16, 2003, meeting. Member Trzcinski noted that on the last page of the Minutes, third full paragraph, last line, the word "July" should read "June". Member Serson made a motion to approve the Draft Minutes as amended. Member Jabour seconded. The motion carried 5 - 0. The next item of business was setting the dates for the next two meetings. The Board decided that the next meetings would be held on August 18 and September 15.

The next item of business was the appeal and petition of CHRISTOPHER BROWN, owner-applicant, dated May 20, 2003, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 1 Kenworth Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 5 feet is proposed, and violates the rear yard setback in an R-15 District in that 20 feet is required but 5 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Christopher Brown appeared. He stated that he was concerned that someone else in the neighborhood built a shed without getting a variance. The Board instructed Mr. Kreiger to look into it. No one from the public wished to comment. Member Jabour noted that without a variance, the shed would have to go on top of the septic system. None of the Members expressed any concerns. Member Schmidt made a motion to classify the matter a Type 2 action under SEQRA. Member Jabour seconded. The motion carried 5 - 0. Member Trzcinski then offered the following Resolution:

**BE IT RESOLVED**, that with regard to the appeal and petition of **CHRISTOPHER BROWN**, owner-applicant, dated May 20, 2003, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 1 Kenworth Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 5 feet is proposed, and violates the rear yard setback in an R-15 District in that 20 feet is required but 5 feet is proposed, the Zoning Board of Appeals:

**1. Finds and determines as follows:**

- a) That the variances will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;**
- b) That the relief requested cannot be obtained except by way of area variances;**
- c) That the variances are not excessive given the circumstances and the neighborhood; and**
- d) That the need for the variances was not self-created.**

**2. Grants the variances as requested .**

Member Serson seconded. The proposed Resolution was then put to a vote as follows:

<b>Member Serson</b>	<b>Aye</b>
<b>Member Schmidt</b>	<b>Aye</b>
<b>Member Jabour</b>	<b>Aye</b>
<b>Member Trzcinski</b>	<b>Aye</b>
<b>Chairman Hannan</b>	<b>Aye</b>

The foregoing Resolution was thereupon duly adopted.

The next item of business was the appeal and petition of **BERNICE PHILLIPS**, owner-applicant, dated June 13, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a front porch on an existing single family residence on a lot located at 9 Jay Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback in an R-9 District in that 30 feet is required but 18 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

James and Beatrice Phillips appeared. Mr. Phillips said it would be an open face porch. It will improve the quality of the neighborhood. None of his neighbors have expressed any concerns about it. No one from the public wished to comment. Member Trzcinski expressed concern about having steps in the front of the porch because it is steep there. Mr. Phillips agreed, but stated he would like to eventually have steps in the front because it would be a straight walk out the front door.

He plans to put some sort of landing on the bottom so it will be safe. Attorney Cioffi noted that anything he built would have to be inspected and comply with all codes and safety requirements.

Member Serson made a motion to classify the matter a Type 2 action under SEQRA. Member Schmidt seconded. The motion carried 5 - 0. Member Jabour then offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of BERNICE PHILLIPS, owner-applicant, dated June 13, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a front porch on an existing single family residence on a lot located at 9 Jay Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback in an R-9 District in that 30 feet is required but 18 feet is proposed, the Zoning Board of Appeals:***

***1. Finds and determines as follows:***

***a) That the variance will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;***

***b) That the relief requested cannot be obtained except by way of an area variance; and***

***c) That the variance is not excessive given the circumstances and the neighborhood; and***

***d) That the need for the variance was not self-created.***

***2. Grants the variance as requested, and further authorizes the construction of a center front exit from the proposed porch, in addition to the proposed side exit, on the condition that any such center front exit comply fully with all applicable codes and safety requirements.***

Member Trzcinski seconded. The proposed Resolution was then put to a vote as follows:

<b><i>Member Serson</i></b>	<b><i>Aye</i></b>
<b><i>Member Schmidt</i></b>	<b><i>Aye</i></b>
<b><i>Member Jabour</i></b>	<b><i>Aye</i></b>
<b><i>Member Trzcinski</i></b>	<b><i>Aye</i></b>
<b><i>Chairman Hannan</i></b>	<b><i>Aye</i></b>

The foregoing Resolution was thereupon duly adopted.

The next item of business was further consideration of the appeal and petition of the SARAH

D. CALHOUN LIVING TRUST, owner-applicant, dated April 30, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing vacant building located at 691 Hoosick Road, in the Town of Brunswick for offices and supply and vehicle storage, because the proposed commercial uses are only allowed in a non-commercial district upon the issuance of a use variance by the Zoning Board of Appeals. Sarah D. Calhoun, 267 Grange Road, appeared, along with her son, Peter Calhoun, 440 Grange Road. Also appearing was Richard McNally, Esq., of Holbrook & Johnston, Hoosick Falls.

Mr. McNally handed up documentation to the Board. It included information about the proposed tenant, the cost of converting the building to a residence, and an appraisal of the property as a residence from a realtor. Mr. McNally explained that the applicants wish to lease the premises to ITZ Systems. They service and install low voltage systems, including security systems, fire alarm systems, cable TV, etc. They have about 20 employees, with about 5 at the office during the day. Less than 10 vehicles would be there over night and no more than 15 at any time during the day. The use is similar to the current use. Like the State Police, ITZ will use it as a base of operations. The property is unique in that it is zoned agricultural (A-40) while it is sandwiched between a commercial (B-15) zone and a residential (R-15) zone, on NY Route 7. It has always been used as a troopers barracks.

Mr. McNally reviewed the permitted uses in an A-40 District. He stated that the only ones that make any sense here are a private residence and a veterinary hospital. There is another vet facility nearby. To convert to a residence, based upon the submitted documentation, would be costly and wasteful. Given the former use, the use proposed will not have any effect on the community character. The need for the variance was not self-created. Mrs. Calhoun did not anticipate or intend that the troopers would decide they need a larger facility.

No one from the public wished to comment. Member Trzcinski noted that the building was built by the Calhoun's to be used by the State Police. It has never been used for any other purpose. Member Serson asked whether any other uses were contemplated. Mr. McNally said they were not sure, but if they do want to add a different use, they know they would have to come back to the Board for another use variance.

Attorney Cioffi began to review the EAF. The Chairman read aloud the company profile of ITZ Systems. Attorney Cioffi explained that the Board had to complete the SEQRA process and then decide whether to act on the application this evening or have a written decision prepared. If the Board wishes to act tonight, it must identify the use permitted. The Board cannot make the property commercial, it can only permit a specific use not otherwise permitted by the Zoning Ordinance.

Member Serson said that the only concern she had was about the undefined additional use that was being discussed. Otherwise, she feels all the criteria have been met. They have shown lack of reasonable return and that the property is unique. It would not negatively affect community character. Nor has the applicant created the situation resulting in the variance being needed.

The Board decided to proceed on the application that evening. The Board reviewed the EAF and completed Part II. No significant environmental impacts were noted. The Chairman made a

motion to issue a negative declaration under SEQRA. Member Serson seconded. The motion carried 5 - 0.

The Board discussed the lack of reasonable return. The consensus of the Board was that the Calhoun's could not get a reasonable return from the property unless the use variance was granted. The Board also agreed that the property was certainly unique, given its former long-standing use, and its agricultural designation adjacent to commercial and residential uses. The Board also concluded that, if anything, the proposed use would have a positive effect on the neighborhood. The Board also agreed that the Calhoun's did nothing to create the need for this variance. They did not ask the troopers to leave.

The Board decided to limit the variance, if granted, to the specific use requested for ITZ, and for no other uses by any other entity, without further consideration and approval by the Board. The Board discussed the specific use with ITZ's owner. The Chairman then offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of the SARAH D. CALHOUN LIVING TRUST, owner-applicant, dated April 30, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing vacant building located at 691 Hoosick Road, in the Town of Brunswick for offices and supply and vehicle storage, because the proposed commercial uses are only allowed in a non-commercial district upon the issuance of a use variance by the Zoning Board of Appeals, the Zoning Board of Appeals hereby finds and decides as follows:***

- 1. That for each and every permitted use in an A-40 District, the applicant cannot realize a reasonable return from its investment in the property, such lack of return being substantial, as demonstrated by competent financial proof; and***
- 2. That the zoning regulations have therefore caused unnecessary hardship to the applicant; and***
- 3. That the hardship relating to applicant's property is unique, and does not apply to a substantial portion of the neighborhood or district; and***
- 4. That the use variance will not alter the essential character of the neighborhood; and***
- 5. The hardship was not created by the applicant***
- 6. That use variance is hereby granted to the applicant to permit the use of the subject premises by ITZ Systems for low voltage wiring contracting sales and service, as more fully described in the ITZ Systems Company Profile and Daily Operations Description provided to the Board by the applicant, and for no other use or purpose.***

Member Serson seconded. The proposed Resolution was then put to a vote as follows:

<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Jabour</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted. Attorney Cioffi advised Mr. McNally that the business could not start operating until such time as the Planning Board approved a site plan.

The next item of business was the appeal and petition of JOHN PADE and KATHRYN PADE, owners-applicants, dated May 31, 2003, for an interpretation as to whether, pursuant to the Zoning Ordinance of the Town of Brunswick, the applicants may construct a horse barn and maintain horses on a lot located at 70 Colehamer Avenue, in the Town of Brunswick, in a residential district. Attorney Cioffi read the Notice of Public Hearing aloud. John and Kathryn Pade appeared. They had nothing to add to the application.

Connie Triscari, 64 Colehamer Avenue, stated that she and her husband reside close by. They have horses as well. They have no objection. Bob Spilker, 229 Creek Road inquired whether the proposed barn meets setbacks and whether the barn could be used as a dwelling. Mr. Kreiger stated that all setbacks are met and the building could not be used as a dwelling under any circumstances. With that, Mr. Spilker stated he had no objections to the application. No one else from the public wished to comment.

Responding to questions from Member Trzcinski, the Pades stated that they will have three horses, after their horse in foal gives birth, that they will get rid of the manure by composting it on their property, and that they will set up a ring to ride the horses on their property. The Pades assured the Chairman that no commercial uses were contemplated, including giving lessons, boarding other horses, or selling manure. The Pades further stated that no additional horses are contemplated. The additional room in the barn will be used for tack and other equipment.

Member Jabour made a motion to classify the matter a Type 2 action under SEQRA. The Chairman seconded. The motion carried 5 - 0. The Chairman then offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of JOHN PADE and KATHRYN PADE, owners-applicants, dated May 31, 2003, for an interpretation as to whether, pursuant to the Zoning Ordinance of the Town of Brunswick, the applicants may construct a horse barn and maintain horses on a lot located at 70 Colehamer Avenue, in the Town of Brunswick, in a residential district, the Zoning Board of Appeal finds and determines that the applicants may construct the accessory horse barn as proposed, and maintain horses on the premises, on the following conditions:***

- 1) That a maximum of three (3) horses may be maintained on the premises;***
- 2) That no other livestock may be maintained on the premises; and***

**3) That no commercial uses are allowed on the premises, including but not limited to the boarding of horses, giving riding lessons, or renting out tack space; and**

**d) That all manure produced on the premises will be composed on the premises. None may be sold commercially.**

Member Jabour seconded. The proposed Resolution was then put to a vote as follows:

<b>Member Serson</b>	<b>Aye</b>
<b>Member Schmidt</b>	<b>Aye</b>
<b>Member Jabour</b>	<b>Aye</b>
<b>Member Trzcinski</b>	<b>Aye</b>
<b>Chairman Hannan</b>	<b>Aye</b>

The foregoing Resolution was thereupon duly adopted.

The next item of business was the appeal and petition of the LEONARD DUNCAN and RUTH DUNCAN, owners-applicants, dated June 16, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of vacant land adjacent to 151 McChesney Avenue, in the Town of Brunswick, for commercial self-storage units, because the proposed commercial use is only allowed in an R-25 District upon the issuance of a use variance by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

Paul Engster, Esq., appeared for the applicants. He stated that they are requesting a use variance to use a portion of their property for commercial self-storage buildings. They propose to use about 2.5 acres of the 14 acre site. They believe they meet all of the criteria for a use variance. They cannot realize a reasonable return on their investment. This property was a dairy farm for about 130 years until a 1995 fire which destroyed the barn and most of the equipment. The Duncans were financially unable to rebuild the farm. Now they sell heifers on the premises. They are not making any money selling heifers and can prove that with their accountant's audit records.

Mr. Engster also claims the property is unique. It is the only heifer farm in the county. They also feel it is uniquely situated near a major commercial district, and an apartment complex. They feel this use would not alter the character of the neighborhood. They are seeking the smallest possible variance to make any money from the property.

There was then a substantial discussion regarding the number and nature of the proposed self-storage buildings. Mr. Engster agreed to provide exact details at a later date.

The Chairman asked whether anyone present wished to speak. Craig Kneeland, 405 McChesney, said that the Duncans could realize a reasonable return without a use variance. They could use the property for any number of permitted uses, including residences. Nor is the property unique. It is farmland. It being heifer farm is irrelevant. It will alter the community character. There is nothing commercial on McChesney Avenue. Also, even if the heifer business is not making money, what about the money the Duncans received for selling part of the farm to ROUSE for the senior citizens complex a few years ago. Janet Poole, 170 McChesney Avenue, said she is concerned

that McChesney will turn into a service road for Route 7. She is concerned it will affect the value of her property. Dorothy Gorman said she is concerned about the safety of ROUSE residents. This will increase traffic on the road. Bernice Poole, 178 McChesney Avenue, said she is concerned that this will open the door to more commercial uses on the road and affect the quality of life in the neighborhood and property values.

Phil Herrington, 748 Tamarac Road, said that 6 buildings, each 150 feet long, sounds like a lot on 2.5 acres of land. Mr. Engster said that it is all shown on the survey. They are limiting the size of the project to 2.59 acres so as to consume as little farm land as follows. Member Jabour agreed that these buildings seemed a lot for a parcel this size. The Chairman stated that there were other things the Duncans could do with the land which were permitted uses. Mr. Engster replied that his clients are not real estate developers. The only way they can get a return from the property without a variance is to sell it, which they do not want to do. They want to live on their property and earn a living from it. Craig Kneeland responded that the fact that the Duncans are not real estate developers did not stop them from selling property to ROUSE a few years ago. Mr. Engster asked if he could read his application aloud so the public would understand it better. The Chairman permitted Mr. Engster to do so. Mr. Engster said that all the money received by the Duncans from the ROUSE sale was used to pay off debt.

Craig Kneeland expressed concern about the claim of 36% green space. That figure makes no sense given the number and size of buildings on the parcel. Mr. Engster said he believes it is shown on the plan as he requested the surveyor to show at least 36% green space.. Mr. Kreiger pointed out that the 2.59 acre parcel does not yet exist. It is part of a 130 acre parcel. Mr. Engster said they did not plan on using land outside the 2.59 acre proposed project site to meet green space requirements. Mr. Engster said he would clarify the issue. Mr. Kneeland also expressed concern that this would alter the character of the neighborhood and there is no showing that there is a real demand for it. There are storage units elsewhere in town. The Chairman asked the applicant whether any studies had been done to determine demand. He also expressed concern that the proposed site is "off the beaten path". Mr. Engster said some informal inquiries were made, but an actual feasibility study was deemed too costly. Mr. Engster said he believes that the storage units on Route 7 and at the Danish Farm are full. He also understands that units are being proposed at Sugar Hill apartments for residents.

Mr. Duncan said he does not want to sell his land. If he has to he will. Mr. Engster said that he does not anticipate a lot of traffic generated. People will put there stuff there and leave it for an extended period. Member Jabour disagreed. He believes these are used for relatively short-term storage.

Attorney Cioffi stated that the applicant has to address why the property cannot be used for a use permitted in the District to obtain a reasonable return. As Mr. Kneeland pointed out, why can't the land be used for residential building lots, which is a permitted use? Mr. Engster reiterated the applicant's position that they should not have to sell their property to get a reasonable return. Mr. Engster suggested one alternative would be for the Duncans to ask the Town to approve a large apartment complex on the property. Members of the public commented that a large apartment complex was not appropriate for the neighborhood and that the truck traffic generated by the proposed storage facility would be inappropriate for McChesney Avenue, which is narrow in places.



Helena Hepp, McChesney Avenue, stated that she was opposed to the application. Attorney Cioffi read a letter he received from Jean and Paul McKeon, 168 McChesney Avenue, stating that they had no objection to the variance. Attorney Cioffi read another letter, from Robert and Helena Hepp, stating that they strongly opposed the application. Attorney Cioffi noted that an EAF Part 1 had been received but the response to the referral to County Planning had not.

Attorney Cioffi stated that a lot of issues had been raised and that Mr. Engster stated that he would be submitting written proof in support of the application. He also reminded the Board that, by local law, it had the power to hire consultants needed to evaluate any proof submitted by the applicant, at the expense of the applicant. Open issues included the acreage issue, green space, number of buildings and sizes, the financial hardship, and the issue of reasonable return if the property is used for a permitted use.

The public hearing will be continued to August 18, 2003. Supervisor Philip Herrington stated that the ROUSE project, also on the Duncan property, was approved by the Town Board as a Planned Development District, which must comprise at least 10 acres. Virtually everything is decided before the Planned Development District is approved. This is different. It is a request for a use variance.

Mr. Engster said this is a two step process. You get a use variance from this Board and then you go to the Planning Board for site plan approval. That is where all the exact particulars of the project, including drainage, green space and traffic are determined. They did not request a Planned Development District here because they wanted to restrict the size of the project to well under the minimum 10 acres required.

Member Serson made a motion to continue the public hearing to August 18. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was appeal and petition of STEWART'S SHOPS CORP, owner-applicant, dated April 21, 2003, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an additional gas pump island and extension of an existing gas pump canopy on an existing convenience store/self service gas station on a lot located at 2 Brick Church Road, in the Town of Brunswick, because the proposed construction violates the front yard setback in a B-15 District on Brick Church Road in that 75 feet is required but 16 feet is proposed and violates the front yard setback in a B-15 District on Tamarac Road in that 75 feet is required but 16 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Paul Bulmer appeared for Stewarts. He stated that the actual requested setbacks are 25 feet on Brick Church Road and 21 feet on Tamarac Road. He stated that the site is very congested. Greater capacity for gas is needed. He realizes the variances are significant. He notes that the property has two fronts because it is a corner lot. The additional gas island will let cars get off the premises quicker. It will probably not add that much to gas sales volume.

Conard Holten, 28 Tamarac Road, stated that he is concerned about parking and green space on the site. He feels that the lack of adequate parking on the site is a big problem and does not think that more pumps will help. The intersection has been degraded by the overflow parking, almost to the point where the site needs to be fenced. Jim Cooney, 13 Tamarac Road, stated that the gas pumps

are too close to the road. More lighting would be required on the canopies. Parking is a major problem. Cars park all over. Garbage blows onto his property. Dogs owned by customers mess on his property. There is a gas odor on his property now. More pumps mean more gas and more odor. He does not think it is right to expand this use. More cars will come if there are more pumps. The site does not have the capacity to handle the number of cars that come there now.

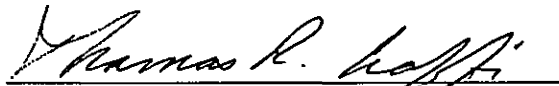
The Chairman asked about accidents on the site. Mr. Bulmer was not sure. Many are unreported. Mr. Cooney said that the gas pumps do not cause the congestion. It is people coming to buy things. The Chairman said he could not see how adding pumps will alleviate congestion in the lot. Mr. Bulmer insisted it would. Mr. Bulmer added that they would also like to replace the existing tanks without adding capacity. Mr. Cooney said he agreed that more pumps would not ease the congestion. The Chairman said that he felt more pumps would create more congestion.

The Board asked the applicant to provide additional information regarding the claim that adding pumps would reduce congestion, and as to accidents on the site. Member Serson made a motion to continue the public hearing to August 18, 2003. Member Jabour seconded. The motion carried 5 - 0.

There being no further business, Member Jabour moved to adjourn. Member Serson seconded. The motion to adjourn carried 5 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
August 13, 2003

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

TOWN OF BRUNSWICK  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 -- FAX: (518) 279-4352

**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on August 18, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Amy Serson, Member  
Caroline Trzcinski, Member  
James Hannan, Chairman

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

An informal workshop portion of the meeting commenced at approximately 5:30 P.M. Members present informally reviewed files and discussed agenda matters. At approximately 6:00 P.M., the meeting was called to order. The first item of business was approval of the Minutes of the July 21, 2003, meeting. Member Serson made a motion to approve the Draft Minutes as submitted. The Chairman seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of DEBORAH A. MILOS, owner-applicant, dated July 15, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 588 Pinewoods Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Deborah Milos appeared with Bob Williams, who also resides on the premises. Mr. Williams handed up letters from some neighbors indicating that they had no problem with the variance request. Mr. Williams stated that they want to build a storage shed instead of enlarging the garage for storage. The lot is only 110 feet wide. The shed would resemble the house and the addition to the house they are planning to build.

Sarah Wright, 584 Pinewoods Avenue, stated that she had no objection to the variance. Dominick and Nancy Mamone, 582 Pinewoods Avenue, also stated that they had no objection.

Member Trzcinski stated that it appeared from the drawing that they could change the location of the proposed shed and not need a variance. Mr. Williams stated that if they did that, some trees would have to go. Also, the lot drops off at that point and they cannot put the shed there. Mr. Williams stated that the shed would be 10 - 11 feet high and would be built on a concrete slab. Member Serson made a motion to classify the application a Type 2 action under SEQRA. Member

Schmidt seconded. The motion carried 4 - 0. Member Serson thereupon offered the following Resolution:

*BE IT RESOLVED, that with regard to the appeal and petition of DEBORAH A. MILOS, owner-applicant, dated July 15, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 588 Pinewoods Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed, the Zoning Board of Appeals:*

*1. Finds and determines as follows:*

*a) That the variance will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;*

*b) That the relief requested cannot be obtained except by way of an area variance;*

*c) That the variance is not excessive given the circumstances and the neighborhood; and*

*d) That the need for the variance was not self-created.*

*2. Grants the variance as requested.*

Member Schmidt seconded. The proposed Resolution was then put to a vote as follows:

<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was further consideration of the appeal and petition of the LEONARD DUNCAN and RUTH DUNCAN, owners-applicants, dated June 16, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of vacant land adjacent to 151 McChesney Avenue, in the Town of Brunswick, for commercial self-storage units, because the proposed commercial use is only allowed in an R-25 District upon the issuance of a use variance by the Zoning Board of Appeals.

Paul Engster, Esq., appeared for the applicants. He handed up a copy of Mr. Duncan's tax return showing the income from his heifer business. He also handed up a drawing showing how the proposed storage building would fit on the 2.59 acre site. He stated that Mr. Duncan's sons would do the landscaping. The building would be shielded with Norway Spruce. There would be flowering pear trees in front. Only one building would be visible from the street. He also handed up pictures

from George Schermerhorn, who built and maintains a similar project in West Ghent, N.Y. George Schermerhorn, 1552 County Route 21, Ghent, N.Y. 12075, stated that these buildings are environmentally friendly, there is no septic, electricity or water on the site. A storage building complex is very quiet. You do not decide how the buildings will be configured inside until you know what the demand is. Each building would have between 30 and 60 units. The entire project would be 180 - 360 units. The buildings would be put on Alaskan slabs, poured in one day. The buildings are screwed together. In his experience, only 2 - 5 cars per days actually access the complex. The doors are designed to be operated about once a month. The roof of a building is designed to last about 40 years. The siding is designed to last about 20 years. He will build these buildings for Mr. Duncan if the project is approved. It will cost about \$100,000.00 to build the first two. Mr. Schermerhorn stated that his facility in West Ghent has 280 units now and he is seeking approval for five more buildings. He built the storage buildings in Green Island. The average rent for a unit is \$60/month.

Bernice Poole, 170 McChesney Avenue, expressed concern that if this was approved, there would be request to put other commercial uses on Mr. Duncan's remaining land. The Chairman asked Mr. Engster whether the remaining land would remain agricultural if the variance is granted. Mr. Engster stated that the application extends only to 2.59 acres of the 14 acre site. Leonard Duncan stated that he was not negotiating with ROUSE to sell them more land from that parcel. William Peake, who resides at the ROUSE apartments, stated that the people there do not object to this. Mr. Duncan should be able to utilize the land to benefit himself. This will not harm the area. John DiGiovanni, McChesney Avenue, stated that he wishes Mr. Duncan success on his project.

Mr. Engster stated that he understands that in order to get a use variance, Mr. Duncan must show a hardship. Being residential, he acknowledges that the land can be used for private dwellings as well as other uses set forth in the Zoning Ordinance. He has met with realtors. They told him that the best use was for condos or town houses. He admits that it will be impossible for them to prove that he cannot sell the property to be used for residential purposes. The issue is whether the Duncan's should be required to sell the property to get a reasonable return. They admit they can get a reasonable return if they sell the parcel. But they don't want to sell. The Duncan's have a diminishing source of income from the heifer farm. They want to supplement their income with the self storage units. They want to keep their property and use it to generate income - like Mr. DiGiovanni leases out his barn, like Robert Duncan leases out his barn for boat storage, like the self storage complexes operated by Del Signore and Tybush. Barring this use variance, their only alternative is to sell the property. Mr. Engster said that it is his position that hardship can be shown by showing decreasing income of the owners and a desire to use the property to generate income, rather than selling it. This property is unique. The proposed use will not change the neighborhood character. The need for the variance is not self-created. They have tried to make a go of the heifer business. Mr. Duncan said that the last 2 years have been very difficult for his heifer business. He is losing money. It is getting tougher every year.

Member Serson noted that if the variance is approved, they still have to go to the Planning Board for site plan approval. Member Schmidt said that as a dairy farmer himself, he doesn't think that a person should have to sell land to make a living. Selling land is not a use. The Chairman agreed that it is unfortunate when people have to sell land to survive, but it does happen. He feels that there needs to be proof of the value of the property. Also, he understands that ROUSE is

interested in purchasing more land from Mr. Duncan. Mr. Duncan stated he would not sell to ROUSE under any circumstances. The Chairman stated that there are other possible residential uses for this property. He is concerned about this proposal. It is off the beaten path.

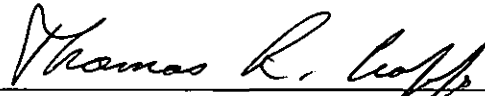
The Board decided to continue the public hearing to permit the applicant to submit further proof if so desired and to allow the Board to review and consider what has been submitted. Member Schmidt made a motion to continue the public hearing to September 15. Member Trzcinski seconded. The motion carried 4 - 0.

As to the request for an area variance by Stewart's located at the intersection of Routes 2 & 278, there was no appearance by applicant. The Board decided to hold the application over for one month.

There being no further business, the Chairman moved to adjourn. Member Serson seconded. The motion to adjourn carried 4 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
September 10, 2003

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 15th day of September, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of GERALD and JOSEPHINE VIEN, owners-applicants, dated August 19, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 146 Brunswick Road, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 18 inches is proposed.

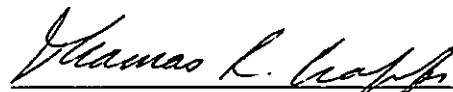
FURTHER NOTICE IS HEREBY GIVEN that said GERALD and JOSEPHINE VIEN, owners-applicants, owners-applicants, have petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
September 2, 2003

*Pasted: Sept. 5, 2003*

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK



THOMAS R. CIOFFI  
Town Attorney

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 15th day of September, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of DAVID and PATRICIA BLACKMAN, owners-applicants, dated August 15, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a carport on a lot located at 25 Colehamer Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed.

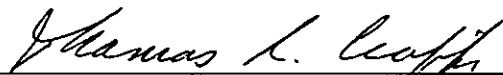
FURTHER NOTICE IS HEREBY GIVEN that said DAVID and PATRICIA BLACKMAN, owners-applicants, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
September 2, 2003

*Posted: Sept. 5, 2003*

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 15<sup>th</sup> day of September, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of RAY DARLING o/b/o GERALD COLMAN, applicant, dated July 25, 2003, for an interpretation as to whether, pursuant to the Zoning Ordinance of the Town of Brunswick, the applicant may construct an accessory structure consisting of a garage/equipment storage building on a lot located on the west side of Creek Road (Tax Map No. 102-4-2), in the Town of Brunswick, on which there is no principal building.

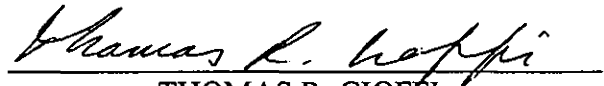
FURTHER NOTICE IS HEREBY GIVEN that said RAY DARLING o/b/o GERALD COLMAN, applicant, has petitioned for said interpretation, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
September 2, 2003

*Posted: Sept. 5, 2003*

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
THOMAS R. CIOFFI  
Town Attorney.

RECEIVED  
OCT 15 2003  
TOWN CLERK

**TOWN OF BRUNSWICK**  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
Phone: (518) 279-3461 -- Fax: (518) 279-4352

**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on September 15, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member (arrived late)  
Amy Serson, Member  
Caroline Trzcinski, Member  
Joseph Jabour, Member  
James Hannan, Chairman

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

At approximately 6:05 P.M., the meeting was called to order. Member Schmidt was not present when the meeting began. The first item of business was approval of the Minutes of the August 18, 2003, meeting. Member Serson made a motion to approve the Draft Minutes as submitted. Member Jabour seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of GERALD and JOSEPHINE VIEN, owners-applicants, dated August 19, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 146 Brunswick Road, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 18 inches is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Gerald Vien stated that his neighbors are not opposed to their application. Where he is asking to put the shed is the only flat place he has. He handed up photos showing the shed. He stated that it looks better near the property line. No one from the public wished to comment. Member Jabour stated that he lives around the corner from the Viens. He confirmed that the location of the septic system precludes locating the shed anywhere else. Member Trzcinski questioned why the shed was already built. Mr. Vien said that he had asked Mr. Austin, the former Building Inspector, some time ago, about building the shed. Mr. Austin told him if the shed was not built on a foundation, no permit was required. Mr. Vien understood this to mean he could go ahead. He was not focused on the setbacks. The adjoining neighbor had no problem with it.

Member Jabour made a motion to classify the matter a Type 2 action under SEQRA. Member Serson seconded. The motion carried 4 - 0. Member Trzcinski thereupon offered the following Resolution:

**BE IT RESOLVED**, that with regard to the appeal and petition of **GERALD and JOSEPHINE VIEN**, owners-applicants, dated August 19, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 146 Brunswick Road, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 18 inches is proposed., the Zoning Board of Appeals:

1. *Finds and determines as follows:*

a) *That the variance will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;*

b) *That the relief requested cannot be obtained except by way of an area variance;*

c) *That the variance is not excessive given the circumstances and the neighborhood; and*

d) *That the need for the variance was not self-created.*

2. *Grants the variance as requested.*

Member Jabour seconded. The proposed Resolution was then put to a vote as follows:

<i>Member Jabour</i>	<i>Aye</i>
<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Absent</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was the appeal and petition of **DAVID and PATRICIA BLACKMAN**, owners-applicants, dated August 15, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a carport on a lot located at 25 Colehamer Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

David Blackman appeared. He had nothing to add. No one from the public wished to comment. Member Serson made a motion to classify the matter a Type 2 action under SEQRA. Member Trzcinski seconded. The motion carried 4 - 0. Member Jabour thereupon offered the following Resolution:

**BE IT RESOLVED**, that with regard to the appeal and petition of **DAVID and PATRICIA**

*BLACKMAN, owners-applicants, dated August 15, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a carport on a lot located at 25 Colehamer Avenue, in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed, the Zoning Board of Appeals:*

*1. Finds and determines as follows:*

*a) That the variance will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;*

*b) That the relief requested cannot be obtained except by way of an area variance;*

*c) That the variance is not excessive given the circumstances and the neighborhood; and*

*d) That the need for the variance was not self-created.*

*2. Grants the variance as requested.*

Member Jabour seconded. The proposed Resolution was then put to a vote as follows:

<i>Member Jabour</i>	<i>Aye</i>
<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Absent</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was the appeal and petition of RAY DARLING o/b/o GERALD COLMAN, applicant, dated July 25, 2003, for an interpretation as to whether, pursuant to the Zoning Ordinance of the Town of Brunswick, the applicant may construct an accessory structure consisting of a garage/equipment storage building on a lot located on the west side of Creek Road (Tax Map No. 102-4-2), in the Town of Brunswick, on which there is no principal building. Attorney Cioffi read the Notice of Public Hearing aloud.

Ray Darling appeared. He stated that this is a large parcel of land. None of the adjoining property owners would be able to see the building from their homes. Dr. Colman wants to have the building to store equipment which will be used to maintain the property.

Tony Iannacito, 11 Grandview Drive, was concerned that the building would be used as a business or for commercial purposes. He expressed concern that Dr. Colman would not be living there. Bob Spilker, 229 Creek Road, stated that, as an adjoining property owner, he had no problem with the building. The entrance to the proposed building site was well done and he is pleased that

the property will not be subdivided, and that Dr. Colman will eventually relocate there. Rick Lindsay, 11 Ethier Drive, stated that he has no problem with the building. Dr. Colman is a nice man and it is good that he wants to maintain the property.

Gerald Colman, 187 Euclid Avenue, Albany, New York, stated that he has owned the property for 25 years. He wants to grow some crops there. He wants to have a building so he can store a tractor and brush hog on the property. He has no commercial intentions for the building.

The Chairman noted that Dr. Colman came before a Board a few years ago with a similar request and the Board turned it down. Dr. Colman said that he now proposes that the building sit in a big hollow where it cannot be seen and will not bother anyone. This is different from his previous application. Ray Darling stated that he made the application in this case because he is a friend of Dr. Colman. He noted that, originally, Dr. Colman planned on accessing the proposed building directly from Grandview Drive. Now he has built a driveway. Tony Iannacito again expressed concern that the building would be rented out as storage space for others. Also, that it would encourage ATV use on the property.

Dr. Colman stated that it is likely he will build a residence there within the next few years. It will not be his primary residence. Dr. Colman stated that he has used a roto-tiller on the property 3 or 4 times within the past 5 years. Mr. Iannacito disputed that. Dr. Colman stated that he brush hogged the property once in the past 5 years. He has had a garden there within the past 5 years. At present, he has to bring his equipment in on a trailer.

The Chairman stated that he would like to leave the hearing open so he can review the previous application and the Board's prior ruling. Dr. Colman stated that he just wants to use his land to plant some corn and potatoes. He will use less than an acre. Tony Iannacito said that, at present, only snowmobilers use it. Jane McDermott, 169 Carroll's Grove Road, said that she is in favor of it. It is a very small building on a large parcel. She knows people who use the property now.

Attorney Cioffi explained that the issue before the Board is essentially legal in nature; i.e., whether you can, under the Town's Zoning Ordinance, have an accessory building, such as the proposed equipment storage building, on a lot where there is no primary structure, such as a home. In the past, the Board has ruled that you cannot. Only in one case did the Board permit an accessory structure to be placed on a lot without a primary structure, and in that case, the lot was directly across the street from the applicant's residence, and, by deed, the applicant essentially "merged" the lots by providing that neither lot could be conveyed without the other. Bob Spilker stated that what Dr. Colman is requesting is responsible.

Member Jabour made a motion to continue the public hearing to October 20, 2003. Member Trzcinski seconded. The motion carried 4 - 0. Member Schmidt arrived just before the vote and did not take part.

The next item of business was further consideration of the appeal and petition of the LEONARD DUNCAN and RUTH DUNCAN, owners-applicants, dated June 16, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the

proposed use of vacant land adjacent to 151 McChesney Avenue, in the Town of Brunswick, for commercial self-storage units, because the proposed commercial use is only allowed in an R-25 District upon the issuance of a use variance by the Zoning Board of Appeals.

Paul Engster, Esq., appeared for the applicants. Attorney Cioffi read into the record two letters he received from adjoining property owners, Mr. & Mrs. Robert Hepp, 166 McChesney Avenue, and Bernice & Janet Kuhl, 170 McChesney Avenue. Attorney Engster offered for the record an evaluation of the property he had done by Garry Doyle Real Estate, 24 Second Street, Troy, New York. Attorney Engster explained that Mr. Doyle could not appraise the 2.59 acre parcel since it is presently farmland and he could not find any comparables that small. Mr. Doyle concluded that you could not sell the property as a single family residence due to its proximity to the farm.

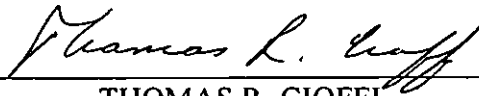
Mr. Engster said that although they do believe they could sell the property for residential use, it is still their position that they should not have to do so. They should be able to earn a living from their property. It is their position that the Duncan's are suffering from a hardship. They have been trying to make ends meet since 1995. They anticipate losing the heifer business. He feels they have proven all of the criteria for a use variance.

Attorney Cioffi asked whether the applicants wished to present anything further. Mr. Engster indicated they did not. The Chairman inquired how this business would be financed if the Duncan's had such limited income. Mr. Engster said that the revenue from the business would be sufficient to pay the debt incurred to build the storage buildings. The Board indicated that it would issue a written Decision. Member Jabour made a motion to close the public hearing. The Chairman seconded. The motion carried 5 - 0.

There being no further business, Member Jabour moved to adjourn. The Chairman seconded. The motion to adjourn carried 5 - 0, but immediately thereafter, it was noted that the Board failed to act on an application for an area variance filed on behalf of Stewart's Shop Corp., located at the intersection of Routes 2 & 278. The applicants failed to appear as scheduled at the August meeting and the Board then indicated that the application would be dismissed if they did not appear this evening. No one from Stewart's was present and no one called. Member Serson thereupon offered a motion to deny the variance. The Chairman seconded. The motion carried 5 - 0. Member Serson then made a motion to adjourn. The Chairman seconded. The motion carried 5 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
October 10, 2003

Respectfully submitted,

  
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THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

## NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 20th day of October, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated September 12, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) pipe-mounted panel antennas to be affixed to an existing 190 foot self-support lattice tower located at 805 Hoosick Road, in the Town of Brunswick, at a centerline height of 170 feet, and one (1) GPS antenna to be attached to the legs of the tower, together with the related ground equipment and utility services, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
October 4, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney

## NOTICE OF PUBLIC HEARING

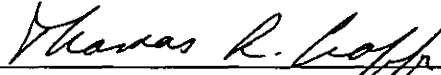
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 20th day of October, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of RICHARD and RUTH CLEMENT, owners-applicants, dated October 2, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached two car garage on a lot located at 1217 Spring Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback in an R-25 District in that 70 feet is required but 61 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said RICHARD and RUTH CLEMENT, owners-applicants, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
October 4, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
\_\_\_\_\_  
THOMAS R. CIOPPI  
Town Attorney



TOWN OF BRUNSWICK  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 -- FAX: (518) 279-4352

RECEIVED  
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TOWN CLERK

**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on October 20, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Amy Serson, Member  
Caroline Trzcinski, Member  
Joseph Jabour, Member  
James Hannan, Chairman

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. At approximately 5:40 P.M., the Chairman made a motion to adjourn to private session so the Board Members could ask Attorney Cioffi legal questions on pending matters. Member Jabour seconded. The motion carried 5 - 0, and the Board adjourned to private session. At approximately 6:00 P.M., Member Jabour made a motion to adjourn the private session. The Chairman seconded. The motion carried 5 - 0. In the private session, Attorney Cioffi responded to legal questions from the Board. No action was taken

At approximately 6:05 P.M., the meeting was called to order. The Chairman explained that the Board had been in private session to discuss legal issues with the Board's attorney. The first item of business was approval of the Minutes of the September meeting. Member Serson made a motion to approve the Draft Minutes as submitted. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was further consideration of the appeal and petition of RAY DARLING o/b/o GERALD COLMAN, applicant, dated July 25, 2003, for an interpretation as to whether, pursuant to the Zoning Ordinance of the Town of Brunswick, the applicant may construct an accessory structure consisting of a garage/equipment storage building on a lot located on the west side of Creek Road (Tax Map No. 102-4-2), in the Town of Brunswick, on which there is no principal building. Dr. Colman appeared. The Chairman asked whether Dr. Colman had anything further to consider. He did not. The Board then reviewed the Determination in Dr. Colman's prior application to build a storage building on this property. The Board denied that application on the ground that there was no primary structure on the property so there could not be an accessory structure. There being no further discussion, Member Serson made a motion to close the public hearing. Member Jabour seconded. The motion carried 5 - 0. The Chairman indicated that a written decision would be forthcoming.

The next item of business was the appeal and petition of RICHARD and RUTH CLEMENT, owners-applicants, dated October 2, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached two car garage on a lot located at 1217 Spring Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback in an R-25 District in that 70 feet is required but 61 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Richard Clement appeared. He stated that with a setback of 61 feet, the building would be 70 feet from the edge of the road. If he were to build in accordance with the setbacks, the garage would be on a hill. It would be twice as expensive to build it.

Michael Hill, 106 Southwoods Court, Rotterdam, NY, stated that he owns adjoining property and is concerned where the garage would be in relation to his property. Mr. Clement explained it would still be at least 45 feet away from his line. Mr. Hill said that would not be a problem for him. Mr. Clement stated that the space above the garage would be used for storage. There would be no living quarters there. LuAnn Hill, 106 Southwoods Court, Rotterdam, NY, asked whether the garage would be used as a business. Attorney Cioffi stated that it can't be used for business as it is not zoned for it.

Member Serson made a motion to classify the matter a Type 2 action under SEQRA. Member Jabour seconded. The motion carried 5 - 0. Member Serson thereupon offered the following Resolution:

***BE IT RESOLVED, that with regard to the appeal and petition of RICHARD and RUTH CLEMENT, owners-applicants, dated October 2, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached two car garage on a lot located at 1217 Spring Avenue, in the Town of Brunswick, because the proposed construction violates the front yard setback in an R-25 District in that 70 feet is required but 61 feet is proposed, the Zoning Board of Appeals:***

***1. Finds and determines as follows:***

***a) That the variance will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;***

***b) That the relief requested cannot be obtained except by way of an area variance;***

***c) That the variance is not excessive given the circumstances and the neighborhood; and***

***d) That the need for the variance was not self-created.***

***2. Grants the variance as requested, on the conditions that the space above the proposed garage be used for personal storage only, and that no part of the building be used as living quarters.***

Member Jabour seconded. The proposed Resolution was then put to a vote as follows:

<i>Member Jabour</i>	<i>Aye</i>
<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated September 12, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) pipe-mounted panel antennas to be affixed to an existing 190 foot self-support lattice tower located at 805 Hoosick Road, in the Town of Brunswick, at a centerline height of 170 feet, and one (1) GPS antenna to be attached to the legs of the tower, together with the related ground equipment and utility services, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

Michael Cusack, in-house Counsel for Independent Wireless One (IWO), appeared, along with Paul Clifton, IWO's Chief Technical Officer. Mr. Cusack stated that want to locate an antenna on the existing tower at 167 feet. IWO would be the fourth carrier on the tower. IWO has antenna on the Senior Citizens Building in Sycaway and on the Giliad Lutheran Church. IWO thought that would be sufficient but, as shown in the documents, there are coverage gaps in the Brunswick area. This location should help.

It was noted that no one was present other than the applicants and the Board. Mr. Cusack stated that this tower was designed to accommodate multiple carriers. This would be the fourth. The tower could hold a fifth, and possibly a sixth if it were reinforced. Mr. Cusack answered Member Serson's questions regarding the proposed ice bridge and GPS antenna.

Attorney Cioffi pointed out that the structural engineering support submitted with the application shows only three carriers on the tower, including the one proposed here. There are three carriers on the tower now. After reviewing it, Mr. Cusack agreed, and stated that the structural report was prepared before AT & T co-located there.

The Chairman suggested that the owner of the tower come forward with a report indicating the total carrier capacity of the tower. Mr. Clifton stated that would be difficult, since the load will change based on the positioning of the antennas.

Attorney Cioffi asked whether the fenced compound would have to be increased for the ground equipment and whether any new roads were contemplated. Mr. Cusack stated that the ground equipment would go into the south corner of the existing compound. No new road would be built, only a concrete pad for the equipment. Member Jabour raised the issue of whether the Board should

retain its own engineer to review the tower capacity issues. Attorney Cioffi stated that was certainly the Board's prerogative. Mr. Cusack said it is widely known in the industry that this tower was designed to accommodate five carriers. Mr. Clifton stated that although the Board could certainly have its own engineer review the matter, he believed that an updated, corrected structural report should satisfy the Board's concerns. Attorney Cioffi stated that it is a question of at what point the Board feels that it needs to address the issue of tower capacity with its own expert. Mr. Kreiger pointed out that a new application just filed by Verizon Wireless to co-locate on the same tower contains a structural showing all of the antennas now present, as well as the proposed IWO antenna and the proposed Verizon antenna. The report indicates that any additional antennas beyond those five, would require additional engineering scrutiny. Mr. Cusack stated that he would obtain an updated, corrected structural engineering report and submit it to the Board.

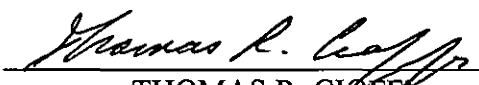
Attorney Cioffi stated that the RF emissions engineering report was not certified as required by the town's Telecommunications Law. Mr. Cusack said that the RF engineers were not PE's and could not do a certification. Attorney Cioffi said that the report could still be certified as true and accurate by the engineer. Mr. Cusack agreed to provide something additional.

The Board decided to hold the public hearing open to the November 17 meeting. However, if the applicants submitted all required documentation in advance of the next meeting, the Board might be in a position to issue a decision at that time.

There being no further business, the Chairman moved to adjourn. Member Jabour seconded. The motion carried 5 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
November 10, 2003

Respectfully submitted,

  
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THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING

RECEIVED  
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TOWN CLERK

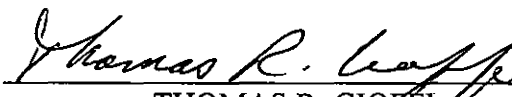
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17th day of November, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, dated October 6, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of four (4) cellular antennas to be affixed to an existing 190 foot self-support lattice tower located at 807 Hoosick Road, in the Town of Brunswick, at a centerline height of 140 feet, together with the related ground equipment and utility services, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
November 1, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
THOMAS R. CIOFFI  
Town Attorney

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17th day of November, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, dated October 6, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of four (4) cellular antennas to be affixed to an existing 190 foot self-support lattice tower located at 807 Hoosick Road, in the Town of Brunswick, at a centerline height of 140 feet, together with the related ground equipment and utility services, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
November 1, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
THOMAS R. CIOFFI  
Town Attorney

## NOTICE OF PUBLIC HEARING

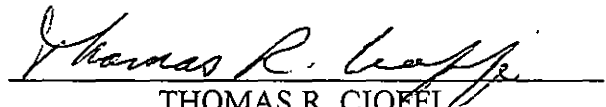
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17th day of November, 2003, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, dated October 6, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of four (4) cellular antennas to be affixed to an existing 190 foot self-support lattice tower located at 807 Hoosick Road, in the Town of Brunswick, at a centerline height of 140 feet, together with the related ground equipment and utility services, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
November 1, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
THOMAS R. CIOFFI  
Town Attorney

## NOTICE OF PUBLIC HEARING

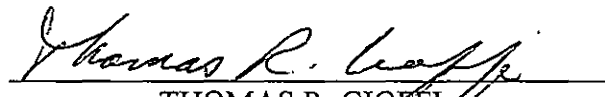
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FURTHER NOTICE IS HEREBY GIVEN that said CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York  
November 1, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
THOMAS R. CIOFFI  
Town Attorney



## NOTICE OF PUBLIC HEARING


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FURTHER NOTICE IS HEREBY GIVEN that said CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

All persons interested in said application will be heard at the above time and place.

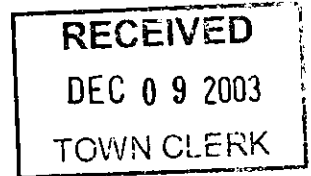
Dated: Brunswick, New York  
November 1, 2003

BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
THOMAS R. CIOFFI  
Town Attorney

TOWN OF BRUNSWICK  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 -- FAX: (518) 279-4352



**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on November 17, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Amy Serson, Member  
Caroline Trzcinski, Member  
Joseph Jabour, Member  
James Hannan, Chairman

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally.

At approximately 6:00 P.M., the meeting was called to order. The first item of business was approval of the Minutes of the October 20, 2003, meeting. Member Serson made a motion to approve the Draft Minutes as submitted. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was further consideration of the appeal and petition of RAY DARLING o/b/o GERALD COLMAN, applicant, dated July 25, 2003, for an interpretation as to whether, pursuant to the Zoning Ordinance of the Town of Brunswick, the applicant may construct an accessory structure consisting of a garage/equipment storage building on a lot located on the west side of Creek Road (Tax Map No. 102-4-2), in the Town of Brunswick, on which there is no principal building.

Attorney Cioffi explained that the matter was before the Board for issuance of its Determination on the application. The Board had before it a draft Determination. At the Chairman's request, Attorney Cioffi read the draft Determination aloud. The draft Determination following the Board's existing precedent, denies the application on the ground that the Zoning Ordinance does not permit the construction of an accessory structure on a lot on which there is no permitted building or use.

Attorney Cioffi then stated that there was a draft Resolution before the Board adopting the draft Determination. Member Serson offered the Resolution. The Chairman seconded. The matter was put to a roll call vote and all members voted in favor and the Resolution adopting the draft Determination was declared duly adopted. The original Determination and the Resolution Adopting Determination are filed in the Office of the Town Clerk.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated September 12, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) pipe-mounted panel antennas to be affixed to an existing 190 foot self-support lattice tower located at 805 Hoosick Road, in the Town of Brunswick, at a centerline height of 170 feet, and one (1) GPS antenna to be attached to the legs of the tower, together with the related ground equipment and utility services, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals.

Attorney Cioffi explained that the matter was before the Board for issuance of its Determination on the application. The Board had before it a draft Determination. At the Chairman's request, Attorney Cioffi read the draft Determination aloud. The draft Determination grants the Special Use Permit as requested for the proposed minor personal wireless telecommunications service facility.

Attorney Cioffi then stated that there was a draft Resolution before the Board adopting the draft Determination. Member Jabour offered the Resolution. The Chairman seconded. The matter was put to a roll call vote and all members voted in favor and the Resolution adopting the draft Determination was declared duly adopted. The original Determination and the Resolution Adopting Determination are filed in the Office of the Town Clerk.

The next item of business was the appeal and petition of the LEONARD DUNCAN and RUTH DUNCAN, owners-applicants, dated June 16, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of vacant land adjacent to 151 McChesney Avenue, in the Town of Brunswick, for commercial self-storage units, because the proposed commercial use is only allowed in an R-25 District upon the issuance of a use variance by the Zoning Board of Appeals.

Attorney Cioffi explained that the matter was before the Board for issuance of its Determination on the application. The Board had before it a draft Determination. At the Chairman's request, Attorney Cioffi read the draft Determination aloud. The draft Determination denies the requested use variance on the ground that the applicants had not established that the land in question could not yield a reasonable return if used for a purpose permitted in the district, which is an essential criterion for the issuance of a use variance.

Attorney Cioffi then stated that there was a draft Resolution before the Board adopting the draft Determination. Member Jabour offered the Resolution. The Chairman seconded. The matter was put to a roll call vote and all members voted in favor and the Resolution adopting the draft Determination was declared duly adopted. Prior to voting, Member Serson and Member Schmidt both stated that they sympathized with the Duncans and this was a very difficult decision, but they felt constrained by the law to vote to deny the use variance. The original Determination and the Resolution Adopting Determination are filed in the Office of the Town Clerk.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, dated October

6, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of four (4) cellular antennas to be affixed to an existing 190 foot self-support lattice tower located at 807 Hoosick Road, in the Town of Brunswick, at a centerline height of 140 feet, together with the related ground equipment and utility services, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

The applicant was represented by Attorney James Hulme and Sara Mayberry, the Project Manager. Mr. Hulme summarized that the proposal is for 12 antenna panels to be located on the existing tower at a centerline height of 140 feet. The existing fenced compound at the site would be expanded to include a new 12' x 30' concrete equipment pad for applicant's equipment.

The Board reviewed the application with its various submissions. There was discussion regarding the structural engineering report. It was noted that this antenna array, if approved, would be the fifth one on the existing tower. According to the structural, any additional load on the tower would have to be carefully reviewed and it is likely that the tower would have to be reinforced in that event.

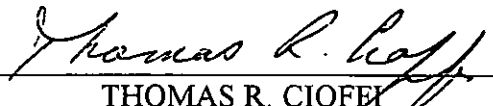
No one from the public was present. Member Serson observed that a lot of panels were being requested. Ms. Mayberry noted that they were all considered in the structural engineering report. The Chairman asked whether the applicants could share the equipment shelter of one of the other carriers located on the tower. Ms. Mayberry said that was really not feasible. Each carrier needs its own equipment and it needs to be locked up. Attorney Cioffi wondered whether there would be drainage concerns as a result of expanding the fenced compound and adding more concrete to the site. Ms. Mayberry said she was not aware of any drainage issues and stated that there were notes regarding the site work on the maps submitted to the Board. Mr. Kreiger was not aware of any such issues. The Board acknowledged that the Planning Board could take a more detailed look at this issue in its site plan review in the special use permit is granted.

There being no further questions or issues, the Chairman made a motion to close the public hearing. Member Serson seconded. The motion carried 5 - 0.

There being no further business, the Member Jabour moved to adjourn. The Chairman seconded. The motion carried 5 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
December 8, 2003

Respectfully submitted,

  
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THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**November 17, 2003**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, the appeal and petition of the LEONARD DUNCAN and RUTH DUNCAN, owners-applicants, dated June 16, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of vacant land adjacent to 151 McChesney Avenue, in the Town of Brunswick, for commercial self-storage units, having been duly filed because the proposed commercial use is only allowed in an R-25 District upon the issuance of a use variance by the Zoning Board of Appeals; and

**WHEREAS**, the matter have duly come on for public hearing which extended over several sessions; and ,

**WHEREAS**, the Board having caused to be prepared a written Determination with respect to the said appeal and petition, which is annexed hereto; now, therefore, after due deliberation

**BE IT RESOLVED**, that the annexed Determination be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Member Jabour and seconded by Chairman Hannan , was duly put to a roll call vote as follows:

<b>MEMBER SERSON</b>	<b>VOTING</b> <u>    Aye    </u>
<b>MEMBER SCHMIDT</b>	<b>VOTING</b> <u>    Aye    </u>
<b>MEMBER JABOUR</b>	<b>VOTING</b> <u>    Aye    </u>
<b>MEMBER TRZCINSKI</b>	<b>VOTING</b> <u>    Aye    </u>
<b>CHAIRMAN HANNAN</b>	<b>VOTING</b> <u>    Aye    </u>

The foregoing Resolution was ~~(xxx)~~ thereupon declared duly adopted.

Dated: November 17, 2003

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

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In the Matter of the Appeal and Petition of

DETERMINATION

LEONARD DUNCAN, SR., and RUTH DUNCAN,

Applicants

For the Issuance of A Use Variance Under the Zoning  
Ordinance of the TOWN OF BRUNSWICK

---

This matter involves the appeal and petition of the LEONARD DUNCAN and RUTH DUNCAN, owners-applicants, dated June 16, 2003, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of vacant land adjacent to 151 McChesney Avenue, in the Town of Brunswick, for commercial self-storage units, because the proposed commercial use is only allowed in an R-25 District upon the issuance of a use variance by the Zoning Board of Appeals.

Essentially, the applicants want to take 2.59 acres of an existing 14 acre site and build and operate several commercial self-storage units. The property is currently used as a heifer farm. The applicants claim that the heifer farm is not doing well and they are not making any money. They feel that they are suffering from a severe hardship and are entitled to a use variance so that they can make a living from their property. The applicants acknowledge that they can sell this property, and thereby obtain a reasonable return from it, but they do not want to. It is applicant's position that they should not have to sell their property to obtain a reasonable return; rather, they should be permitted to use the property to earn a living, and the only way they can so is by some commercial use such as the one proposed.

We start with recognition of the very strict standards and difficulty in establishing the criteria for a use variance. That is how it should be. A use variance permits property to be used in a manner which is otherwise prohibited in the district by the zoning ordinance. Simply stated, in order to obtain a use variance, the applicant must establish:

1. that based upon competent financial evidence, the land in question cannot yield a reasonable return if used for a purpose allowed in that district; and

2. that the alleged hardship relating to the land is unique, and does not apply to a substantial portion of the district or neighborhood; and
3. that the proposed use will not alter the essential character of the neighborhood.

The applicants have not established that the land cannot yield a reasonable return for any permitted use in the district. To the contrary, they acknowledge that the land can be sold for residential use, yielding a reasonable return. They feel they should not have to sell their land to obtain a reasonable return on it. They feel they should be able to use it to make a living. This Board, however, is constrained by statute and decisional law. The applicant does not cite, nor does their appear to exist, any authority for the proposition that a property owner need not resort to selling his or her property in order to establish a lack of reasonable return. Quite to the contrary, it is well settled that the inability to sell property for a use allowed in the district can be used, in part at least, to establish that the owner cannot realize a reasonable return from the property. Citizens for Ghent v Zoning Board of Appeals of the Town of Ghent, 175 AD2d 528 (Third Dept. 1991). Applicant's stipulation that they could realize a reasonable return by selling the property as residential land is sufficient, as a matter of law, to justify the denial of this variance.

That said, the proof of lack of reasonable return was gravely insufficient in other ways as well. No proof was submitted of the value of the property. No proof was submitted as to its cost or basis. There was no proof of its tax assessment. Applicants did not postulate what a reasonable rate of return would be. They did not submit the deed to the property or provide any history as to how the parcel came into existence. No proof was submitted regarding the applicants' other adjacent land holdings. Neither was any proof submitted regarding the sale of adjacent property owned by the applicants to ROUSE for several hundred thousand dollars just a few years ago.

The only thing close to expert analysis submitted in support of the application is a letter opinion from Garry Doyle Real Estate dated September 15, 2003. Mr. Doyle concludes that he is unable to appraise the property since it is too small a parcel for farming. He goes on to state that the use of the property for a single family residence is not reasonable or desirable due to its proximity to the farm. The Board rejects his opinion. The parcel is small because the applicant made it so. The 2.59 acre parcel does not yet even exist. It is part of a 14 acre parcel, and the applicants own much more land adjacent thereto. Clearly, in analyzing whether a reasonable return may be achieved, an applicant may not segment property interests or parcels and must examine the property as a whole. Citizens for Ghent v Zoning Board of Appeals of the Town of Ghent, supra. Additionally, it is noteworthy that, on one hand, the applicants claim that the heifer farm is not viable and will have to be discontinued, while their expert claims that the parcel is valueless as a residential property because it is near the farm.

The only other proof of lack of reasonable return was the applicants' tax returns. On their face, the returns appear to indicate that the applicants are not making a profit on the heifer farm. They claim this is the hardship that entitles them to a use variance. Applicants misapprehend the criteria. It is not a personal hardship that provides the entitlement to a use variance; rather, it is a hardship relating to the property. Applicants have submitted no proof that there is any problem or condition on the land which makes it unsuitable for its current use, as a heifer farm, or any permitted use. The apparent inability of the applicants to make a profitable business out of the heifer farm does not establish that someone else could not do so. And it certainly has no relevance on the issue of whether the property could be profitable if sold or used for some other permitted purpose.

In sum, there is no competent proof before this Board from which it can determine the value of the property, the applicants' cost or other basis in the property, and just what would be a reasonable return on their investment. It is the applicant's burden to submit this proof.

Based upon all of the foregoing, it is the determination of this Board that the applicants have not established, based upon competent financial evidence, that the land in question cannot yield a reasonable return if used for a purpose allowed in that district. That being an essential criteria for the grant of a use variance, the Board need not examine the other criteria. Accordingly, the appeal and petition for a use variance must be, and hereby is DENIED.

Dated: Brunswick, New York  
November 17, 2003



TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

RECEIVED  
DEC 09 2003  
TOWN CLERK

REGULAR MEETING

November 17, 2003

RESOLUTION ADOPTING DETERMINATION

**WHEREAS**, there having been duly filed the appeal and petition of RAY DARLING o/b/o GERALD COLMAN, applicant, dated July 25, 2003, for an interpretation as to whether, pursuant to the Zoning Ordinance of the Town of Brunswick, the applicant may construct an accessory structure consisting of a garage/equipment storage building on a lot located on the west side of Creek Road (Tax Map No. 102-4-2), in the Town of Brunswick, on which there is no principal building ; and

**WHEREAS**, the matter have duly come on for public hearing; and

**WHEREAS**, the Board having caused to be prepared a written Determination with respect to the said appeal and petition, which is annexed hereto; now, therefore, after due deliberation

**BE IT RESOLVED**, that the annexed Determination be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Member Serson and seconded by Chairman Hannan, was duly put to a roll call vote as follows:

MEMBER SERSON	VOTING <u>Aye</u>
MEMBER SCHMIDT	VOTING <u>Aye</u>
MEMBER JABOUR	VOTING <u>Aye</u>
MEMBER TRZCINSKI	VOTING <u>Aye</u>
CHAIRMAN HANNAN	VOTING <u>Aye</u>

The foregoing Resolution was ~~(not)~~ thereupon declared duly adopted.

Dated: November 17, 2003

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

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In the Matter of the Application of

GERALD COLMAN,  
Owner-Applicant

DETERMINATION

For the Issuance of a Building Permit Under the Zoning  
Ordinance of the TOWN OF BRUNSWICK

---

This matter involves the appeal and petition of RAY DARLING o/b/o GERALD COLMAN, applicant, dated July 25, 2003, for an interpretation as to whether, pursuant to the Zoning Ordinance of the Town of Brunswick, the applicant may construct an accessory structure consisting of a garage/equipment storage building on a lot located on the west side of Creek Road (Tax Map No. 102-4-2), in the Town of Brunswick, on which there is no principal building.

The owner-applicant, Gerald Colman, owns a parcel of land consisting of some 36 acres bordering Creek Road in the Town of Brunswick. The property is currently unimproved. It is zoned R-15. Dr. Colman wishes to construct a large equipment storage building on the property to be used, he states, to store gardening, farming and lawn mowing equipment used on the premises. He has no plans, in the immediate future, to construct a home, or any other permitted principal structure, on the premises. The Superintendent of Utilities & Inspections denied the applicant's application for a building permit on the ground that an accessory structure, such as the proposed equipment storage building, could not be built in the absence on the property of a principal building. Dr. Colman is asking this Board to interpret the Zoning Ordinance otherwise, and rule, essentially, that the accessory building can be allowed in the absence of a permitted principal building.

It is noted that this is not the first time that Dr. Colman has requested such relief with respect to this property. On or about July 28, 1999, the applicant was denied a building permit to construct a similar equipment storage building on another portion of this property, near the corner of Grandview Street and Elm Street. He appealed to this Board. After a public hearing, this Board denied his appeal, ruling that the Town's Zoning Ordinance did not allow a permitted accessory structure, such as the proposed pole barn/storage building, to be built in the absence of a permitted principal building or use on the property. A copy of the Determination dated November 15, 1999, is annexed hereto.

Dr. Colman asserts that the instant application can be distinguished from the previous application. Essentially, he has proposed relocating the proposed storage building on the rather large lot in such a way that it will not be visible from any other residence. Dr. Colman feels that the building will not disturb anyone so there is no reason why it should not be permitted.

As in the previous application, this is essentially a matter of statutory interpretation. Either the Zoning Ordinance permits an accessory structure in the absence of a permitted principal structure, or it doesn't. The visibility of the proposed structure is largely irrelevant, as are the applicant's reasons for wanting the structure, and the opinions of adjoining landowners who spoke at the hearing both in favor of and against the application.

This Board ruled on November 15, 1999, that the Zoning Ordinance did not allow the construction of an accessory building in the absence of a permitted principal building. The Town Building Department has espoused this interpretation of the Zoning Ordinance for many years. This Board has never ruled to the contrary except on one occasion where it ruled that a detached garage could be built on a lot with no principal building where the applicant resided in a single family home on a separate lot located directly across the street. The Board required in that case that the two (2) lots be essentially "merged" by deed, by requiring the insertion of covenants in the deeds prohibiting the conveyance of either lot in the absence of the other. Essentially, then, the Board considered the two lots to be one and permitted the garage to be built as an accessory to the existing home. No similar circumstances are present here which would accord the Board the flexibility to grant Dr. Colman the relief he is requesting..

The Board is mindful of Dr. Colman's completely understandable desire to use his property. Nevertheless, the Board feels compelled to follow its own precedents. To do otherwise would be arbitrary and capricious. For the reasons, and based upon the reasoning set forth in the annexed Determination dated November 15, 1999, the applicant's appeal from the denial of his building permit application to construct an accessory equipment storage building on his lot in the absence of a principal structure is DENIED.

Dated: Brunswick, New York  
November 17, 2003

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

---

In the Matter of the Appeal and Petition of

GERALD COLMAN,

DETERMINATION

Owner-applicant

For the Issuance of a Building Permit Under the Zoning Ordinance  
of the TOWN OF BRUNSWICK

---

This matter involves the appeal and petition of GERALD COLMAN, applicant, dated July 28, 1999, for the issuance of a building permit under the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a pole barn on a lot located at the corner of Grandview Street and Elm Street, in the Town of Brunswick, because the Superintendent of Utilities & Inspections disapproved the application for a building permit in connection with the proposed construction on the ground that an accessory building may not be built on the lot because no principal structure has been constructed there.

The owner-applicant, Gerald Colman, owns a 36 acre parcel of land located at the corner of Grandview and Elm Streets, in the Town of Brunswick. The property is zoned R-15. There are currently no improvements on the property. It is maintained as pasture land and corn fields. Mr. Colman now wishes to construct a rather large pole barn on the property, ostensibly, at least, to be used for storing gardening and farming equipment used on the premises. The Superintendent of Buildings denied Mr. Colman's application for a Building Permit on the ground that a pole barn to be used for storage of equipment is not a permitted principal use in an R-15 District under the Town Zoning Ordinance, and, although such a structure would be a permitted accessory use in an R-15 District, an accessory building cannot, by definition, be allowed absent the existence of an authorized principal building on the premises. Mr. Colman now appeals to this Board from the Superintendent's determination and interpretation of the Zoning Ordinance.

This Board clearly has jurisdiction to hear and determine appeals from determinations made by the Superintendent of Buildings, and to otherwise interpret the Zoning Ordinance. The sole issue before the Board, then, is whether the Superintendent of Buildings properly interpreted the Zoning Ordinance in denying the Building Permit.

Even the most cursory review of the Zoning Ordinance indicates that the Superintendent of Building is quite correct insofar as he ruled that a pole barn to be used for equipment storage is not among the enumerated permitted principal uses in an R-15 District.

It is also clear that the proposed pole barn is among the permitted accessory uses in an R-15 District as set forth in the Zoning Ordinance. It would qualify either as a "tool house" or an "accessory, farm building", both enumerated as permitted R-15 accessory uses.

What is not so clear, however, is whether the accessory use can be permitted in the absence of the existence of a permitted principal structure on the premises.

The Zoning Ordinance contains the following definitions:

**Use:** The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

**Accessory Use:** A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**Principal Building:** A building in which is conducted the principal use of the lot on which said building is situated.

Since this is a matter of statutory interpretation, rather than a request for a variance or special use permit, the public input and, indeed, the statements of the applicant regarding his intentions and reasons for wanting the building, are not especially relevant. As to the public input, suffice it to say that the majority of the individuals who spoke at the public hearing or offered a written statement were opposed to the construction of the pole barn, mainly on the ground that it would detract from the appearance and character of the community. Mr. Colman, at the public hearing, essentially stated that he wanted the barn to hold his gardening tools and equipment that he uses on the premises. It is fair to state that the members of the public who spoke apparently felt that it was likely to be used for other purposes or to store items unrelated to the property. It is also noted that, at the public hearing, when asked, Mr. Colman stated that it was "his dream" to build a residence on the property, but that he would have to convince his wife. In a subsequent communication to this Board, dated October 29, 1999 he stated that it "his plan" within the next five years to build a primary structure, a home, on the premises.

Based upon a careful reading of the above definitions, and of their common sense meanings, the Board agrees with the interpretation of the Superintendent of Buildings that an accessory use which would otherwise be permitted on certain premises cannot be permitted or authorized in the absence of a permitted principal use or building on the premises. By definition, an accessory use is "incidental and subordinate to the principal use or building and located on the same lot with such principal building". It is not possible, then, to have an accessory use on a lot where a permitted principal use or building does not exist. Accordingly, the proposed pole barn, a permitted accessory use in an R-15 District, cannot be permitted on these premises because there is no permitted principal use or building existing on the premises. Any other interpretation would be contrary to common sense and the plain wording of the ordinance.

Based upon all of the foregoing, the appeal and petition of Gerald Colman be and hereby is DENIED.

Dated: Brunswick, New York  
November 15, 1999

RECEIVED  
DEC 09 2003  
TOWN CLERK

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

REGULAR MEETING

November 17, 2003

RESOLUTION ADOPTING DETERMINATION

**WHEREAS**, the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated September 12, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) pipe-mounted panel antennas to be affixed to an existing 190 foot self-support lattice tower located at 805 Hoosick Road, in the Town of Brunswick, at a centerline height of 170 feet, and one (1) GPS antenna to be attached to the legs of the tower, together with the related ground equipment and utility services, having been filed because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals ; and

**WHEREAS**, the matter have duly come on for public hearing; and

**WHEREAS**, the Board having caused to be prepared a written Determination with respect to the said appeal and petition, which is annexed hereto; now, therefore, after due deliberation

**BE IT RESOLVED**, that the annexed Determination be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Member Jabour and seconded by Chairman Hannan, was duly put to a roll call vote as follows:

MEMBER SERSON	VOTING <u>  Aye  </u>
MEMBER SCHMIDT	VOTING <u>  Aye  </u>
MEMBER JABOUR	VOTING <u>  Aye  </u>
MEMBER TRZCINSKI	VOTING <u>  Aye  </u>
CHAIRMAN HANNAN	VOTING <u>  Aye  </u>

The foregoing Resolution was (~~not~~) thereupon declared duly adopted.

Dated: November 17, 2003

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

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In the Matter of the Application of

INDEPENDENT WIRELESS ONE LEASED REALTY  
CORPORATION,

Applicant

DETERMINATION

For the Issuance of a Special Use Permit Under the Zoning  
Ordinance of the TOWN OF BRUNSWICK

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This matter involves the Application for Zoning Permit and Request for Special Use Permit of A independent Wireless One Leased Realty Corporation, dated September 17, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) pipe-mounted panel antenna and one (1) GPS antenna on an existing 190 foot self-support lattice tower ("tower") located at 805 Hoosick Road, Town of Brunswick, at a centerline height of 167 feet, together with related ground equipment on a 9' x 12' concrete pad, and utility services, to be located within an existing fences compound on the premises.

This application is brought pursuant to Local Law No. 1 for the Year 1999 which provides for the regulation of personal wireless telecommunications facilities in the Town of Brunswick. Basically, the application is for a special use permit to authorize the placement and attachment of six (6) additional antennae on the existing lattice tower located at 805 Hoosick Road. . The tower is 190 feet high. There are currently three (3) antenna arrays on the tower. If approved, this will be the fourth. The antennae are proposed to be placed at a centerline height of 167 feet. The equipment shelter will be placed on a 9' x 12' concrete pad and located within an existing fenced compound on the premises. No additional access road or parking is proposed or required.

The applicant has submitted all of the application materials required for a minor personal wireless telecommunications service facility by the local law. The application was deemed complete by the Board, except for problems with the structural engineering report and the RF emissions report, both of which have been subsequently addressed by the applicant. At the public hearing, for which all adjoining property owners were notified, and notice of which was duly published in the Town's official newspaper, no one from the public even appeared, much less expressed any opposition to



the proposed facility.

The Board takes notice of the fact that the Town Board, in enacting the Town's telecommunications law, expressed a clear intent that minor personal wireless facilities be used whenever possible. The law provides, essentially, that once the applicant submits all the information and materials required for a minor facility, if it appears that the modifications to the existing building or structure are insignificant, the permit should be granted. In this case, the applicant has submitted all of the required information and documentation, including an engineering report which establishes that the structural integrity of the tower will not be compromised in any way by the proposed construction.

The Board hereby classifies this matter an unlisted action under SEQRA. The Board has reviewed Part 1 of the EAF submitted by the applicant as well as Part 2 of the EAF prepared at the behest of this Board. The Board has also considered the Visual Addendum to the EAF. The applicant has provided sufficient materials to evaluate the visual impact of the tower. The Board notes that the tower exists at present and is really not being added to in any significant way, at least from a visual standpoint. The height of the tower will not be increased. It does not appear that the visual impact of the tower will be significantly greater with the addition of the proposed antennae than it is now. It is also noted that this tower is located in a commercial zone on NYS Route 7 (Hoosick Road), which is the most commercial area of the Town. It should be further noted that the telecommunications facility is being built without the necessity of a new telecommunications tower, which would most certainly have a much greater environmental impact. Based upon a careful review of the EAF, and the record before us, we conclude that this action will not have an adverse effect on the environment and, accordingly, a negative declaration shall issue. Copies of Part 1 and 2 of the EAF, and the Negative Declaration, are annexed hereto.

Turning to the merits of the application, under State law, and the Zoning Ordinance, the general criteria for the grant of a special use permit are as follows:

1. The granting of the Special Use Permit is reasonably necessary for the public health or general interest or welfare; and
2. The special use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities; and
3. The off street parking spaces required for the special use under the Zoning Ordinance are adequate to handle expected public attendance; and
4. Neighborhood character and surrounding property values are reasonably safeguarded;

and

5. The special use will not cause undue traffic congestion or create a traffic hazard; and
6. All conditions or standards contained in the Zoning Ordinance for the special use are satisfied; and
7. All governmental authorities having jurisdiction have given necessary approval.

The Board finds that it is in the public interest to grant the requested special use permit. In this day and age, wireless communications are commonplace and, indeed, in many cases, a necessity. So, too, cellular providers have been recognized by the courts as "public utilities". This application is meant to increase the availability of this technology to the public. The applicant has demonstrated its lack of service in this area and the necessity that it provide such service as a requirement of its FCC license. It is also significant that a minor facility is being sought, which is clearly preferred and in the public interest, due to the lesser environmental impacts.

There are no issues here relating to location in relation to necessary facilities or to public parking, or to traffic. This facility is not open to the public, nor is it "manned". No other government approval is required at this stage. Details regarding the site plan itself, including strict adherence to the specific site requirements set forth in the telecommunications law, will be dealt with subsequently by the Planning Board.

The Board finds that the neighborhood character and property values will not be impacted by the grant of this permit. As previously stated, this tower has been in existence for several years and is located in the most commercial part of Town. Clearly, the only significant visual impact here is the power transmission tower itself, which is, of course, pre-existing. The addition of the antenna panels, which will add nothing to the height of the tower, and the ground equipment, will have no effect on community character or property values that does not already exist as a consequence of the tower itself.

The Board also finds that all of the specific special use standards for Personal Wireless Telecommunications Service Facilities imposed by the Town's telecommunications law have been satisfied to the extent that they are applicable to this proposed facility.

Finally, in accordance with Article VIII, Section 5.B. of the Zoning Ordinance, as amended by Local Law No. 1 for the Year 1999, the Board finds that all necessary documentation has been submitted and the proposed modifications to the tower are insignificant.

Accordingly, the requested special use permit to construct and operate a minor personal wireless telecommunications service facility, consisting of six (6) panel antennae on an existing 190 foot self-support lattice tower located at 805 Hoosick Road, Town of Brunswick, at a centerline height of 167 feet, a GPS antenna, and related ground equipment on a 9' x 12' concrete pad, and utility service, is granted upon the following conditions:

1. All site requirements set forth in the Town's telecommunications law, to the extent deemed applicable by the Planning Board in its site plan review, shall be fully complied with.

2. The applicant, or its agents, successors, etc., shall maintain liability insurance against damage to person or property during the construction and life of this minor personal wireless telecommunications facility with minimum limits of \$1,000,000.00/\$3,000,000.00, which coverage shall name the Town of Brunswick, and its agents, servants, employees and boards, as additional insureds. A certificate of insurance documenting such coverage shall be required prior to the issuance of the permit.

Dated: Brunswick, New York  
November 17, 2003

617.20  
 Appendix A  
 State Environmental Quality Review  
**FULL ENVIRONMENTAL ASSESSMENT FORM**

**Purpose:** The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

**Full EAF Components:** The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

**DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions**

Identify the Portions of EAF completed for this project:       Part 1       Part 2       Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

- A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a negative declaration will be prepared.
- B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED** negative declaration will be prepared.\*
- C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a positive declaration will be prepared.

\*A Conditioned Negative Declaration is only valid for Unlisted Actions

Co-location of PCS Antennas on Existing Tower  
 OR 805 Hoosick Road Name of Action

ZONING BOARD OF APPEALS  
Name of Lead Agency

James Hannan  
Print or Type Name of Responsible Officer in Lead Agency

Chairman  
Title of Responsible Officer

James Hannan  
Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

11/17/03  
Date

**PART 1 - PROJECT INFORMATION**  
**PREPARED BY PROJECT SPONSOR**

**Notice:** This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

<b>NAME OF ACTION:</b> Collocation of PCS antennas on existing tower owned by Spectrasite Comm. (AB76XC099A)			
<b>LOCATION OF ACTION:</b> Brunswick Drive, Troy, Rensselaer County, New York (include street address, municipality and County)			
<b>NAME OF APPLICANT/SPONSOR:</b> Independent Wireless One		<b>BUSINESS TELEPHONE:</b> 518-862-5923	
52 Corporate Circle	Albany	NY	12203
STREET ADDRESS	CITY/PO	STATE	ZIP
<b>NAME OF OWNER:</b> Spectrasite Communications (IF DIFFERENT)		<b>BUSINESS TELEPHONE:</b> 401-338-0330	
66 Girard Ave, Suite #216	Newport	RI	02840
STREET ADDRESS	CITY/PO	STATE	ZIP
<b>DESCRIPTION OF ACTION:</b> Collocation of six I.W.O. antennas on an existing telecommunications tower at a centerline height of 167'-0" AGL and installation of related equipment at the base of the tower within the existing compound.			

Please complete each question -Indicate N.A. if not applicable.

**A. SITE DESCRIPTION**

Physical setting of overall project, both developed and undeveloped areas.

1. Present land use:  Urban  Industrial  Commercial  Residential(suburban)  Rural (non-farm)  
 Forest  Agriculture  Other Existing Wireless Communications Facility

2. Total acreage of project area: 0.002 acres.

<u>APPROXIMATE ACREAGE</u>	<u>PRESENTLY</u>	<u>AFTER COMPLETION</u>
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) Communications Compound	<u>0.002</u> acres	<u>0.002</u> acres

3. What is predominant soil type(s) on project site? Nassau-Manlius complex, undulating

a. Soil drainage:

- well drained 100% of site  
 Moderately well drained \_\_\_\_\_ % of site

Poorly drained \_\_\_\_\_ % of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? N/A Acres (See 1 NYCRR 370):

4. Are there bedrock outcroppings on project site?  Yes  No.

a. What is depth to bedrock? +1.5' (in feet):

5. Approximate percentage of proposed project site with slopes?

0-10%      %       10-15%      %       15% or greater      %.

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the National Registers of Historic Places?  Yes  No

7. Is project substantially contiguous to, to a site listed on the Register of National Natural Landmarks?

Yes       No

8. What is the depth of the water table: +10' (in feet)

9. Is the site located over a primary, principal, or sole source aquifer?  Yes  No.

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  Yes  No.

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?

Yes  No. According to: NYSDEC Letter 6/28/2001; USFWS Letter 12/21/2001..

Identify each species: Please see attached letters.

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations)?  Yes  No.

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

Yes  No.

If yes, explain:

14. Does the present site include scenic views known to be important to the community?  Yes  No.

15. Streams within or contiguous to project area? None..

16. Lakes, ponds, wetland areas within or contiguous to project area?

Name: <u>N/A</u>	Size (in acres) <u>N/A</u>
Name: <u>N/A</u>	Size (in acres) <u>N/A</u>
Name: <u>N/A</u>	Size (in acres) <u>N/A</u>

17. Is the site served by existing public utilities?  Yes  No.

a. If yes, does sufficient capacity exist to allow connection:  Yes  No.

b. If yes, will improvements be necessary to allow connection:  Yes  No.

18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No.

19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617?  Yes  No.

20. Has the site ever been used for the disposal of solid or hazardous wastes?  Yes  No.

## B. PROJECT DESCRIPTION

1. Physical dimensions and scale of project (fill in dimensions as appropriate).

- a. Total contiguous acreage owned or controlled by project sponsor 0.002 acres.
- b. Project acreage to be developed: 0.002 acres initially; 0.002 acres ultimately.
- c. Project acreage to remain undeveloped 0.00 acres.
- d. Length of project, in miles: N/A (if appropriate).
- e. If the project is an expansion, indicate percent of expansion proposed 0 (Zero) %
- f. Number of off-street parking spaces existing 1 (One); proposed 1 (One).
- g. Maximum vehicular trips generated per hour One Per Month (upon completion of project).
- h. If residential, number and type of housing units:

	One family	Two family	Multiple family	Condominium
Initially	N/A	N/A	N/A	N/A
Ultimately	N/A	N/A	N/A	N/A

- i. Dimensions (in feet) of largest proposed structure 6' height; 10' width; 12' length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? N/A Ft.

2. How much natural material (i.e., rock, earth, etc.) will be removed from the site? 0 (Zero) Tons/cubic yards.

3. Will disturbed areas be reclaimed:  Yes  No  N/A
- a. If yes, for what intended purpose is the site being reclaimed? \_\_\_\_\_
  - b. Will topsoil be stockpiled for reclamation?  Yes  No
  - c. Will upper subsoil be stockpiled for reclamation?  Yes  No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 0 (Zero) acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?  
 Yes  No

6. If single phase project: Anticipated period of construction 1 (One) months, (including demolition).

7. If multi-phased:

- a. Total number of phases anticipated N/A (number).
- b. Anticipated date of commencement phase 1 N/A month N/A year, (including demolition).
- c. Approximate completion date of final phase N/A month N/A year.
- d. Is phase 1 functionally dependent on subsequent phases?  Yes  No

8. Will blasting occur during construction?  Yes  No

9. Number of jobs generated: during construction? 6 (Six); after project is complete? 0 (Zero)

10. Number of job eliminated by this project? 0 (Zero)

11. Will project require relocation of any projects or facilities?  Yes  No  
If yes, explain \_\_\_\_\_

12. Is surface liquid waste disposal involved?  Yes  No

- a. If yes, indicate type of waste (sewage, industrial, etc.) and amount \_\_\_\_\_
- b. Name of water body into which effluent will be discharged \_\_\_\_\_

13. Is subsurface liquid waste disposal involved?  Yes  No Type: \_\_\_\_\_

14. Will surface area of an existing water body increase or decrease by proposal?  Yes  No

Explain: \_\_\_\_\_

15. Is project, or any portion of project, located in a 100 year flood plain?  Yes  No
16. Will the project generate solid waste?  Yes  No  
 a. If yes, what is the amount per month? \_\_\_\_\_ Tons.  
 b. If yes, will an existing solid waste facility be used:  Yes  No  
 c. If yes, give name \_\_\_\_\_; location \_\_\_\_\_  
 d. Will any wastes not go into a sewage disposal system or into a sanitary landfill?  Yes  No  
 e. If yes, explain: \_\_\_\_\_
17. Will the project involve the disposal of solid waste:  Yes  No.  
 a. If yes, what is the anticipated rate of disposal: \_\_\_\_\_ tons/month.  
 b. If yes, what is the anticipated site life: \_\_\_\_\_ years.
18. Will project use herbicides or pesticides?  Yes  No.
19. Will project routinely produce odors (more than one hour per day)?  Yes  No
20. Will project produce operating noise exceeding the local ambient noise levels?  Yes  No
21. Will project result in an increase in energy use?  Yes  No  
 If yes, indicate type(s) Electricity
22. If water supply is from wells, indicate pumping capacity N/A gallons/minute
23. Total anticipated water usage per day N/A gallons/day.
24. Does project involve Local, State or Federal funding?  Yes  No  
 If yes, explain \_\_\_\_\_.
25. Approvals Required:

	Yes	No	Type	Submittal Date
City, Town, Village Board	<input type="checkbox"/>	<input type="checkbox"/>		
City, Town, Village Plng. Board	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Site Plan Review	
City, Town, Zoning Board	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Special Use Permit	
City, County Health Department	<input type="checkbox"/>	<input type="checkbox"/>		
Other Local Agencies	<input type="checkbox"/>	<input type="checkbox"/>		
Other Regional Agencies	<input type="checkbox"/>	<input type="checkbox"/>		
State Agencies	<input type="checkbox"/>	<input type="checkbox"/>		
Federal Agencies	<input type="checkbox"/>	<input type="checkbox"/>		

**C. ZONING and PLANNING INFORMATION**

1. Does proposed action involve a planning or zoning decision?  Yes  No  
 If yes, indicate decision required:

<input type="checkbox"/> zoning amendment	<input type="checkbox"/> zoning variance	<input checked="" type="checkbox"/> special use permit	<input type="checkbox"/> subdivision	<input checked="" type="checkbox"/> site plan
<input type="checkbox"/> new/revision of master plan	<input type="checkbox"/> resource management plan	Other:		

2. What is the zoning classification(s) of the site? B-15
3. What is the maximum potential development of the site if developed as permitted by the present zoning?  
N/A



4. What is the proposed zoning of the site? N/A

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?  
N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?  
Commercial, Residential (Suburban)

8. Is the proposed action compatible with adjoining/surrounding land uses within a ¼ mile?  Yes  No

9. If the proposed action is the subdivision of land, how many lots are proposed? N/A

10. Will proposed action require any authorization(s) for the formation of sewer or water districts?  Yes  No

11. Will the proposed action create a demand for any community provided serviced (recreation, education, police, fire protection)?  Yes  No

a. If yes, is existing capacity sufficient to handle projected demand?  Yes  No

12. Will the proposed action result in the generation of traffic significantly above present levels?  Yes  No

a. If yes, is the existing road network adequate to handle the additional traffic?  Yes  No

#### D. INFORMATIONAL DETAILS

Attach any additional information as may be needed to clarify your project. If there are, or may be, any adverse impacts associated with your proposal, please discuss such impacts and measures which you propose to mitigate or avoid them.

#### E. VERIFICATION

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name: Independent Wireless One

Date: September 17, 2003

Signature: PEPE MCTYBUE

Title: Associate (As Agent for IWO)

*If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.*

## Appendix B State Environmental Quality Review Visual EAF Addendum

This form may be used to provide additional information relating to Question 11 of Part 2 of the Full EAF.  
(To be completed by Lead Agency)

Visibility	Distance Between Project and Resource (in Miles)					
1. Would the project be visible from:	0-1/4	1/4-1/2	1/2-3	3-5	5+	
<ul style="list-style-type: none"> <li>• A parcel of land which is dedicated to and available to the public for the use, enjoyment and appreciation of natural or man-made scenic qualities?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• An overlook or parcel of land dedicated to public observation, enjoyment and appreciation of natural or man-made scenic qualities?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• A site or structure listed on the National or State Registers of Historic Places?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• State Park?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• The State Forest Preserve?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• National Wildlife Refuges and State game refuges?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• National Natural Landmarks and other outstanding natural features?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• National Park Service lands?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Rivers designated as National or State Wild, Scenic or Recreational?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Any transportation corridor of high exposure, such as part of the Interstate System, or Amtrak?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• A governmentally established or designated interstate or inter-county foot trail, or one formally proposed for establishment or designation?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• A site, area, lake, reservoir or highway designated as scenic?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Municipal park, or designated open space?</li> </ul>	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• County road?</li> </ul>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• State? NYS Route 7</li> </ul>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Local road? Brunswick Rd, Betts Rd</li> </ul>		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>2. Is the visibility of the project seasonal ? (i.e., screened by summer foliage, but visible during other seasons)</p>		Yes <input type="checkbox"/>		No <input checked="" type="checkbox"/>		
<p>3. Are any of the resources checked in question 1 used by the public during the time of year during which the project will be visible?</p>		Yes <input checked="" type="checkbox"/>		No <input type="checkbox"/>		

**DESCRIPTION OF EXISTING VISUAL ENVIRONMENT**

4. From each item checked in question 1, check those which generally describe the surrounding environment.

	Within	
	*1/4 mile	*1 mile
Essentially undeveloped	<input type="checkbox"/>	<input type="checkbox"/>
Forested	<input type="checkbox"/>	<input type="checkbox"/>
Agricultural	<input type="checkbox"/>	<input type="checkbox"/>
Suburban residential	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Industrial	<input type="checkbox"/>	<input type="checkbox"/>
Commercial	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Urban	<input type="checkbox"/>	<input type="checkbox"/>
River, Lake, Pond	<input type="checkbox"/>	<input type="checkbox"/>
Cliffs, overlooks	<input type="checkbox"/>	<input type="checkbox"/>
Designated Open Space	<input type="checkbox"/>	<input type="checkbox"/>
Flat	<input type="checkbox"/>	<input type="checkbox"/>
Hilly	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mountainous	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: add attachments as needed

5. Are there visually similar projects within:

- |           |   |  |
|-----------|---|--|
| *1/2 mile | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| *1 mile   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| *2 mile   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| *3 mile   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |

\*Distance from project site are provided for assistance. Substitute other distances as appropriate.

**EXPOSURE**

6. The annual number of viewers likely to observe the proposed project 5.9 million \*\*

NOTE: When user data is unavailable or unknown, use best estimate.

**CONTEXT**

7. The situation or activity in which the viewers are engaged while viewing the proposed action is: Driving

**FREQUENCY**

Activity	FREQUENCY			
	Daily	Weekly	Holidays/ Weekends	Seasonally
Travel to and from work	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Involved in recreational activities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Routine travel by residents	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At a residence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
At worksite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

NOTES: \*\* AADT (Annual Average Daily Traffic) = 16,265 NEW YORK STATE DEPARTMENT OF TRANSPORTATION 2001 Traffic Volume Report for RENSSELAER COUNTY- SR 7(Hoosick St) from Troy City Line/Town of Brunswick to Rte 142 Brunswick Center, Year Recorded 1999.

Part 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

General Information (Read Carefully)

- In completing the form, the reviewer should be guided by the question: Have my responses and determinations been reasonable? The reviewer is not expected to be an expert environmental analyst.
- The Examples provided are to assist the reviewer by showing types of impacts and, wherever possible, the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- The number of examples per question does not indicate the importance of each question.
- In identifying impacts, consider long term, short term and cumulative effects.

Instructions (Read carefully)

- Answer each of the 20 questions in PART 2. Answer Yes if there will be any impact.
- Maybe answers should be considered as Yes answers.
- If answering Yes to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur, but threshold is lower than example, check column 1.
- Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily significant. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- If reviewer has doubt about size of the impact, then consider the impact as potentially large and proceed to PART 3.
- If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the Yes box in column 3. A No response indicates that such a reduction is not possible. This must be explained in Part 3.

IMPACT ON LAND

1. Will the proposed action result in a physical change to the project site?

Yes  No

Examples that would apply to column 2

- Any construction on slopes of 15% or greater,(15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%.
- Construction on land where the depth to the water table is less than 3 feet.
- Construction of paved parking area for 1,000 or more vehicles.
- Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.
- Construction that will continue for more than 1 year or involve more than one phase or stage.
- Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil)per year.
- Construction or expansion of a sanitary landfill.
- Construction in a designated floodway.
- Other impacts: Add PCS ANTENNAS to

EXISTING TOWER. Add related Ground equipment

2. Will there be an effect to any unique or unusual land forms found on the site?(i.e., cliffs, dunes, geological formations, etc.)  Yes  No

• Specific land forms: \_\_\_\_\_

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact be Mitigated by Project Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON WATER

3. Will proposed action affect any water body designated as protected?  
(Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)  
 Yes  No

Examples that would apply to column 2

- Developable area of site contains a protected water body.
- Dredging more than 100 cubic yards of material from channel of a protected stream.
- Extension of utility distribution facilities through a protected water body.
- Construction in a designated freshwater or tidal wetland.
- Other impacts: \_\_\_\_\_

4. Will proposed action affect any non-protected existing or new body of water?  
 Yes  No

Examples that would apply to column 2

- A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.
- Construction of a body of water that exceeds 10 acres of surface area.
- Other impacts: \_\_\_\_\_

5. Will Proposed Action affect surface or groundwater quality or quantity?  
 Yes  No

Examples that would apply to column 2

- Proposed Action will require a discharge permit.
- Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action.
- Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity.
- Construction or operation causing any contamination of a water supply system.
- Proposed Action will adversely affect groundwater.
- Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.
- Proposed Action would use water in excess of 20,000 gallons per day.
- Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.
- Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons.
- Proposed Action will allow residential uses in areas without water and/or sewer services.
- Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.
- Other impacts: \_\_\_\_\_

6. Will proposed action alter drainage flow or patterns, or surface water runoff?  
 Yes  No

Examples that would apply to column 2

- Proposed Action would change flood water flows.

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact be Mitigated By Project Change	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No





**IMPACT ON CRITICAL ENVIRONMENTAL AREAS**

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6 NYCRR 617.14(g)?  Yes  No  
 List the environmental characteristics that caused the designation of the CEA.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Examples that would apply to column 2

- Proposed Action to locate within the CEA?
- Proposed Action will result in a reduction in the quantity of the resource?
- Proposed Action will result in a reduction in the quality of the resource?
- Proposed Action will impact the use, function or enjoyment of the resource?
- Other impacts: \_\_\_\_\_

**IMPACT ON TRANSPORTATION**

15. Will there be an effect to existing transportation systems?  Yes  No

Examples that would apply to column 2

- Alteration of present patterns of movement of people and/or goods.
- Proposed Action will result in major traffic problems.
- Other impacts: \_\_\_\_\_

**IMPACT ON ENERGY**

16. Will proposed action affect the community's sources of fuel or energy supply?  Yes  No

Examples that would apply to column 2

- Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.
- Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.
- Other impacts: \_\_\_\_\_

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No





**STATE ENVIRONMENTAL QUALITY REVIEW ACT  
DETERMINATION OF SIGNIFICANCE**

This notice is issued by the Zoning Board of Appeals of the Town of Brunswick ("Board"), acting as lead agency, in an uncoordinated environmental impact review, pursuant to and in accordance with Article 8 of the New York State Environmental Conservation Law and the regulations promulgated under Article 8 and set forth at Part 617 of Title 6 of the New York Code of Rules and Regulations (collectively referred to as "SEQR").

The Board has determined that the license agreement between Spectrasite Communications, Inc., and Independent Wireless One Leased Realty Corporation (IWO) authorizing IWO to collocate antennas and install related equipment at the existing Spectrasite lattice tower located at 805 Hoosick Street, will not have a significant adverse impact upon the environment and that a negative declaration pursuant to SEQR may be issued. Reasons supporting this determination are fully explained below.

**Project Name:** Collocation of PCS Antennae on Existing Lattice Tower

**SEQR Status:** Type I \_\_\_\_\_ Unlisted: XX

**Project Description:** The Project consists of the installation of telecommunication antennas on an existing Lattice Tower and the installation of related equipment at the base thereof.

**Location:** 805 Hoosick Street, Troy, State of New York ("the Project Site").

**Reasons Supporting This Determination:**

1. The Board as Lead Agency conducting an uncoordinated review, has considered the full scope of the Project.
2. The Project Site is used for telecommunication purposes and the proposed use is thus consistent with existing land uses and will avoid the need for a new telecommunications tower in the Town of Brunswick.
3. The Project Site has no bedrock outcroppings, no slopes greater than 10%, no unique or unusual land forms (cliffs, dunes or other geological formations), and the Project Site is not used by the community as open space or recreation areas.
4. There will be no air emissions from the Project.
5. The Project will not substantially affect water discharges from the Project Site.
6. The Project will not generate solid or hazardous waste.

7. The Project will not significantly alter the visual and/or aesthetic resources in the area of the Project Site and will not have a significant adverse visual impact upon the scenic quality of the landscape.
8. The Project will not result in the removal of vegetation at the Project Site, nor will the Project significantly affect plants and animals in and around the Project Site.
9. The Project will not impact agricultural land.
10. The Project is not substantially contiguous to, nor does it contain, a building, site or district listed on the State or National Registers of Historic Places, and thus will not have an adverse impact upon historic or archeological resources.
11. There are no anticipated changes in traffic flow to and from the Project Site as a result of the Project.
12. The Project will not generate any unpleasant noise or odors.
13. There will be no adverse environmental impacts as a result of the Project.

**For Further Information Contact:** Zoning Board of Appeals  
Town of Brunswick  
308 Town Office Road  
Troy, New York 12180

**Copies of this Negative Declaration** shall be filed with the Zoning Board of Appeals of the Town of Brunswick.

  
Authorized Signature

RECEIVED  
DEC 31 2003  
TOWN CLERK

TOWN OF BRUNSWICK  
**ZONING BOARD OF APPEALS**

308 TOWN OFFICE ROAD, TROY, NEW YORK 12180  
PHONE: (518) 279-3461 - FAX: (518) 279-4352

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on December 15, 2003, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
Amy Serson, Member  
Caroline Trzcinski, Member  
Joseph Jabour, Member  
James Hannan, Chairman

Also present were, Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities & Inspections.

At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally.

At approximately 6:00 P.M., the meeting was called to order. The first item of business was approval of the Minutes of the November 2003, meeting. Member Serson made a motion to approve the Draft Minutes as submitted. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of JACQUELYN WITBECK, owner-applicant, dated October 28, 2003, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 63 Mickel Hill Road, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an A-40 District in that 25 feet is required but 5 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Jacquelyn Witbeck appeared. She stated that the lot has a lot of frontage but not much depth. That is a problem because they want to put the shed in the back. They don't want to put it on the left or right side of the house. On one side, it might disturb a neighbor. On the other side, it would be over the leach field. They need a shed because their basement is wet and they have no storage in the attic.

No one from the public wished to speak. Member Serson made a motion to classify the matter a Type 2 action under SEQRA. Member Jabour seconded. The motion carried 5 - 0. Member Jabour then offered the following Resolution:

*BE IT RESOLVED, that with regard to the appeal and petition of JACQUELYN WITBECK, owner-applicant, dated October 28, 2003, for an area variance, pursuant to the*

*Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 63 Mickel Hill Road, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an A-40 District in that 25 feet is required but 5 feet is proposed, the Zoning Board of Appeals:*

*1. Finds and determines as follows:*

*a) That the variance will not result in an undesirable change in the community, or a detriment to nearby properties, or have an adverse effect on the environmental conditions in the neighborhood;*

*b) That the relief requested cannot be obtained except by way of an area variance;*

*c) That the variance is not excessive given the circumstances and the neighborhood; and*

*d) That the need for the variance was not self-created.*

*2. Grants the variance as requested.*

Member Schmidt seconded. The proposed Resolution was then put to a vote as follows:

<i>Member Jabour</i>	<i>Aye</i>
<i>Member Serson</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was further consideration of the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, dated October 6, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of four (4) cellular antenna arrays to be affixed to an existing 190 foot self-support lattice tower located at 807 Hoosick Road, in the Town of Brunswick, at a centerline height of 140 feet, together with the related ground equipment and utility services, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Attorney James Hulme appeared for the applicant.

Attorney Cioffi explained that the matter was before the Board for issuance of its Determination on the application. The Board had before it a draft Determination. At the Chairman's request, Attorney Cioffi read the draft Determination aloud. The draft Determination grants the Special Use Permit as requested for the proposed minor personal wireless telecommunications service facility.

Attorney Cioffi then stated that there was a draft Resolution before the Board adopting the draft Determination. Chairman Hannan offered the Resolution. Member Jabour seconded. The matter was put to a roll call vote and all members voted in favor and the Resolution adopting the draft Determination was declared duly adopted. The original Determination and the Resolution Adopting Determination are filed in the Office of the Town Clerk.

The next item of business was the appeal and petition of SARKIS K. DEEB, applicant, dated February 7, 2003, for variances, pursuant to the Sign Law and Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a free-standing sign on a lot located at 700 Hoosick Road, in the Town of Brunswick, because the proposed construction violates the minimum setback from Hoosick Road in that 15 feet is required but 0 feet is proposed, and also violates the maximum per side square footage of 35 square feet in that 108 square feet per side is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Sarkis Deeb appeared. He stated that the old Ted's Fish Fry sign was taken down by the State as part of the Route 7 project. They could have kept the old sign, which was even larger than the one they are now proposing, but they opted to get a new sign. The State gave them two choices regarding the location of the sign. The new proposed location is closer to the corner of the lot than the middle, as it was before.

Patrick Poletto, a Brunswick Town Councilman, stated that he met numerous times with State DOT regarding the widening of Route 7 and its effect on businesses like Ted's. Moving water, power and sewer lines as a consequence of the road work made it impossible to leave the sign where it was. There were also sight distance concerns with the old sign and location. He stated that this situation is similar to Feather's Furniture which was also affected by the road widening. Feather's received variances. He went on to state that Ted's has been a great asset to the Town.

No one wished to speak against the application. Member Trzcinski asked whether the road would be wider in that area when the construction is done. Mr. Poletto said it would be, and there would be sidewalks on each side as well. Mr. Deeb stated that it was the State that chose the new sign location. They gave him two options. He also reiterated that he could have just moved the existing sign, which is even larger than the one proposed, to the location approved by the State. Mr. Deeb stated that the sign would be on pillars.

Member Serson noted that 35 sq. ft. per sign is allowed and 108 sq. ft. per side is requested. That is triple what is allowed. In the past, the Board has been strict regarding the size of free-standing signs. Mr. Deeb reminded the Board that Ted's has been there for 40 years. The Chairman stated that the even larger old sign could have just been moved. Member Schmidt agreed that this is a unique situation. He would be much more leery of this proposal if the State had not made Mr. Deeb move the old sign. Member Jabour agreed that this is a unique situation. Member Serson said it is unique, but what is proposed is extreme. The Board will be setting itself up again by creating a precedent for such a large variance which will be cited by other applicants in the future.

The Board then reviewed the short form EAF. Attorney Cioffi read Part 1. The Board then completed Part 2. One concern was about lighting. Mr. Deeb stated that the sign would be illuminated, but since they close at 9:45 P.M., the lights would go off then. After completing Part

2, the chairman made a motion to issue a negative declaration under SEQRA. Member Jabour seconded. The motion carried 5 - 0.

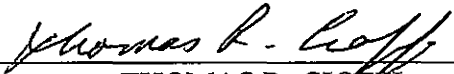
Attorney Cioffi noted that there has been no response from County Planning on the GML 239-m referral, and the County's 30 days to comment has not elapsed. Member Trzcinski feels that the Board should issue a written decision in this matter. Member Serson agreed. There was discussion of whether the Board could act tonight with some sort of conditional approval. That might obviate the problem with the referral to County Planning, but there would be no written decision. Member Serson said she felt strongly that there should be written decision. The Board's actions can create precedents which can be cited by other applicants in other, similar applications. If the Board is inclined to consider such a large variance as regards the size of the sign, the reasons could be clearly stated with suitable findings in a written decision. Mr. Deeb stated that he feels Member Serson is being unreasonable. Attorney Cioffi stated that Member Serson and the other Board Members are only trying to do their jobs. They are under no obligation to issue immediate decisions. Time limitations are set forth in the statute. Also, technically, the Board should not act until it hears from County Planning or the response period elapses.

Member Serson made a motion to continue the public hearing until January 20, 2004. Member Jabour seconded. The motion carried 5 - 0. It is likely a written decision will be issued on that date.

There being no further business, the Member Jabour moved to adjourn. The Chairman seconded. The motion carried 5 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
December 30, 2003

Respectfully submitted,

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**December 15, 2003**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, dated October 6, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of four (4) cellular antennas to be affixed to an existing 190 foot self-support lattice tower located at 807 Hoosick Road, in the Town of Brunswick, at a centerline height of 140 feet, together with the related ground equipment and utility services, because a minor personal wireless telecommunications facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals; and

**WHEREAS**, the matter have duly come on for public hearing; and

**WHEREAS**, the Board having caused to be prepared a written Determination with respect to the said appeal and petition, which is annexed hereto; now, therefore, after due deliberation

**BE IT RESOLVED**, that the annexed Determination be and hereby is approved and adopted in all respects.

The foregoing Resolution which was offered by Chairman Hannan and seconded by Member Jabour, was duly put to a roll call vote as follows:

<b>MEMBER SERSON</b>	<b>VOTING</b>	<b>Aye</b>
<b>MEMBER SCHMIDT</b>	<b>VOTING</b>	<b>Aye</b>
<b>MEMBER JABOUR</b>	<b>VOTING</b>	<b>Aye</b>
<b>MEMBER TRZCINSKI</b>	<b>VOTING</b>	<b>Aye</b>
<b>CHAIRMAN HANNAN</b>	<b>VOTING</b>	<b>Aye</b>

The foregoing Resolution was (not) thereupon declared duly adopted.

Dated: December 15, 2003



TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

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In the Matter of the Application of

CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS,

DETERMINATION

Applicant

For the Issuance of a Special Use Permit Under the Zoning  
Ordinance of the TOWN OF BRUNSWICK

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This matter involves the Application for Zoning Permit and Request for Special Use Permit of Cellco Partnership d/b/a Verizon Wireless, dated October 6, 2003, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of up to twelve (12) cellular panel antennas on an existing 190 foot self-support lattice tower ("tower") located at 806 Hoosick Road, Town of Brunswick, at a centerline height of 140 feet, together with related ground equipment on a 12' x 30' concrete pad, to be located within an expanded fenced compound on the premises.

This application is brought pursuant to Local Law No. 1 for the Year 1999 which provides for the regulation of personal wireless telecommunications facilities in the Town of Brunswick. Basically, the application is for a special use permit to authorize the placement and attachment of up to (12) additional antennas on the existing lattice tower located at 806 Hoosick Road. The tower is 190 feet high. There are currently four (4) antenna arrays approved for that tower. If approved, this will be the fifth. The antennas are proposed to be placed at a centerline height of 140 feet. The equipment shelter will be placed on a 12' x 30' concrete pad. The existing fenced compound on the premises would be suitably expanded to accommodate this equipment pad. No additional access road or parking is proposed or required.

The applicant has submitted all of the application materials required for a minor personal wireless telecommunications service facility by the local law. The application was deemed complete by the Board. At the public hearing, for which all adjoining property owners were notified, and notice of which was duly published in the Town's official newspaper, no one from the public even appeared, much less expressed any opposition to the proposed facility.

The Board takes notice of the fact that the Town Board, in enacting the Town's telecommunications law, expressed a clear intent that minor personal wireless facilities be used whenever possible. The law provides, essentially, that once the applicant submits all the information and materials required for a minor facility, if it appears that the modifications to the existing building or structure are insignificant, the permit should be granted. In this case, the applicant has submitted all of the required information and documentation, including an engineering report which establishes that the structural integrity of the tower will not be compromised in any way by the proposed construction.

The Board hereby classifies this matter an unlisted action under SEQRA. The Board has reviewed Part 1 of the EAF submitted by the applicant as well as Part 2 of the EAF prepared at the behest of this Board. The Board has also considered the Visual Addendum to the EAF. The applicant has provided sufficient materials to evaluate the visual impact of the tower. The Board notes that the tower exists at present and is really not being added to in any significant way, at least from a visual standpoint. The height of the tower will not be increased. It does not appear that the visual impact of the tower will be significantly greater with the addition of the proposed antennas than it is now. It is also noted that this tower is located in a commercial zone on NYS Route 7 (Hoosick Road), which is the most commercial area of the Town. It should be further noted that the telecommunications facility is being built without the necessity of a new telecommunications tower, which would most certainly have a much greater environmental impact. Based upon a careful review of the EAF, and the record before us, we conclude that this action will not have an adverse effect on the environment and, accordingly, a negative declaration shall issue. Copies of Part 1 and 2 of the EAF, and the Negative Declaration, are annexed hereto.

Turning to the merits of the application, under State law, and the Zoning Ordinance, the general criteria for the grant of a special use permit are as follows:

1. The granting of the Special Use Permit is reasonably necessary for the public health or general interest or welfare; and
2. The special use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities; and
3. The off street parking spaces required for the special use under the Zoning Ordinance are adequate to handle expected public attendance; and
4. Neighborhood character and surrounding property values are reasonably safeguarded; and

5. The special use will not cause undue traffic congestion or create a traffic hazard; and
6. All conditions or standards contained in the Zoning Ordinance for the special use are satisfied; and
7. All governmental authorities having jurisdiction have given necessary approval.

The Board finds that it is in the public interest to grant the requested special use permit. In this day and age, wireless communications are commonplace and, indeed, in many cases, a necessity. So, too, cellular providers have been recognized by the courts as "public utilities". This application is meant to increase the availability of this technology to the public. It is also significant that a minor facility is being sought, which is clearly preferred and in the public interest, due to the lesser environmental impacts.

There are no issues here relating to location in relation to necessary facilities or to public parking, or to traffic. This facility is not open to the public, nor is it "manned". No other government approval is required at this stage. Details regarding the site plan itself, including strict adherence to the specific site requirements set forth in the telecommunications law, will be dealt with subsequently by the Planning Board.

The Board finds that the neighborhood character and property values will not be impacted by the grant of this permit. As previously stated, this tower has been in existence for several years and is located in the most commercial part of Town. Clearly, the most significant visual impact here is the power transmission tower itself, which is, of course, pre-existing. The addition of the antenna panels, which will add nothing to the height of the tower, and the ground equipment, will have no effect on community character or property values that does not already exist as a consequence of the tower itself.

The Board also finds that all of the specific special use standards for Personal Wireless Telecommunications Service Facilities imposed by the Town's telecommunications law have been satisfied to the extent that they are applicable to this proposed facility.

Finally, in accordance with Article VIII, Section 5.B. of the Zoning Ordinance, as amended by Local Law No. 1 for the Year 1999, the Board finds that all necessary documentation has been submitted and the proposed modifications to the tower are insignificant.

Accordingly, the requested special use permit to construct and operate a minor personal wireless telecommunications service facility, consisting of up to twelve (12) cellular panel antennas on an existing 190 foot self-support lattice tower located at 806 Hoosick Road, Town of Brunswick,

at a centerline height of 140 feet, and related ground equipment on a 12' x 30' concrete pad, and a expansion of the existing fenced compound on the premises, is granted upon the following conditions:

1. All site requirements set forth in the Town's telecommunications law, to the extent deemed applicable by the Planning Board in its site plan review, shall be fully complied with.

2. The applicant, or its agents, successors, etc., shall maintain liability insurance against damage to person or property during the construction and life of this minor personal wireless telecommunications facility with minimum limits of \$1,000,000.00/\$3,000,000.00, which coverage shall name the Town of Brunswick, and its agents, servants, employees and boards, as additional insureds. A certificate of insurance documenting such coverage shall be required prior to the issuance of the permit.

Dated: Brunswick, New York  
December 15, 2003