

# **ZONING MINUTES**

**2004**

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 January, 2004, 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 November 25, 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 23 feet is proposed and violates the front yard setback in a B-15 District on Tamarac Road in that 75 feet is required but 21 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.

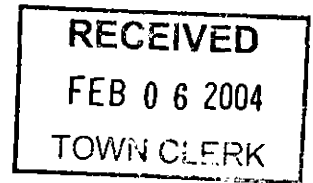
Dated: Brunswick, New York  
December 30, 2003

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 January 20, 2004, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
James Sullivan, 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 December, 2003, meeting. Member Trzcinski 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 STEWART'S SHOPS CORP, owner-applicant, dated November 25, 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 23 feet is proposed and violates the front yard setback in a B-15 District on Tamarac Road in that 75 feet is required but 21 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Tom Lewis, Real Estate Representative for Stewart's Shops Corp., appeared. He stated that back in 1998 or 1999, Stewart's began looking at its busiest shops which had traffic problems. They were looking for ways to increase internal circulation within the parking lots. They have come to the conclusion that adding additional gas islands is the only way to do this. He showed the Board diagrams of the gas pumps as they now exist. The gas pump are too close together. He stated that cars in the front of the line do not pull up far enough to allow the cars behind them to reach the next pump. This causes cars to line up at the pumps. Mr. Lewis submitted written compilations showing the increase in the amount of gas pumped at other area shops when additional islands were added. He also provided written compilations showing customer counts at these other stores, before and

after the additional islands were added. Mr. Lewis states that the data shows that adding additional pump islands will not result in a great deal of additional revenue for Stewart's. He claims that the cost to Stewart's of adding an additional pump island at this location will be some \$206,311.00, while Stewart's only stands to realize some \$7280.00 per year in additional income from increased gas sales. Even so, Stewart's is willing to add the additional gas island because it wants to keep its customers happy. People are having trouble getting into and out of the lot at this location and they are getting frustrated. When customers get frustrated, business suffers. The additional gas islands will allow people to move in and out of the lot faster.

Mr. Lewis submitted letters from the Town of Milton and the Town of Wilton, both stating that traffic problems at Stewart's locations in those towns improved when additional pumps islands were added. Although it is counter-intuitive, Stewart's is convinced from its experience in other shops that adding more gas pumps does not result in an increase in lot traffic and congestion; rather, just the opposite is true.

Member Jabour stated that adding another pump island will increase the number of cars in the lot. This particular shop is situated in a much tighter location than some of the other shops Mr. Lewis is using as comparisons. This lot is very congested, and he feels that adding an additional gas island will be very difficult. He feels it will make matters worse.

Member Schmidt stated that the problem at the site is not cars stacking up at the gas pumps, it is cars looking for parking spaces so people can go into the shop to buy things. He only rarely sees cars lined up for gas. He does not think that adding more gas pumps will help. Member Trzcinski agreed. People like to park their cars and go into the shop to sit and have coffee. Member Schmidt asked whether Stewart's had any figures as to the number of cars which go into the lot for gas as opposed to the number which go in for other things. Mr. Lewis said he would try to get those figures.

Chairman Hannan stated that he goes to this shop frequently. In the warm weather, many people go there in cars, on foot and even on horseback. The lot is very congested. Cars are backing into one another. Some cars and large trucks park across the street. He is concerned about safety and parking. Stewart's is trying to jam more and more into a very small area. Mr. Lewis said that Stewart's tried to buy the land across the street where people and trucks have been parking but the owner refused. The owner of the LeBlanc property located behind the shop on Rt. 278 offered to sell it to Stewart's. But they are asking some \$200,000.00 to \$300,000.00 which is just too much money. Member Schmidt said he would be more inclined to go along with the additional gas pumps if more parking were added as well.

Attorney Cioffi advised the Board that it could hire experts at Stewart's expense to review the situation and the data presented by Stewart's. Mr. Lewis stated that if the experts were going to be very costly, Stewart's might not want to go forward with the proposal. Attorney Cioffi also noted that a response had been received from County Planning on the General Municipal Law, Section 239-m referral. Attorney Cioffi stated that it was a more detailed report than is usually received. It indicated that there are safety concerns at the site and that more parking is required.

It was noted that no one from the public was present. Member Jabour made a motion to

continue the public hearing to January 23, 2004, for further proceedings. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was further consideration of 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.

The Chairman noted that there is a draft Determination and Resolution before the Board. He asked whether there were any further comments. Member Trzcinski stated that she had no problems with varying the setback but was concerned about the size of the sign. She does not think their business will suffer if the sign is sized as specified in the Sign Law. Mr. Deeb stated that he was made to move the sign. It was not his idea, His old sign was even bigger than the one he is proposing. He was led to believe that there would be no problem having the new sign. Donna Yamin, Ted's business manager, stated that there was a decided drop in sales when the old sign came down.

The Board noted that the response from County Planning on the GML 239-m referral had been received. It indicated that care should be taken that the sign does not block the view of drivers on Route 7, in the parking lot, or on Goodman Avenue.

Member Schmidt stated that the Board does not have approve the sign size requested by Mr. Deeb. The fact that Mr. Deeb was led to believe there would be no problem does not bind the Board. Member Sullivan said that this is his first meeting, but that he had reviewed the materials, read the minutes of the previous meeting as well as the draft Determination. He agrees with Mr. Deeb that the loss of the larger sign would have an impact on business.

Member Jabour made a motion to close the public hearing. Member Schmidt seconded. The motion carried 5 - 0. Attorney Cioffi then read the draft Determination aloud. The proposed Determination grants both variances as requested on the condition that the sign not be illuminated after 10:00 P.M. Member Hannan then offered a Resolution adopting the draft Determination as read. Member Jabour seconded. The Resolution as put to a roll call vote as follows:

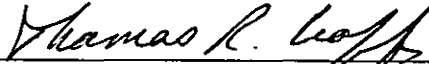
Member Sullivan	Yes
Member Schmidt	Yes
Member Jabour	Yes
Member Trzcinski	No
Chairman Hannan	Yes

The Resolution was thereupon declared duly adopted. A copy of the Resolution and the Determination are attached to these Minutes.

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

Dated: Brunswick, N.Y.  
February 3, 2004

Respectfully submitted,

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**January 20, 2004**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, 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; 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 SULLIVAN</b>	<b>VOTING</b> <u>Yes</u>
<b>MEMBER SCHMIDT</b>	<b>VOTING</b> <u>Yes</u>
<b>MEMBER JABOUR</b>	<b>VOTING</b> <u>Yes</u>
<b>MEMBER TRZCINSKI</b>	<b>VOTING</b> <u>No</u>
<b>CHAIRMAN HANNAN</b>	<b>VOTING</b> <u>Yes</u>

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

Dated: January 20, 2004

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

---

In the Matter of the Appeal and Petition of

DETERMINATION

SARKIS K. DEEB,

Applicant

For the Issuance of Variances Under the Sign  
Law of the TOWN OF BRUNSWICK

---

This matter involves 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.

The facts are fairly simple. Applicant's family business, Ted's Fish Fry, has been a fixture on Hoosick Road for some four (4) decades. For the last approximately thirty (30) years, Ted's had a large free-standing sign on Hoosick Road in front of the restaurant. The sign was close to 200 square feet on each side. This, of course, is far in excess of the 35 square feet per side limit contained in the Sign Law. It is unclear whether the sign predated the Sign Law or was the product of a previous variance request. The sign was located near the middle of the lot. Recently, the State of New York has been engaged in the project to widen Hoosick Road. Apparently, the State appropriated a portion of applicant's property abutting on Hoosick Road, on which the sign was located, to widen the road in that vicinity. According to applicant, the State gave him the option of moving the existing sign to a new location compatible with the road widening, or taking down the sign and replacing it with a new one. Applicant opted for a new sign, concluding it was more cost-effective, given the age of the old sign, and purchased a new sign of some 108 square feet per side. Applicant subsequently learned that removing the old sign and replacing it with a new one larger than permitted by the Sign Law would require variances. The State also gave applicant two choices of where to locate the new sign. Applicant chose the offered location which was closer to the corner of the lot. After the sign was taken down to make way for the road widening, applicant replaced it with a small free-standing sign, which remains at present. Applicant states that business has fallen off some 24% since the larger sign was taken down. Applicant now proposes replacing the sign with



the new free-standing sign it ordered which is some 108 square feet in size on each side. The new sign is illuminated, but the applicant does not wish to illuminate the sign after closing each evening at 9:45 P.M.

There was no public opposition to the requested variances. The Board previously reviewed the EAF, Parts 1 and 2, in this matter and issued a Negative Declaration of significance under SEQRA.

Under the Sign Law, the criteria for granting variances are as follows:

1. The requested variance must be necessary for the reasonable use of the land and buildings; and
2. The requested variance must be in harmony with the general purposes and intent of the Sign Law; and
3. The requested variance must not be injurious to the neighborhood character or otherwise detrimental to the public welfare; and
4. Denial of the variance would result in practical difficulty or unnecessary hardship to the owner.

The first, and far more simpler, variance request involves the setback. The Sign Law requires that a free-standing sign be set back a minimum of 15 feet from the property line. As a consequence of the road widening, a portion of applicant's property abutting Hoosick Road was appropriated by the State. The State Department of Transportation prescribed two alternative locations for the new sign. Both of which were set back further from the road than the old sign and were essentially right on applicant's new property line. Clearly, then, a variance of the setback requirement from 15' to 0' is necessary for the reasonable use of the land and to avoid hardship to the owner. Setting back the sign any further would drastically reduce applicant's available parking as well as the visibility of the sign to those driving by. Given the locations of the signs of other businesses on Hoosick Road, especially those similarly affected by the road widening project, it is clear that the variance will not be injurious to the neighborhood character or injurious to the public. Most free-standing signs on Hoosick Road in this area are, by necessity, very close to the road. Given the unique circumstances, it appears that the setback variance request is in harmony with the general purpose and intent of the Sign Law.

Based upon the foregoing, the Board finds and determines that the each of the criteria for the granting of the requested setback variance has been established and, accordingly, the setback from

the property line for the new sign is reduced from 15' to 0'.

The variance regarding the size of the sign is more difficult. However, based upon the unique facts mentioned above, the Board finds that varying the maximum size of the proposed sign from 35 square feet per side to 108 square feet per side is necessary for the reasonable use of the land and buildings. Clearly, a sign is necessary for a restaurant to attract business from those passing by. It is noted that the applicant had a much larger sign in place before the State caused it to be taken down. Applicant states that since the larger sign was taken down, the volume of business has been drastically reduced. While it is certainly difficult to put an exact figure on how large the sign would have to be to permit applicant to reasonably use the property, we note that the size requested is significantly smaller than the sign which previously existed.

The Board also finds that varying the maximum size of the proposed sign from 35 square feet per side to 108 square feet per side is in harmony with the general purposes and intent of the Sign Law. The purpose and intent of the Sign Law is clearly expressed in Section 125-1.A. of the Brunswick Town Code, which provides as follows:

**The purpose of this chapter is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate and enhance and protect the physical appearance of the community. It is further intended hereby to reduce distractions and obstructions which may contribute to traffic accidents, to reduce hazards caused by signs overhanging or projecting public right-of-way, to provide more open space and to curb the deterioration of natural beauty and community environment.**

It is difficult to imagine how permitting a sign of the size requested will put the public health, welfare and safety in jeopardy. As previously stated, a much larger sign existed on the property for some forty (40) years, and there have been no indications that it has been injurious to the public in any way. For the same reason, permitting this sign will have no effect on surrounding property values which has not already existed for many, many years. Further, the Board finds that the requested sign, newer, smaller and more attractive than the old one, will actually make the economic and business climate in this very commercial area of Hoosick Road more attractive than it has been in the recent past. Also, since the sign is smaller, and its placement has been dictated by the NYS Department of Transportation, it is unlikely that it will cause distractions or traffic hazards that will contribute to accidents. Finally, since the proposed sign is appreciably smaller, if anything, it will

increase open space on the site.

For the reasons set forth above, the Board also finds that permitting this sign will not be injurious to the neighborhood character or otherwise detrimental to the public interest.

Finally, the Board finds that refusing to permit the proposed sign would result in practical difficulty or unnecessary hardship to the applicant. As previously stated, since the old, larger sign was taken down, the business has substantially suffered. Clearly, the "fast food" business on Hoosick Road is on the increase and it will be far more difficult for applicant to face this increasing competition if a sign of significant size, similar to the size of the one it has had for many years, is not allowed. The Board also takes note of the fact that the applicant is not simply "remodeling" here, i.e., getting a new sign in the hopes of increasing business. Rather, the applicant was forced to remove the sign by the State as part of the road widening project, and it was that action which made the right to relocate or rebuild the sign the subject of a variance application.

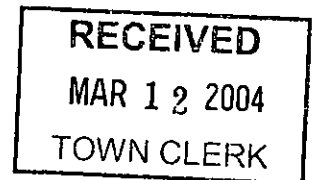
Based upon the foregoing, the Board finds and determines that each of the criteria for the granting of the requested variance to increase the maximum size of the sign from 35 square feet per side to 108 square feet per side has been established and, accordingly, the maximum size of the sign is hereby increased to that extent.

Since, as previously stated, applicant indicated that the proposed new sign was lighted and that the business closed at 9:45 P.M., both variances are granted on the express condition that the sign not be illuminated after 10:00 P.M..

Dated: Brunswick, New York  
January 20, 2004

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 23, 2004, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
James Sullivan, 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 January 23, 2004, meeting. Member Trzcinski noted the following corrections to the Draft Minutes: page 1, last paragraph, line 5 - change "pump" to "pumps"; page 3, line 1 - change "January" to "February"; page 3, 4<sup>th</sup> full paragraph from top, first line - insert "to" between "have" and "approve". Member Jabour made a motion to approve the Draft Minutes with those changes. Member Trzcinski seconded. The motion carried 5 - 0.

The next item of business was further consideration of the appeal and petition of STEWART'S SHOPS CORP, owner-applicant, dated November 25, 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 23 feet is proposed and violates the front yard setback in a B-15 District on Tamarac Road in that 75 feet is required but 21 feet is proposed.

Tom Lewis, Real Estate Representative for Stewart's Shops Corp., appeared. He stated that Stewart's is attempting to improve internal circulation of traffic in the lots of all of its stores. That is the purpose of this variance request. Stewart's believes that adding the additional pump island would increase the movement and flow of traffic in the lot and thereby decrease congestion. Mr. Lewis indicated that he sensed that the Board was not convinced that adding more pumps would decrease congestion in the lot. He offered additional charts he had prepared showing customer

counts and increase in gas gallons pumped at several other Stewart's shops which added additional pumps to improve traffic flow in the lots. He also provided site maps of those other shops. The Board discussed the site maps and the information provided with Mr. Lewis.

After that discussion, Chairman Hannan stated that he goes to this Stewart's frequently and only rarely is the lot not congested. He feels it is due to the "tightness" of the lot. In his view, adding additional pumps will add to, not decrease, the congestion. Member Trzcinski added that the problem is not with cars lined up for gas, rather, the congestion is caused by people who park their cars in the lot to go in to buy things and then linger to visit with others or get ice cream. Mr. Lewis said that Stewart's would never try to discourage people from doing that. Member Jabour agreed that this lot is very congested. He does not see how more pumps will help. Member Hannan said what is really needed is more parking. Member Schmidt agreed that people getting gas is not the problem.

Mr. Lewis stated that it was clear that the Board was not convinced. He stated that he did not wish this to be adversarial. He stated that he was withdrawing the application. However, he asked the Board to comment on another idea, which is to add more parking spaces in front of the shop where the trees and picnic tables are located. Since the Board said more parking was needed, he hoped they would be supportive of the proposal. Attorney Cioffi stated that adding more parking spaces would require a new site plan, which is solely within the purview of the Planning Board. He recommended the Board refrain from making a recommendation unless asked to do so by the Planning Board. This Board's feelings regarding the need for additional parking at the site are adequately documented in the Minutes.

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

Dated: Brunswick, N.Y.  
March 10, 2004

Respectfully submitted,



---

THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

## NOTICE OF PUBLIC HEARING

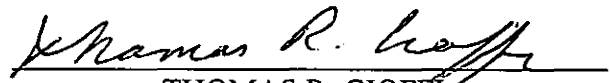
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 19th day of April, 2004, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of USA GAS, INC., applicant, dated February 19, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a gas island canopy and a mini-mart building on a lot located at 560 Hoosick Road, in the Town of Brunswick, because the proposed construction of the canopy violates the front yard setback in an B-15 District in that 75 feet is required but 2 feet is proposed, and the proposed construction of the mini-mart building violates the rear yard setback in a B-15 District in that 30 feet is allowed but 15 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said USA GAS, INC., 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  
March 31, 2004

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

  
THOMAS R. CIOFFI  
Town Attorney

NOTICE OF PUBLIC HEARING

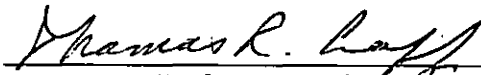
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 19th day of April, 2004, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of MATTHEW W. DEAN, owner-applicant, dated February 18, 2004, for area variances, 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 8 Chester Court, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-15 District in that 20 feet is required but 7 feet is proposed, and violates the maximum allowable height in an R-15 District in that 12 feet is allowed but 21 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said MATTHEW DEAN, 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 31, 2004

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 19th day of April, 2004, 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 KEVIN and DANIELLE LIBERTY, owner-applicants, dated March 25, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an in-ground swimming pool on a lot located at 12 Patton Road, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-25 District in that 25 feet is required but 15 feet is proposed. ,

FURTHER NOTICE IS HEREBY GIVEN that said ~~COV 15.8, 740~~, KEVIN and DANIELLE LIBERTY, owner-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  
March 31, 2004

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



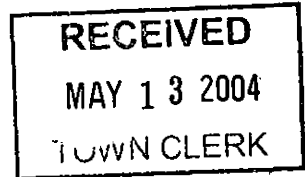
THOMAS R. CIOFFI

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 April 19, 2004, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
James Sullivan, 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 February, 2004, meeting. Member Jabour made a motion to approve the Draft Minutes as presented. Member Schmidt. The motion carried 5 - 0.

The next item of business the appeal and petition of appeal and petition of KEVIN and DANIELLE LIBERTY, owner-applicants, dated March 25, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an in-ground swimming pool on a lot located at 12 Patton Road, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-25 District in that 25 feet is required but 15 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Kevin Liberty stated that they want the variance because they live on the side of a hill. Without the variance, they would need a much higher retaining wall for the pool which would be very costly. Also, they would be able to save an old oak tree which will have to go if they don't get the variance. Member Trzcinski inquired regarding how they would get equipment in to build the pool. Mr. Liberty said the pool company said it would not be a problem.

No one else spoke in favor of the variance. Donald and Denise Patton stated that they own property directly in front and oppose this application. They feel that the Liberty property is all downhill and if there is backwash from the pool it will flow down to their property. They are concerned that when the equipment is brought in, it will damage their retaining wall. They feel that a deck and addition the Liberty's built is the reason a variance is needed. They feel the pool will devalue their property. Mr. Liberty replied that Patton's retaining wall is far from where the pool

will be. The pool backwash, which will be done 3 or 4 time a year, will not be that much. It would have to travel over 20 feet of level land before it could impact Patton's property. Mrs. Patton said that they could direct the drain hose away from Patton's property but could not guarantee that no water would ever get down there.

Attorney Cioffi explained that the Zoning Board is empowered by local law to engage a consultant, at the expense of the applicant, if it is concerned about any drainage concerns. Member Trzcinski asked Mr. Liberty why they could not move the pool location so a variance would not be required. Mr. Liberty replied that the retaining wall would need to be much higher, which would be very expensive.

There was a discussion regarding whether the Board should hire an expert to review the situation. Mr. Liberty suggested that he first have the pool company speak to the Pattons to see if that will alleviate their concerns. The Board agreed, as did the Pattons. Member Schmidt made a motion to hold the public hearing open to the May 17 meeting. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was appeal and petition of USA GAS, INC., applicant, dated February 19, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a gas island canopy and a mini-mart building on a lot located at 560 Hoosick Road, in the Town of Brunswick, because the proposed construction of the canopy violates the front yard setback in an B-15 District in that 75 feet is required but 2 feet is proposed, and the proposed construction of the mini-mart building violates the rear yard setback in a B-15 District in that 30 feet is allowed but 15 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Francis Bossolini, a civil engineer, and Mark Mainello, Esq., appeared for the applicant. Mr. Bossolini stated that the property is between the Gateway Plaza and the old King Fuels gas station. The owner wants to build a 1080 sq. ft. building and add a second gas pump island with a canopy. The building will be larger than the one now on the site. They are asking for two variances, i.e., from the rear yard setback, for the new building, and from the front yard accessory building setback, for the gas pump island and canopy. Mr. Bossolini referred to the site plan. He stated that the owners want to improve service and provide for modern fire suppression at the site. He handed up photographs of the site. He stated that the gas station next door, and the Mobil station across the street, have similar setbacks on their gas pump island canopies.

Rita Madigan, 8 Sycaway Avenue, said she is against the application. Her property is adjacent at the rear. She is opposed to the new building. It will be 15 feet from her property line. She has no privacy now. This will make it worse. This will mean more cars at the site and more headlights shining into her house. There is already a convenience store right next door. This is not needed. Dean Pausley, 1 Cooper Avenue, stated that this is a quality of life issue. Last year, this business wanted more signs and lighting. Now they are back for more. The people that live nearby are being crowded out. Jan Madigan, 3 Sycaway Avenue, also opposes the rear variance. Cars that park there face right into their back yard. They have trucks there idling at night. Garbage gets thrown onto his property. Michael Duncan, 124 Lord Avenue, stated that he is heavily invested in the King Foods site next door. He would not have done so if he thought that a convenience store

could be built on this site. He felt they did not have the room. Kathleen Stallmer, 12 Sycaway Avenue, agreed that it is a quality of life issue. They have direct lighting from the gas station into their back yard now. This will increase now because it will be closer. The noise will also increase because there will be more cars and traffic. She is opposed to it. Mike Stallmer, 12 Sycaway Avenue, said that trucks are there at night and in the early morning idling. They are trying to put too big a thing on too small a lot. There is too much there now. Lloyd Helm, Concord, NH, stated that he was there on behalf of 558 Hoosick Road. He does not see how the variance can be approved. A lot of gas stations do not have canopies. It is not unsafe. Also, the canopy will have a lot of lights.

Pam Alicea, 24 Goodman Avenue, said she has been going to this gas station for a long time. It is a good operation. This will add parking and improve traffic flow. Betun Saracognu, said she is in favor because it is hard to pump gas in the rain and snow without a pump canopy. Mr. Bossolini read a letter from John Mainello, who owns adjacent property, which indicates that he has no objection.

Member Trzcinski inquired about the green space. Mr. Bossolini stated that they will have 35%, which meets the requirement. Member Jabour stated that the new building looks very tight on this lot. Member Schmidt and Member Sullivan agreed. Mr. Bossolini stated that a second pump island would reduce traffic at the site and improve flow. Screening can also be employed to reduce the impact of the lights. The canopy can focus the light where it needs to be. The new building will help to shield the properties to the rear from the lights. The lights will increase security. Rita Madigan stated that she has a six foot stockade fence and the lights shine right into her first floor. She does not see how the building will shield her from the lights.

The applicants stated that they wished to have some time to address the concerns raised by the Board and the public. Some of the public felt that the Board should decide the matter that evening. Kathleen Stallmer said that this will be just like the Hess station further down Hoosick Street. She can't live like that. Jan Madigan stated they are seeking variances for everything. Even the green space is at the minimum. There will be an increase in customers, trucks and noise. Mr. Bossolini stated that the Hess gas station and convenience store is much larger. This would be more like the former King Fuels station on Congress Street. Kathleen Stallmer said the Board has to take this seriously.

Toni Sapinera, 44 Otsego Avenue, stated that this business has been there a long time. They pay taxes so they should be able to do things with their property. Another convenience store would be good for the area. Kathleen Stallmer asked if the Board members looked at the site before they vote. The Chairman assured her that they do. Rita Madigan said that she was there before the gas station.

After some discussion, it was the Board's sense that the applicant's should be given the opportunity to respond to these concerns and that the Board should issue a written decision in this matter. Member Sullivan made a motion to continue the public hearing to May 17, 2004. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of MATTHEW W. DEAN, owner-

applicant, dated February 18, 2004, for area variances, 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 8 Chester Court, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-15 District in that 20 feet is required but 7 feet is proposed, and violates the maximum allowable height in an R-15 District in that 12 feet is allowed but 21 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud. The Chairman recused himself due to a business involvement with the applicant. The Board elected Member Trzcinski to serve a temporary Chairman. Matthew Dean said he wants to build this building to serve as a combined two car garage, pool house and equipment shop.

Jim Owen, 9 Chester Court, said he lives right across the street. He is opposed. He is concerned about the size of the building and the height. He said it looks as if there is a small engine repair business going on there. There is a lot of noise coming from the property and a lot of vehicles. The building will be 62 feet across. That is larger than most homes on the block. Fran Owen, 9 Chester Court, said that the street is narrow. She is concerned about the traffic. Ed Dyer, 20 Chester Court, said he is concerned about the size and the height of the building. 60' x 30' is a pretty big storage facility. Mrs. Dean replied that their house is big and they are building this to match the house. This will get all their equipment inside. Mr. Dean said that he needs a large garage for his vehicles. He will have a shop in the middle. It will also serve as a pool house. The existing pool house will come down.

Judy Mazurkiewicz, 89 Plank Road, said that she is a direct abutter. She is concerned about the size and height. She believes the building will actually be 24 feet high at one point. The structure would loom over her back yard. Mr. Arnold, 12 Chester Court, said that this is supposed to be a residential area. This building will be used commercially. Trucks are going in and out all the time. Mark Wimmer, 2 Chester Court, said that there is a commercial operation on this property now. Snowmobiles and lawnmowers are being repaired there. Sandy Wimmer, 2 Chester Court, read a letter from Marion Lambertsen, 1 Chester Court, opposing the application. Rick Lajeunesse, 2 Russell Court, is concerned about the size of the building and the traffic. Trucks are always going in and out.

Mrs. Dean said they do not have good relations with their neighbors. Her husband does do some tinkering but not like they say. Judy Mazurkiewicz, 89 Plank Road, said it is a quality of life issue. The neighbors are not against the Deans. The Deans have not been kind to the neighbors.

Member Sullivan said he is concerned about the height. Member Schmidt said it looked like an apartment might go in there. If there is a home business going on there, that is a violation. Mr. Kreiger said he had not received any complaints about a business going on there. Member Jabour said he was concerned about the size and height.

Fran Owen said she is concerned that this will be used for a business. Mr. Dean said he works 40 - 60 hours per week for Otis Elevator. He does do work there for people, but no money changes hands. The building will be used to house his equipment. Mr. Wimmer said that vehicles are always being test driven there. Mr. Dean does not do a little work. He does a lot. There are 6 snowmobiles on the property now. Mr. Dean said there are only three, and they are all his. Ed Carmody, Chester Court, stated that there are too many cars parked on the street, making it difficult

to drive on the roads. Chairman Trzcinski stated that that is a Town Board issue.

Attorney Cioffi asked Mr. Dean whether he ever did repair work for others at his home for money. Mr. Dean stated that on a couple of occasions he accepted money to make a repair but mostly he just does things for himself and his friends. Mr. Cioffi also referred to the zoning schedule and stated that the proposed building might be too large since there are limits on the percentage of a lot which can be occupied. It was agreed that Mr. Dean would review these requirements with Mr. Kreiger to see if the proposed building violates these requirements. Member Schmidt made a motion to continue the public hearing to May 17, 2004. Member Jabour seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of Joan Kugler for an area variance in connection with the construction of a single family residence on a lot located at 9 Ledgewood Drive in the Town of Brunswick because the construction violates the front yard setback requirement in that 35 feet is required but 34 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud. The Notice was published in The Record on April 9, 2004.

Thomas Kenney, Esq., appeared for the applicant. Mr. Kenney stated that his client had the house built but the builder did not measure the setback properly and the house ended up being about one foot too close to the street. Mr. Kenney stated that all the criteria for an area variance have been met. This was certainly not the applicant's fault. It was the builder's fault, and the builder is now in bankruptcy and cannot be held to account. Also, the variance requested, from 35 feet to 34 feet, is very small.


Tony Kestner stated that his company owns two adjacent properties. They have no problem with the variance. No one else wished to comment on the application.

Member Jabour made a motion to classify the matter a Type 2 action under SEQRA. Member Schmidt seconded. The motion carried 5 - 0. Member Jabour thereupon offered a Resolution granting the area variance as requested on the condition that an affidavit of timely publication of the Notice of Public Hearing is received by the Town. Member Sullivan seconded. The motion carried 5 - 0.

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.  
May 13, 2004

Respectfully submitted,

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

RECEIVED  
MAY 03 2004  
TOWN CLERK

NOTICE OF PUBLIC HEARING

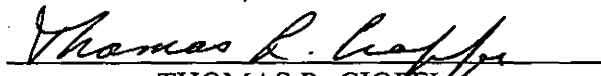
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17th day of May, 2004, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 5, 2004, 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 twelve (12) cellular 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 175 feet, and a 12' x 20' pre-fabricated concrete equipment shelter, because a minor personal wireless telecommunications service 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 NEXTEL PARTNERS, 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  
May 1, 2004

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

  
THOMAS R. CIOFFI  
Town Attorney

RECEIVED  
MAY 03 2004  
TOWN CLERK

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 May, 2004, 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 TOMARO, applicant, dated April 23, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family residence on a lot owned by Lee Bennett, located at Eagle Heights Drive (Tax Map Parcel 103.-3-52), in the Town of Brunswick, because the proposed construction violates the minimum lot size in an A-40 District in that 40,000 square feet is required but .38 acre is proposed..

FURTHER NOTICE IS HEREBY GIVEN that said JOHN TOMARO, 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 1, 2004

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

  
THOMAS R. GOFFI  
Town Attorney

NOTICE OF PUBLIC HEARING

RECEIVED  
MAY 03 2004  
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 May, 2004, 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 NEXTEL PARTNERS, INC., applicant, dated March 15, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, on a lot located at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas to be affixed at a height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound, because a major personal wireless telecommunications service 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 NEXTEL PARTNERS, INC., 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  
May 1, 2004

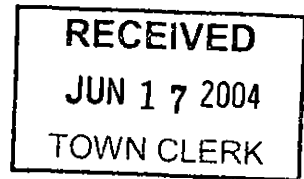
BY ORDER OF THE ZONING BOARD OF APPEALS OF THE TOWN OF BRUNSWICK

  
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 May 17, 2004, at 6:00 P.M.

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

James Hannan, the Chairman, was absent. 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 selection of a temporary Chairman. Member Trzcinski made a motion to select Member Jabour as temporary Chairman. Member Schmidt seconded. The motion carried 4 - 0. The next item of business was approval of the Minutes of the April, 2004, meeting. Member Sullivan made a motion to approve the Draft Minutes as presented. Member Trzcinski seconded. The motion carried 4 - 0.

The next item of business the appeal and petition of appeal and petition of KEVIN and DANIELLE LIBERTY, owner-applicants, dated March 25, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an in-ground swimming pool on a lot located at 12 Patton Road, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-25 District in that 25 feet is required but 15 feet is proposed.

There were no appearances. Mr. Kreiger advised the Board that the applicants were trying to figure out how to situate the pool without needing a variance. He was not sure if the applicants wished to withdraw the variance request. The matter was put over to the June 21, 2004, meeting.

The next item of business was the appeal and petition of MATTHEW W. DEAN, owner-applicant, dated February 18, 2004, for area variances, 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 8 Chester Court, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-15 District in that 20 feet is required but 7 feet is proposed, and violates the maximum allowable height in an R-15 District in that 12 feet is allowed but 21 feet is proposed.

Matthew Dean appeared. He stated that he had reviewed his plans with Mr. Kreiger with consideration to the maximum lot occupancy provisions contained in the Zoning Ordinance. At this point, the only request he has is that the maximum height of the garage be increased from 12 feet to 15 feet, which is much less than he originally asked for. He is withdrawing the rear yard setback variance request. Mr. Dean explained that the building will be 46' x 22', much smaller than originally proposed. It will be only one floor, with a maximum height of 15'. Mr. Kreiger agreed that, except for the height, that size building could be built on the lot without violating the maximum lot occupancy provision.

Mr. & Mrs. Dean explained that the main reason they want the additional 3 feet in height is so that the garage can match the roof lines of the house. Adhering to the 12 foot limit would result in a much flatter roof pitch than the house has.

No one from the public wished to speak. The Board reviewed the criteria for granting an area variance. The consensus was that a 3 foot increase in the height would not change the character of the community, nor is it excessive under the circumstances. The Board noted the reasonable desire to have the garage match the house, and that the Dean's bought the house used. Member Sullivan questioned whether they could leave the height at 12 feet and simply make the dormer windows shorter. Mr. Dean said that would put too much weight on the roof and cause him to need roof trusses, at additional cost. The Board agreed that it was a good idea that the garage match the lines of the house. They also agreed that this proposal is much better than the original one. The Board also noted that the large number of neighbors who expressed concern about the original proposal were not present tonight.

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

***BE IT RESOLVED, that with regard to the appeal and petition of MATTHEW W. DEAN, owner-applicant, dated February 18, 2004, for area variances, 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 8 Chester Court, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-15 District in that 20 feet is required but 7 feet is proposed, and violates the maximum allowable height in an R-15 District in that 12 feet is allowed but 21 feet is proposed, the Zoning Board of Appeals:***

***1. Finds and determines as follows, based upon the applicant's request to amend his application to request a variance of the maximum height of the proposed detached garage from 12 feet to 15 feet, only:***

***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 to the extent that the maximum allowable height of the proposed detached garage be increased to 15 feet.*

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

<i>Member Sullivan</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Aye</i>
<i>Member Jabour</i>	<i>Aye</i>
<i>Member Trzcinski</i>	<i>No</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was appeal and petition of USA GAS, INC., applicant, dated February 19, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a gas island canopy and a mini-mart building on a lot located at 560 Hoosick Road, in the Town of Brunswick, because the proposed construction of the canopy violates the front yard setback in an B-15 District in that 75 feet is required but 2 feet is proposed, and the proposed construction of the mini-mart building violates the rear yard setback in a B-15 District in that 30 feet is allowed but 15 feet is proposed.

Mark Mainello, Esq., and Ken Barber of the firm of Ranierri & Bossolini, appeared for the applicant. Mr. Mainello said that they heard the comments from the public at the last meeting and made some changes to the proposed site plan. They are now requesting that the rear yard setback be reduced to 25 feet rather than to 15 feet, as originally proposed. That is only a variance of 5 feet. They are also increasing the amount of green space from 35% to 38%. The building will be smaller than originally proposed and angled off at the rear, so as to only necessitate the building being 5 feet closer to the rear lot line than permitted. They are now showing only a total of six parking spaces. They are also proposing additional screening, which should reduce the effect of the canopy lighting on the adjacent properties. The canopy lighting would also be scaled down and focused downward for minimal impact.

Mr. Mainello also noted that the Mobil station across the street and the former King Fuels station next door both have gas pumps closer to the road than that which is proposed here. Both of those stations have canopies. The canopies are integral to fire protection. This canopy will be set back further from the road than these other two stations. Moving the pump to the rear will be safer. There will be no additional gas pumps or islands. Mr. Mainello submitted a petition from the applicant's customers in favor of the variance requests. He also submitted photos showing the proximity of the present gas pumps to Hoosick Road. He noted that DOT is proposing to put in curbing between the gas pump island and Hoosick Road to increase safety. It is applicant's position that everything now proposed is fully consistent with the character of the neighborhood and what is currently there.

Mary Ellen Adams, Cooper Avenue, said she is very much opposed, even to the new proposal. She does not see the need for another convenience store or a larger gas station. Traffic and congestion are already bad there and this proposal will only make it worse. It abuts a residential area. She questioned whether the petition submitted to the Board was signed by local people.

Rita Madigan, 8 Sycaway Avenue, submitted pictures she took yesterday. They show the proximity of the present building to her lot line. She is concerned about kids congregating at the station and getting garbage all over. The owner of the station built a shed, but he still has stuff stored outside. Kids urinate on the store building wall right in front of her. She is concerned about the lights from the cars. Her fence does not block the lights. Any trees put in would have to be quite high to be of any help. This lot is not big enough to accommodate what the applicant wants. They just don't need another convenience store there.

Michael Duncan, 124 Lord Avenue, stated that he invested heavily in the former King Fuels site next door. He would not have done so if he thought that another convenience store would be built next store to compete with his. If this store is built, he will sublet his gas station and store. His wife, Sheila Duncan, said she works at the former King Fuels station and is concerned that the small area proposed between the properties at the rear of the applicant's building will create a dark place for a robber to lurk. Jim Pascucci, 17 Cortland Street, said that he is Rita Madigan's sister. He grew up where she now lives. There are a lot of problems there with kids drinking at the site. This proposal will only add to the problem. Kathy Stallmer, 12 Sycaway Avenue, said that there is already a store on the site. The 1,000 square foot building being proposed is about twice as large as what is there now. This is inappropriate for the size of the lot. Mike Stallmer stated that we just keep extending the commercial at the expense of people who have homes there. This property was originally just a gas station, not a convenience store too. Dean Pausley, 1 Cooper Avenue, said the proposed building is just too large for the lot.

Member Sullivan said that Mrs. Madigan's fence is not stopping the lights from the cars from getting through to her property. He asked Mr. Barber whether there was any way to totally block the headlights. Mr. Barber said that they could possibly put in a planted berm with 3 feet of soil, and maybe a berm on the other side as well. Attorney Mainello noted that the effect of the car headlights was an existing condition and this variance request will not substantially exacerbate that condition. Mrs. Madigan said she does not want the building five feet closer to her property. Michael Duncan asked where else in area do you have two convenience stores right next to each other. Pam Alicia, 24 Goodman Avenue, said that the station does not sell alcohol. That keeps away the bad elements. Dean Pausley said that the kids congregate there to buy cigarettes illegally. They get paper all over his lawn.

Mr. Saracoglu, the applicant and owner of the gas station, said that he already has a store. He wants a larger building to move inside things now stored outside. The shed he built is not large enough to hold everything. He does not sell tobacco to anyone who appears to be under 25 without an ID. The present area behind his store is huge. Reducing it will give the kids less area to congregate. He needs a canopy. It will increase safety and will protect his customers from rain and snow. New gas stations must have a pump canopy. He is not asking for that much. He just wants to improve his place. He had a convenience store before Mr. Duncan. He should be able to compete.

Toni Sapinero, 44 Otsego Avenue, said that kids will hang there and smoke regardless. They are there even when the station is closed. It is up to the police to do something about it. Sheila Duncan said she is concerned about being robbed by someone lurking in the dark area.

Attorney Mainello said that this is a very small building next to the King Fuels store. They are not looking to increase inventory. They just want to clean up the site by storing things inside the building rather than outside. Competition is not a variance standard in any event. This proposal will increase safety by moving the pumps away from the road. Mrs. Madigan said she hopes the Board will consider the residents. Michael Duncan asked how the Board could grant a variance. That would be breaking the law.

Member Sullivan said he understands the competition issue but wonders whether this will increase traffic. Member Jabour said he has a lot of concerns about the site and the traffic. Member Schmidt said he had thought the public would be happy about this new proposal. It is a great improvement over what was originally proposed.

The Board noted that the referral from County Planning indicated that local considerations should prevail. Attorney Cioffi outlined the Board's options as to how to proceed. After some discussion and comment from the public, the Board agreed to keep the public hearing open and permit the applicants to submit additional material. Member Trzcinski moved to continue the public hearing to the June 21 meeting. Member Schmidt seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of JOHN TOMARO, applicant, dated April 23, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family residence on a lot owned by Lee Bennett, located at Eagle Heights Drive (Tax Map Parcel 103.-3-52), in the Town of Brunswick, because the proposed construction violates the minimum lot size in an A-40 District in that 40,000 square feet is required but .38 acre is proposed.. Attorney Cioffi read the Notice of Public Hearing aloud.

John Tomaro appeared. He said he wanted to table the matter as he did not feel well and he also wanted to provide additional detail to his application. The Board noted that there were many people in attendance who wished to comment on this application. The Board decided to let the public comment on the matter and to permit Mr. Tomaro to submit additional detail for the next meeting.

Mr. Tomaro said that he wants to have a house built on this lot for resale. The lot does not meet the minimum square footage requirement. He does not own the lot. He has a contract to buy it contingent on obtaining this variance. He said that all the other lots in the area are of similar size to this one. Francis Bougeois, 24 Eagle Heights Drive, said that he has lived there since 1971. The original developer of all that land, Walt Polniak, told him that this was dead land and could not be sold as a building lot. He is opposed to this. Sharon Margosian, 19 Eagle Heights Drive, stated that she had the opportunity to buy this lot as well when she bought her lot from Lee Bennett. She didn't because she was told it could not be built on. Patricia Bougeois, 24 Eagle Heights Drive, said that this lot is too small to accommodate a well and septic system. Craig Gilbert, 18 Eagle Heights Drive, stated that the lot is small and oddly shaped. Only 2/3 of the lot is usable. Phil Spiak, Eagle

Heights Drive, said that the lot is on the side of a hill. It is unbuildable. Everyone knows that. Mrs. Bougeois that the lot is only 19,000 square feet. Mr. Tomaro said all the lots were about that size. Several members of the public stated that was not true. Irene Gilbert, 18 Eagle Heights Drive, said that the lot is too small. If they put a very small house on it, it will devalue other properties in the neighborhood. Theresa Clickner, 3869 Route 2, said she is there for her mother who lives in the neighborhood. She said Mr. Tomaro should be required to get his paperwork in in advance.

Mr. Tomaro stated that he is not the builder. He will have the house built. He is looking at a three bedroom house. Member Trzcinski made a motion to continue the public hearing to the June 21 meeting. Member Sullivan seconded. The motion carried 4 - 0.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 5, 2004, 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 twelve (12) cellular 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 175 feet, and a 12' x 20' pre-fabricated concrete equipment shelter, because a minor personal wireless telecommunications service 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.

Colleen Biseglia appeared for Nextel Partners. Nextel wants to extend its coverage in this area of Brunswick. Adding this antenna will enhance coverage and increase capacity for Nextel users, many of whom are businesses. They have been getting complaints about the service in this area. Ms. Biseglia said she needed to submit amended plans because Verizon has already built an equipment shelter where they had planned to put theirs.

The Board discussed hiring an expert to review the matter, especially as concerns the ability of the tower to handle the additional load. This tower was originally rated for five carriers. This would be the sixth. In the last application, for the fifth carrier, the engineers who certified the safety indicated that any additional load should be carefully reviewed. The Board noted receipt of a response to the referral to County Planning, which indicated that local considerations should prevail.

Herb Headwell, 190 Town Office Road, stated that he is a Nextel user. He is concerned about the long-term effects of cell phone emissions. He asked whether Nextel has any studies on that. Ms. Biseglia said that the applicant has to certify that the emissions from the antenna do not exceed FCC standard. She referred him to the FCC for further information. Attorney Cioffi noted that federal law precludes this Board from denying an application for a telecommunications permit based upon the effects of cell tower emissions.

Member Trzcinski then made a motion to hire the firm of Laberge Engineering, at the applicant's expense, to review this application with special attention to the load capability of the tower to handle the additional antenna, and to direct the applicant to deposit \$1500.00 with the Town as an initial escrow fund to pay for the said services. Member Schmidt seconded. The motion carried 4 - 0. Member Trzcinski then moved to continue the public hearing to June 21. Member Schmidt seconded. The motion carried 4 - 0.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 15, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, on a lot located at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas to be affixed at a height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound, because a major personal wireless telecommunications service 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.

Colleen Biseglia appeared for Nextel Partners. She stated that this is a connector site. This area has limited to zero coverage by Nextel. There is no place to co-locate in the area so they are asking for a new tower. They considered the Dyken Pond tower but it did not cover the Route 2 corridor at all. This site will provide coverage for Route 2 traffic. This is an industrial site - Callanan Industries' quarry. Nextel has performed the usual balloon tests for visual impacts.

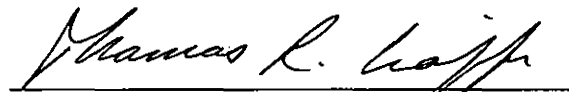
Herb Headwell, 190 Town Office Road, asked whether the tower emissions are considered. He asked whether power can be increased to increase coverage. Ms. Biseglia reiterated that they are limited by the FCC. Mr. Headwell stated that someone needs to verify claims by the cell phone companies that their emissions meet FCC standards.

Member Schmidt then made a motion to hire the firm of Laberge Engineering, at applicant's expense, to review this application and advise the Board, and to direct that applicant deposit the sum of \$5000.00 with the Town as an initial escrow fund to pay for the services. Member Trzcinski seconded. The motion carried 4 - 0.

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

Dated: Brunswick, N.Y.  
June 17, 2004

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

RECEIVED  
JUL 19 2004  
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 21, 2004, at 6:00 P.M.

Present at the meeting were: John Schmidt, Member  
James Sullivan, Member  
Caroline Trzcinski, Member  
Joseph Jabour, Member  
James Hannan, the 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 5:50 P.M., Member Jabour made a motion to go into private session to obtain legal advice for the Board's attorney. The Chairman seconded. The motion carried 5 - 0, and the Board met in private session. At approximately 6:15 P.M., Member Jabour made a motion to close the private session. The Chairman seconded. The motion carried 5 - 0.

At approximately 6:17 P.M., the regular meeting was called to order. The first item of business was approval of the Minutes of the May, 2004, meeting. Chairman Trzcinski had the following corrections: On page 4, third paragraph, sixth line, the word "sister" should read "brother". On page 5, last paragraph, fifth line, "Polniak" should read "Palubniak". Member Sullivan made a motion to approve the Draft Minutes as corrected. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was appeal and petition of USA GAS, INC., applicant, dated February 19, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a gas island canopy and a mini-mart building on a lot located at 560 Hoosick Road. Mark Mainello, Esq., and Francis Bossolini of the firm of Ranieri & Bossolini, appeared for the applicant. Also present was Unram Saracoglu, the owner of the premises.

Mr. Bossolini stated the gas pump island and the proposed canopy have been reconfigured due to comments from the public. The existing building on the premises is 800 sq. ft. The proposed building is 1,000 sq. ft. There is to be parking on each side of the lot. Four spaces on one side, two on the other. They are now proposing a 25 foot setback from the rear property line. They are proposing a 3 foot earthen berm with 6 foot evergreen plantings, in a sawtooth pattern, on the west



side of the lot, to shield the Madigan property to the rear. The handicapped space will also be on that side, as well as the employee parking space. There should be less use of the parking on that side and therefore less light from the cars reaching the Madigan property. The proposed building is smaller than the one at the former King Fuels next door. In the summer, the Madigan property also receives shielding from existing vegetation.

Mrs. Madigan stated that she can see the entire rear of the existing building from her porch. Mr. Bossolini said the rear of the property would be finished green space. He submitted a photo showing the rear of the property. It appears to have been cleaned up. Mr. Bossolini said they wanted a larger building so they could store things inside. The existing shed would be removed. The ice machine and magazine racks would be moved inside.

Mrs. Madigan said she still feels that the building will not fit. Mr. Mainello said they have to move the building to the rear so the gas pump island can be moved away from the road. Mr. Bossolini said that the existing building is 35 - 40 feet from the Madigan property line. Mr. Bossolini said that the applicant would be amenable to additional screening at the rear if that would help.

Kathy Stallmer said they live right behind the Plaza. The parking spaces on the east side will shine into the parking lot behind the gas station. The Chairman proposed another berm on the east side to shield the lights from the cars using the four parking spaces on that side. The applicant agreed. Mr. Bossolini said that the hours of operation would be 6:00 AM. To 10:00 P.M. The lights on the canopy would go off at 10:00 P.M. The fuel tanker trucks filling the underground tanks would continue to face the Plaza or Hoosick Street. They would only come during business hours. A new dumpster enclosure would also be built on the King Fuels side.

John Casozza of the Gasoline Repair Shop Association of Albany stated that the proposed changes just make the property better for the neighborhood. Mrs. Saracoglu said that a canopy is needed to shield their customers from the weather. Also, having the pumps so close to Hoosick Street is dangerous to their customers.

Rita Madigan said that even with all the changes she is still not 100% for it. They don't need another convenience store. She likes the changes but she is still not happy about the building being closer to her property than it is now. Patty Germain, 18 Coolidge Avenue, said that she likes this gas station. However, she is concerned that its operation has a great effect on Mrs. Madigan's property. Kathy Stallmer said that she agrees with Mrs. Madigan. The proposed changes make the proposal better, but there will still be a big effect on them. Toni Sapinero, Otsego Avenue, said that it is dangerous to pull into the existing pump island. Pam Alicea, 23 Goodman Avenue, said that the new proposal would make the premises more attractive. Member Sullivan asked if the earthen berms could be 4 feet high. Mr. Bossolini said there would have to be more of a slope.

There being no further comments from the public, Member Jabour made a motion to close the public hearing. Member Chairman seconded. The motion carried 5 - 0. Attorney Cioffi asked Mr. Krieger to check on the front and rear setbacks for other properties and businesses in the area. He asked Mr. Bossolini to prepare and submit a new plan reflecting all of the changes discussed, including the new proposed landscaping on the east and at the rear. M. Cioffi also asked that the

applicant specify exactly what variance they were now requesting in the front. Mr. Bossolini said he would attend to those matters. In answer to further questions, Mr. Bossolini said that the lights on the canopy would be cast downward. There would be no sign on the canopy. Consideration would be given to keeping all existing vegetation in addition to the new.

With respect to the two applications by Nextel Partner, Inc., one for an antenna co-location on an existing tower at 805 Hoosick Road, and the other for a new telecommunications tower on Palitsch Road, it was noted that Colleen Biseglia was present for Nextel but the Town's consultant, LaBerge Engineering, was not present. The Board adjourned both matters to the July 19 meeting. Attorney Cioffi said he would contact the consultant to make sure they were present.

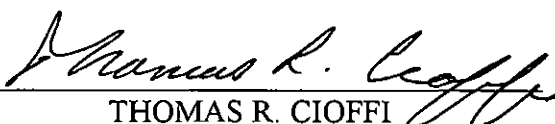
With respect to the appeal and petition of appeal and petition of KEVIN and DANIELLE LIBERTY, owner-applicants, dated March 25, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an in-ground swimming pool on a lot located at 12 Patton Road, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-25 District in that 25 feet is required but 15 feet is proposed, Mr. Krieger advised that the appeal had been withdrawn.

With respect to the appeal and petition of JOHN TOMARO, applicant, dated April 23, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family residence on a lot owned by Lee Bennett, located at Eagle Heights Drive (Tax Map Parcel 103.-3-52), in the Town of Brunswick, because the proposed construction violates the minimum lot size in an A-40 District in that 40,000 square feet is required but .38 acre is proposed, Mr. Krieger reported that Mr. Tomaro asked for an adjournment to the July 19 meeting.

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

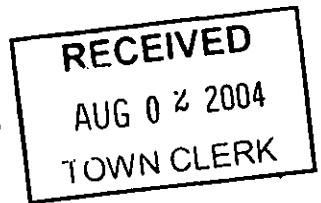
Dated: Brunswick, N. Y.  
July 10, 2004

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 July 19, 2004, at 6:00 P.M.

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

Member Caroline Trzcinski was absent. 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 6:06 P.M., the regular meeting was called to order. The first item of business was approval of the Minutes of the June, 2004, meeting. Member Jabour made a motion to approve the Draft Minutes as submitted. Member Sullivan seconded. The motion carried 4 - 0.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 5, 2004, 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 twelve (12) cellular 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 175 feet, and a 12' x 20' pre-fabricated concrete equipment shelter, because a minor personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Colleen Biseglia appeared on behalf of the applicant. Ronald Laberge, the Board's engineering consultant, was also present.

Ms. Biseglia handed up a supplemental package to the Board which she said was intended to address the concerns raised by Mr. Laberge in his letter dated July 8, 2004. Ms. Biseglia stated that the antenna would be light gray in color and that no lighting was required or proposed. She stated that no landscaping was proposed unless the Board requires it. She also referred to a letter from Nextel's engineer which addressed Mr. Laberge's concern that in certain area's Nextel's own data indicates that portions of the tower will be overstressed by this additional antenna. Essentially, Nextel claims that the stress levels for the tower are within acceptable limits based upon engineering judgment for various reasons. Mr. Laberge stated that he was concerned that the letter from Nextel's engineer referred to the tower as a monopole when it clearly is not. He would like to contact

Nextel's engineer to discuss and clarify the issue relating to the tower capacity. Ms Biseglia stated that if the Board is not convinced that the tower can withstand the additional load, there is always the option of reinforcing the tower.

Ms. Biseglia asked for a conditional approval based upon the materials submitted. Attorney Cioffi said that was not an option but, if all issues were resolved well in advance of the next meeting, the Board might be in a position to issue a decision then. The matter was put over to the August 16 meeting.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 15, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, on a lot located at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas to be affixed at a height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound, because a major personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Colleen Biseglia appeared on behalf of the applicant. Ronald Laberge, the Board's engineering consultant, was also present.

Ms. Biseglia handed up a supplemental package to the Board which she said was intended to address some of the concerns raised by Mr. Laberge in his letter dated July 8, 2004. Ms. Biseglia stated that there was no existing survey of the quarry parcel, and to obtain one would cost some \$15,000.00 - \$20,000.00. Therefore, there was no metes and bounds description. Mr. Laberge and Attorney Cioffi stated that the Board did not want the applicant to survey the entire parcel. All that is required is that the parcel being leased be suitably described with reference to landmarks so it can be identified. Ms. Biseglia said she would work on that.

The Chairman asked Ms. Biseglia whether work being done at the quarry would affect the integrity of the tower. Ms. Biseglia stated she had been assured that no work would be done in the vicinity of the tower for the next 30 years.

Ms. Biseglia stated that the tower would be galvanized gray. No landscaping is proposed as there is none on the site now. The original view shed analysis submitted included a computer model only. She has now submitted a revised view shed analysis map based upon a balloon test.

Ms. Biseglia stated that the lease with Callanan was still in negotiation. Attorney Cioffi said that was a problem as the town's telecommunications law required submission of a lease as part of the application. Member Schmidt agreed. Ms. Biseglia said she would renew her efforts to obtain a lease but stated that she would ask the Board to waive the requirement if it is the only thing holding the project up.

Ms. Biseglia also agreed to provide photo simulations showing the tower from all locations she surveyed.

The matter was put over to the August 16 meeting.

With respect to the appeal and petition of JOHN TOMARO, applicant, dated April 23, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family residence on a lot owned by Lee Bennett, located at Eagle Heights Drive (Tax Map Parcel 103.-3-52), in the Town of Brunswick, because the proposed construction violates the minimum lot size in an A-40 District in that 40,000 square feet is required but .38 acre is proposed, Mr. Krieger reported that Mr. Tomaro had withdrawn the application.

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

Dated: Brunswick, N.Y.  
July 30, 2004

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING

RECEIVED  
AUG 02 2004  
TOWN CLERK

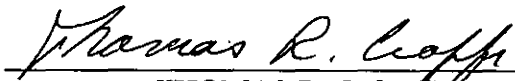
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 16th day of August 2004, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of THOMAS and CORINNA LAROSE, owner-applicants, dated July 14, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an in-ground swimming pool on a lot located at 4 Naples Court, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-15 District in that 20 feet is required but 7 feet is proposed. ,

FURTHER NOTICE IS HEREBY GIVEN that said THOMAS and CORINNA LAROSE, owner-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  
July 30, 2004

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 August 16, 2004, at 6:00 P.M.

Present at the meeting were: Caroline Trzcinski, Member  
John Schmidt, Member  
James Sullivan, 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 regular meeting was called to order. The first item of business was approval of the Minutes of the July, 2004, meeting. Member Trzcinski made a motion to approve the Draft Minutes as submitted. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was appeal and petition of USA GAS, INC., applicant, dated February 19, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a gas island canopy and a mini-mart building on a lot located at 560 Hoosick Road. Francis Bossolini of the firm of Ranieri & Bossolini, appeared for the applicant. Also present was Unram Saracoglu, the owner of the premises. The Chairman stated that a draft determination had been prepared for consideration by the Board. Attorney Cioffi read the draft determination aloud. Basically, the draft determination provided that the front yard accessory setback would be reduced from 75 feet to 10 feet, and the rear yard setback reduced from 30 feet to 25 feet, on various stated conditions.

After a brief discussion, Member Jabour offered a resolution adopting the determination. The Chairman seconded. The Resolution Adopting Determination was put to a roll call vote. All members voted in the affirmative and the Resolution Adopting Determination was duly adopted. The Determination and Resolution Adopting Determination are filed in the Office of the Town Clerk and are incorporated by reference herein.

The next item of business was the appeal and petition of THOMAS and CORINNA LAROSE, owner-applicants, dated July 14, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an in-ground swimming pool on a lot located at 4 Naples Court, in the Town of Brunswick, because the proposed.

construction violates the rear yard setback in an R-15 District in that 20 feet is required but 7 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Corrina LaRose appeared in support of the application. She stated that the placement of the gas lines servicing the lots precludes putting the pool anywhere else on the lot. She said she has spoken to all adjacent property owners about the pool. She noted that there will be privacy fence surrounding the pool as well as another fence around the concrete deck of the pool. Attorney Cioffi stated that the adjacent property owner to the rear, Michael Corrigan, had written a letter to the Board stating that he had no objection to the variance. Mrs. LaRose noted that the Corrigan's are the most impacted by the pool. No one else from the public wished to comment.

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

*BE IT RESOLVED, that with regard to the appeal and petition of of THOMAS and CORINNA LAROSE, owner-applicants, dated July 14, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an in-ground swimming pool on a lot located at 4 Naples Court, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-15 District in that 20 feet is required but 7 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 Sullivan</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 Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 5, 2004, 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 twelve (12) cellular 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 175 feet, and a 12' x 20' pre-fabricated concrete equipment shelter, because a minor personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Colleen Biseglia appeared on behalf of the applicant.

Ms. Biseglia stated that it was her understanding that Spectrasite's engineer had discussed the tower capacity issue with Mr. Laberge, the Board's engineering consultant. Attorney Cioffi read aloud a letter he received from Mr. Laberge essentially stating that he was satisfied that the tower was structurally capable of carrying the additional load of this antenna array.

There being no other outstanding issues, Member Jabour made a motion to close the public hearing. The Chairman seconded. The motion carried 5 - 0. The Chairman noted that a draft determination had been prepared for the Board's consideration. Attorney Cioffi read the draft determination aloud. Basically, the determination provided that the special use permit would be granted as requested, upon stated conditions.

After a brief discussion, the Chairman offered a resolution adopting the determination. Member Schmidt seconded. The Resolution Adopting Determination was put to a roll call vote. All members voted in the affirmative and the Resolution Adopting Determination was duly adopted. The Determination and Resolution Adopting Determination are filed in the Office of the Town Clerk and are incorporated by reference herein.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 15, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, on a lot located at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas to be affixed at a height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound, because a major personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Colleen Biseglia appeared on behalf of the applicant.

Ms. Biseglia stated that she had provided the Board with the additional documentation requested by Mr. Laberge, the Board's engineering consultant. Attorney Cioffi read a letter report from Mr. Laberge. Ms. Biseglia stated that she is still working on the lease arrangement with Callanan. She believes they may have a deal within the next two weeks.

The Board then went into a discussion of the visual impacts of the tower. The Board

examined and discussed the photo simulations provided by the applicant. It was noted that the simulations show five antenna arrays. Ms. Biseglia explained that this was meant to show future expansion to accommodate five carriers. Only one array, the topmost one, is part of this application. However, she stated that Cingular Wireless has already inquired about co-locating.

The Board noted that the tower was clearly visible from several locations, but so was the quarry and the conveyor equipment used at the quarry. The sense of the Board was that, from some locations, the tower was less visually offensive than the quarry equipment.

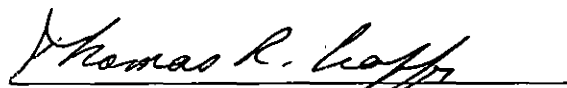
The Board asked whether there were any measures which could mitigate the visual impact of the tower. Ms. Biseglia said that they could consider things like disguising the tower as a silo or a tree, but she did not think it was practical in this case. She also said that a lattice type tower might be less visible than the monopole proposed. Attorney Cioffi asked whether the tower could be lower as this would reduce the visual impact. Ms. Biseglia stated that the tower is the minimum height they need to address their coverage issues. Attorney Cioffi stated that he would ask Mr. Laberge to confirm that. Ms. Biseglia also stated that she would submit the drive data that they used to prepare the propagation coverage maps. She also agreed to provide photo simulations using a lattice tower instead of a monopole.

The matter was adjourned to September 20 for further proceedings.

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

Dated: Brunswick, N.Y.  
September 9, 2004

Respectfully submitted,

  
THOMAS R. GIOFFI  
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**August 16, 2004**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, the Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 5, 2004, 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 twelve (12) cellular 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 175 feet, and a 12' x 20' pre-fabricated concrete equipment shelter 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; and

**WHEREAS**, the Board having caused to be prepared a written Determination with respect to the said application, 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 Schmidt, was duly put to a roll call vote as follows:

<b>MEMBER SULLIVAN</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 ~~(not)~~ thereupon declared duly adopted.

Dated: August 16, 2004

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

---

In the Matter of the Application of

NEXTEL PARTNERS, INC.,

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 NEXTEL PARTNERS, INC., applicant, dated March 5, 2004, 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 twelve (12) cellular 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 175 feet, and a 12' x 20' pre-fabricated concrete equipment shelter.

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 twelve (12) additional panel antennas on the existing lattice tower located at 805 Hoosick Road. The tower is 190 feet high. There are currently five (5) antenna arrays on the tower. If approved, this will be the sixth. The antennas are proposed to be placed at a centerline height of 175 feet. The 12' x 20' concrete pad and the 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.

Pursuant to the provisions of Town of Brunswick Local Law No. 2 For the Year 2002, this Board retained the services of Laberge Engineering to act as its consultant as regards this application. The main reason for retaining the consultant was that in the context of this Board's prior approval of a fifth antenna array on this tower, there were indications from the professionals retained by the applicants in that matter that the tower did not have the capacity to support any more than five (5) antenna arrays. Laberge Engineering reviewed the application and determined that additional documentation and explanation was required from Nextel and its structural engineer.

The applicant has now submitted all of the application materials required for a minor personal wireless telecommunications service facility by the local law. 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.

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 indicated that the tower and foundation are structurally adequate to accommodate the existing and proposed antenna and transmission line loading. However, Laberge Engineering, the Board's consultant, noted in its review of the applicant's structural engineering report that the report itself indicated that the maximum stress ratio of 1.0 is the full allowable yet the bracing/diagonals at the 20 to 40 and 120 to 140 elevations exceed the maximum ratio. As previously stated, Laberge Engineering requested additional detail in this regard. Applicant's engineer subsequently, by follow-up report dated July 9, 2004, confirmed that the stress level of members of this tower are such that they exceed the maximum member capacity by 5%, but indicated that it is common practice in the tower industry to accept analysis stress levels exceeding the maximum based upon engineering judgment. Applicant's engineer went on to delineate various factors which led him to determine in this case that tower and foundation could accommodate the proposed new antenna array even though it caused the stress levels of certain members to exceed maximum member capacity. Essentially, applicant's engineer stated that the level of overstress was within acceptable limits. Laberge Engineering, upon review of this report, indicated that it still had concerns and would discuss the matter with applicant's engineer. Subsequently, by report dated August 11, 2004, Laberge Engineering advised this Board that based upon its discussions with applicant's engineer, and the supplemental information provided, the Board should accept the findings of applicant's original Structural Report which indicated that the tower can safely support the new antenna array.

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 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. There are five (5) antenna arrays on the tower at present and one (1) is proposed to be added. It does not appear that the visual impact of the tower will be significantly greater with the addition of the proposed new antenna array 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 based upon the engineering data provided to the Board and the advice provided by the Board's engineering consultant, 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 twelve (12) cellular 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 175 feet, and a 12' x 20' pre-fabricated concrete equipment shelter, with related ground equipment, 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  
August 16, 2004

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 the 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

Nextel Partners - Brunswick Wireless Communications Facility

Name of Action

ZONING Board of Appeals

Name of Lead Agency

James Hannon

Chairman

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

x *James Hannon*

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

8/16/04

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.

NAME OF ACTION <b>Nextel Partners – Brunswick Wireless Communication Tower – Co-location Project</b>		
LOCATION OF ACTION (Include Street Address, Municipality And County) <b>NYS Route 7, Town of Brunswick, Rensselaer County, NY</b>		
NAME OF APPLICANT/SPONSOR <b>Nextel Partners</b>		BUSINESS TELEPHONE <b>518.365.8180</b>
ADDRESS <b>8 Airline Drive, Suite 105</b>		
CITY/PO <b>Albany</b>	STATE <b>NY</b>	ZIP CODE <b>12205</b>
NAME OF OWNER (IF DIFFERENT) <b>VDD Leasing Corp</b>		BUSINESS TELEPHONE
ADDRESS <b>3 Johnson Road</b>		
CITY/PO <b>Latham</b>	STATE <b>NY</b>	ZIP CODE <b>12110</b>
DESCRIPTION OF ACTION <b>Proposed installation of antenna and accessory apparatus on an existing 190' lattice self support communication tower. Installation of an unmanned equipment shelter in a proposed expanded fenced compound area.</b>		

Please Complete Each Question—Indicate NA 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

2. Total acreage of project area:    0.15 +/-    acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
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
Unvegetated (Rock, earth or fill)	<u>0.13</u> Acres	<u>0.12</u> Acres
Roads, buildings and other paved surfaces	<u>0.02</u> Acres	<u>0.03</u> Acres
Other (indicate type)	_____ Acres	_____ Acres

3. What is predominant soil type(s) on project site?    Ud Udorthents
- 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?    0 Acres. (See 1 NYCRR 370)

4. Are there bedrock outcroppings on project site?     Yes     No
- a. What is the depth to bedrock?    5' +/- (in feet)

5. Approximate percentage of proposed project site with slopes:  0-10% 100 %  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 a site listed on the Register of National Natural Landmarks?  Yes  No
8. What is the depth of the water table? 6' +/- (in feet)
9. Is 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 Pending DEC response  
 Identify each species \_\_\_\_\_
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  
 a. Name of Stream and name of River to which it is tributary \_\_\_\_\_
16. Lakes, ponds, wetland areas within or contiguous to project area: None  
 a. Name \_\_\_\_\_ b. Size (in acres) \_\_\_\_\_
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
- d. 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 Pending verification
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 0.01 +/- acres.
- b. Project acreage to be developed. 0.01 acres initially; 0.01 acres ultimately.
- c. Project acreage to remain undeveloped 0 acres.
- d. Length of project, in miles: N/A (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed 20 %
- f. Number of off-street parking spaces existing 2 proposed 0
- g. Maximum vehicular trips generated per hour 1/MONTH (upon completion of project)?
- h. If residential: Number and type of housing units:
- |            | One Family | Two Family | Multiple Family | Condominium |
|------------|------------|------------|-----------------|-------------|
| Initially  | <u>N/A</u> |            |                 |             |
| Ultimately | <u>N/A</u> |            |                 |             |
- i. Dimensions (in feet) of largest proposed structure 195 height; 12 width, 20 length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? 20 ft.

2. How much natural material (i.e., rock, earth, etc.) will be removed from the site? 0 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 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 2 months, (including demolition)
7. If multi-phased: N/A
- a. Total number of phases anticipated \_\_\_\_\_ (number)
- b. Anticipated date of commencement phase 1 \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition).
- c. Approximate completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ 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 ; after project is complete 0
10. Number of jobs eliminated by this project 0
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) ELECTRIC
- 
22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.
23. Total anticipated water usage per day 0 gallons/day.
24. Does project involve Local, State or Federal funding?  Yes  No  
If Yes, explain \_\_\_\_\_

25. Approvals Required:

- City, Town, Village Board  Yes  No
- City, Town, Village Planning Board  Yes  No
- City, Town Zoning Board  Yes  No
- City, County Health Department  Yes  No
- Other Local Agencies  Yes  No
- Other Regional Agencies  Yes  No
- State Agencies  Yes  No
- Federal Agencies  Yes  No

Type	Submittal Date
SITE PLAN REVIEW	03/04
SPECIAL USE PERMIT	03/04
FCC	03/04

**C. Zoning and Planning Information**

1. Does proposed action involve a planning or zoning decision?  Yes  No  
 If yes, indicate decision required:  
 zoning amendment    zoning variance    special use permit    subdivision    site plan  
 new/revision of master plan    resource management plan    Other \_\_\_\_\_
2. What is the zoning classification(s) of the site? B-15 COMMERCIAL
3. What is the maximum potential development of the site if developed as permitted by the present zoning?  
40% LOT OCCUPANCY, COMMERCIAL USES
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
- Is the proposed action consistent with the recommended uses in adopted local land use plans?  Yes  No  
 What are the predominant land use(s) and zoning classifications within a 1/4 mile radius of proposed action?  
COMMERCIAL, RETAIL, UTILITY SUB STATION, RECREATION, AGRICULTURE, RESIDENTIAL
8. Is the proposed action compatible with adjoining/surrounding land uses within a 1/4 mile?  Yes  No
9. If the proposed action is the subdivision of land, how many lots are proposed? N/A  
 a. What is the minimum lot size proposed? \_\_\_\_\_
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 services (recreation, education, police, fire protection)?  
 Yes  No  
 a. If yes, is existing capacity sufficient to handle project 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 the 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: Nextel Partners Date: 03.16.04  
 Signature: [Signature] Title: ASSOCIATE

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

## 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.

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<b>IMPACT ON LAND</b>			
1 Will the proposed action result in a physical change to the project site? <div style="text-align: right;"> <input checked="" type="checkbox"/> No   <input type="checkbox"/> Yes           </div> <b>Examples that would apply to column 2</b> 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%. <ul style="list-style-type: none"> <li>• Construction on land where the depth to the water table is less than 3 feet.</li> <li>• Construction of paved parking area for 1,000 or more vehicles.</li> <li>• Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.</li> <li>• Construction that will continue for more than 1 year or involve more than one phase or stage.</li> <li>• Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.</li> <li>• Construction or expansion of a sanitary landfill.</li> <li>• Construction in a designated floodway.</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"/> 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
2 Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.) <input type="checkbox"/> No <input type="checkbox"/> Yes • Specific land forms: _____	<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)  
 No  Yes

**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?  
 No  Yes

**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?  
 No  Yes

**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 an/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?  
 No  Yes

**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
	<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

- 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: \_\_\_\_\_

	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
<b>IMPACT ON AIR</b>			
7. Will proposed action affect air quality? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
<b>Examples that would apply to column 2</b>			
• Proposed Action will induce 1,000 or more vehicle trips in any given hour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will result in the incineration of more than 1 tone of refuse per hour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed action will allow an increase in the amount of land committed to industrial use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed action will allow an increase in the density of industrial development within existing industrial areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON PLANTS AND ANIMALS</b>			
8. Will Proposed Action affect any threatened or endangered species? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
<b>Examples that would apply to column 2</b>			
• 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. Will Proposed Action substantially affect non-threatened or non-endangered species? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
<b>Examples that would apply to column 2</b>			
• Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON AGRICULTURAL LAND RESOURCES</b>			
10. Will the Proposed Action affect agricultural land resources? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes			
<b>Examples that would apply to column 2</b>			
• The proposed action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<ul style="list-style-type: none"> <li>Construction activity would excavate or compact the soil profile of agricultural land.</li> <li>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.</li> <li>The proposed action would disrupt or prevent installation of agricultural land management system (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).</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>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.</li> <li>The proposed action would disrupt or prevent installation of agricultural land management system (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).</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>The proposed action would disrupt or prevent installation of agricultural land management system (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).</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON AESTHETIC RESOURCES</b>			
11. Will proposed action affect aesthetic resources? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If necessary, use the Visual EAF Addendum in Section 617.20/Appendix B.) Examples that would apply to column 2			
<ul style="list-style-type: none"> <li>Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.</li> <li>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.</li> <li>Project components that will result in the elimination or significant screening of scenic views known to be important to the area.</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>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.</li> <li>Project components that will result in the elimination or significant screening of scenic views known to be important to the area.</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Project components that will result in the elimination or significant screening of scenic views known to be important to the area.</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES</b>			
12. Will proposed Action impact any site or structure of historic, pre-historic or paleontological importance? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Examples that would apply to column 2			
<ul style="list-style-type: none"> <li>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.</li> <li>Any impact to an archaeological site or fossil bed located within the project site.</li> <li>Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Any impact to an archaeological site or fossil bed located within the project site.</li> <li>Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON OPEN SPACE AND RECREATION</b>			
13. Will Proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Examples that would apply to column 2			
<ul style="list-style-type: none"> <li>The permanent foreclosure of a future recreational opportunity.</li> <li>A major reduction of an open space important to the community.</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>A major reduction of an open space important to the community.</li> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Other impacts: _____</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No



	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change
<b>IMPACT ON CRITICAL ENVIRONMENTAL AREAS</b>			
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)? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes List the environmental characteristics that caused the designation of the CEA.  <hr/> <hr/> <hr/> <hr/> <b>Examples that would apply to column 2</b> <ul style="list-style-type: none"> <li>• Proposed Action to locate within the CEA? <input type="checkbox"/></li> <li>• Proposed Action will result in a reduction in the quantity of the resource? <input type="checkbox"/></li> <li>• Proposed Action will result in a reduction in the quality of the resource? <input type="checkbox"/></li> <li>• Proposed Action will impact the use, function or enjoyment of the resource? <input type="checkbox"/></li> <li>• Other impacts: _____ <input type="checkbox"/></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
<b>IMPACT ON TRANSPORTATION</b>			
15. Will there be an effect to existing transportation systems? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <b>Examples that would apply to column 2</b> <ul style="list-style-type: none"> <li>• Alteration of present patterns of movement of people and/or goods. <input type="checkbox"/></li> <li>• Proposed Action will result in major traffic problems. <input type="checkbox"/></li> <li>• Other impacts: _____ <input type="checkbox"/></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
<b>IMPACT ON ENERGY</b>			
16. Will proposed action affect the community's sources of fuel or energy supply? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <b>Examples that would apply to column 2</b> <ul style="list-style-type: none"> <li>• Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality. <input type="checkbox"/></li> <li>• Proposed Action will require the creation or extension of any energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use. <input type="checkbox"/></li> <li>• Other impacts: _____</li> </ul>	<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

**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: \_\_\_\_\_

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

**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 liquefied natural gas or other flammable liquids.
  - Proposed action may result in the excavation or other disturbance within 2,000 feet of a site sued for the disposal of solid or hazardous waste.
  - Other impacts: \_\_\_\_\_

<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 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 grown 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: \_\_\_\_\_

<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

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.

## Part 3 – EVALUATION OF THE IMPORTANCE OF IMPACTS

### Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

#### Instructions

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is **important**.

To answer the question of importance, consider:

- The probability of the impact occurring
- The duration of the impact
- Its irreversibility, including permanently lost resources of value
- Whether the impact can or will be controlled
- The regional consequence of the impact
- Its potential divergence from local needs and goals
- Whether known objections to the project relate to this impact.

(Continue on attachments)

**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 permitting Nextel Partners, Inc., to collocate antennas and install related equipment at the existing Southwestern Bell lattice tower located at 805 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 Cellular Panel Antennas 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. While the Project may result in minimal 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.

  
Authorized Signature

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**August 16, 2004**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, the the appeal and petition of USA GAS, INC., applicant, dated February 19, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a gas island canopy and a mini-mart building on a lot located at 560 Hoosick Road, in the Town of Brunswick; because the proposed construction of the canopy violates the front yard setback in an B-15 District in that 75 feet is required but 2 feet is proposed, and the proposed construction of the mini-mart building violates the rear yard setback in a B-15 District in that 30 feet is allowed but 15 feet is proposed.; 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 application, 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 SULLIVAN**  
**MEMBER SCHMIDT**  
**MEMBER JABOUR**  
**MEMBER TRZCINSKI**  
**CHAIRMAN HANNAN**

**VOTING** Aye  
**VOTING** Aye  
**VOTING** Aye  
**VOTING** Aye  
**VOTING** Aye

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

Dated: August 16, 2004

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

---

In the Matter of the Appeal and Petition of

DETERMINATION

USA GAS, INC.,

Applicant

For the Issuance of Area Variances Under the Zoning  
Ordinance of the TOWN OF BRUNSWICK

---

This matter involves the appeal and petition of the USA GAS, INC., applicant, dated February 19, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed alterations to an existing gasoline filling station/convenience store located at 560 Hoosick Road in the Town of Brunswick. Currently on the site, there is a small building of approximately 800 sq. ft. which is used for retail sales and storage, as well as a single gas pump island which does not have a canopy. The lot is approximately .29 acres and is located in a B-15 District.

As the proposal was originally conceived, applicant planned to demolish the existing building and build a larger building of some 1080 sq. ft. closer to the rear of the lot. Additionally, the existing gas pump island would be removed and two (2) new gas pump islands covered with a canopy would be constructed further back on the lot, away from Hoosick Road, essentially where the existing building is located. Applicant claims that adding a second pump island would increase the flow of traffic on the small lot and moving the pumps further back from the road would enhance customer and employee safety. Also, a larger building would enable applicant to store equipment and display items inside, which would tidy up the site, and the canopy would improve safety because it would contain modern fire suppression measures, as well as shield customers and/or employees from inclement weather when filling gas tanks. In order to accomplish these changes, applicant requested a variance of the front yard setback from 75 feet to 2 feet, and a variance of the rear yard setback from 30 feet to 15 feet.

In the course of the public hearing, after hearing comments and concerns from the public and this Board, the applicant substantially modified its application. Essentially, applicant now proposes a slightly smaller building of some 1,000 sq. ft., and a single gas pump island with a canopy. These changes result in the need for diminished variances. At this point, applicant is requesting that the

front yard setback be reduced from 75 feet to 10 feet and that the rear yard setback be reduced from 30 feet to 25 feet.

In the way of background, these premises have had a special use permit to operate a gasoline filling station since the early 1970's and have been used continuously as such since then. Prior thereto, there was a gasoline station on this premises for many years which became dilapidated and unused. The property is located on the south side of Hoosick Road, within a quarter mile East of the City line, in an old commercial area of the Town, commonly known as Sycaway. Immediately adjacent to this property to the West is a Sunoco gasoline station and convenience store (formerly known as King Fuels). Adjacent to the premises on the East, is the Gateway Plaza, which is a small shopping plaza containing several establishments and a restaurant. Across Hoosick Road from the premises, is a commercial parcel which has had several occupants over the years, including a convenience-type store and, more recently, automobile accessory sales and installation facilities. On the North side of Hoosick Road, slightly further to the East, is a Mobil gasoline station. With all this commercial use in the area, however, directly behind the subject property there is a long-established residential neighborhood.

This divergence of use was amply reflected in the public comment at the public hearing. The comments were mainly in two categories. There were many loyal customers of this gasoline station who were supportive of the efforts to expand and improve it. This gasoline station still offers full service (as opposed to just self service) at a very competitive price, which makes it attractive to many customers. However, many persons who reside in the neighborhood behind the premises, mainly on Cooper Avenue and Sycaway Avenue, voiced serious concerns about the proposal. The concerns related mainly to the effects the gasoline station operation had on their use and enjoyment of their property. The complaints ranged from the noise and traffic, and the shining of patron's headlights on their properties, to the use of premises as a "hangout" where area youth would smoke and drink, often littering these nearby residential properties.

Turning to the Board's obligations under SEQRA, it is noted that the applicant has submitted a short-form EAF. The Board hereby classifies this matter an unlisted action under SEQRA. Based upon Part 1 of the EAF, as prepared by applicant, and Part 2 as prepared at the behest of the Board, the Board hereby determines that this action will not have a significant impact on the environment and directs that a negative declaration of significance be issued.

In order to assess the merits of the application for area variances, the Board must consider the criteria set forth in Town Law, Section 274-b, subd. 3(b), which provides as follows:

- b) In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is



granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

For the purposes of clarity, each criterion will be considered separately below.

**(1) WHETHER AN UNDESIRABLE CHANGE WILL BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY THE GRANTING OF THE AREA VARIANCE.**

The Board finds that granting these variances will not result in an undesirable change to the character of the neighborhood. As previously stated, this is a very commercial area of town, which is immediately adjacent to an old, well-established, residential area. The variances, as presently requested, will have little effect on the character of the neighborhood. Turning first to the front yard variance, the Board takes note of the current situation regarding Hoosick Road. The NYS Department of Transportation is in the process of widening the road to better accommodate traffic. This has necessitated the State's taking of property at various places along Hoosick Road. Given the widening of the road, it would be virtually impossible for any business to meet the current front setback requirements. Even before the road widening project, which is ongoing, most businesses in the vicinity on Hoosick Road did not meet the setbacks. For example, as a result of a variance request, the Sunoco (former King Fuels) gas station/convenience store located adjacent to the subject property to the West, has a front yard setback for its gas pump island of eight (8) feet, which is less than what is now requested in this case. The Gateway Plaza, located adjacent to the subject property to the East, also as the result of a variance, has a front yard setback of 25 feet instead of the required 30 feet. In fact, if the front yard variance is granted in this case, and the canopy constructed, the front yard setbacks of the subject premises, the Sunoco station and the Mobil gas station across the road will be virtually identical.

As to the rear yard setback, it is even more clear that granting the same in this case will not change the character of the neighborhood. Looking at the same nearby properties, the Sunoco station, as a result of a variance, has a rear yard setback of only 15 feet, instead of the required 30 feet. Here, the applicant is proposing a 25 foot setback. The Gateway Plaza, by variance, has a rear yard setback of less than 23 feet, instead of the required 30 feet.

Moreover, if anything, the proposed changes to applicant's gas station will actually result in a desirable change to the neighborhood. As presently configured, the applicant's gas pumps are extremely close to the traveled portion of the heavily traveled Hoosick Road. This constitutes a safety hazard for patrons and employees. By "relocating" the building and gas pumps to the rear of the lot, the gas pumps will be setback much further from the traveled portion of the road, substantially enhancing safety. Also, the applicant's small lot is crowded with a storage shed and outdoor product displays. With a larger building, the shed can be removed, and all displays moved inside, which will improve the appearance of the lot.

Having listened to the comments of the residents of Cooper Avenue and Sycaway Avenue, there can be no serious doubt that the operation of this service station is a detriment to their properties. The operation of the gas station clearly results in increased noise and traffic, lights shining on and in their residences, litter, as well as persons loitering in the area. However, these are all existing conditions which have been ongoing for many years. There is nothing to indicate that granting these variances will exacerbate these problems in any significant way. The only way to completely eliminate these concerns would be to eliminate the gasoline station which, of course, is not an option. Clearly, this application provided a forum for residents to complain about these legitimate concerns, but the Board cannot consider these existing conditions as reasons to deny the variance, unless, of course, granting the variances will exacerbate these conditions, which does not appear to be the case to any significant degree. The Board notes that the applicant has offered various measures to remediate the detrimental effects that the service station has on the neighborhood. It has offered, for example, to put earthen berms with vegetative screening on both sides of the property, and add vegetative screening at the rear of the property, which will greatly shield the residences located to the rear from the automobile headlights of persons purchasing gas. It has also offered to locate the employee and handicapped parking spaces on the West side of the premises so there will be less traffic (and less headlight shine) on the residence located at the rear to the West, which is the residence most directly impacted.

The Board notes that the operator of the adjacent Sunoco gas station/convenience store did complain at the hearing that granting the variances will have a detrimental effect on his business. Specifically, he feels that if the applicant is allowed to have a larger building, it will result in competition for his convenience store. He stated that if he thought that the applicant could ever expand his operation, he would not have invested in the adjacent property. The Board rejects the

suggestion that the applicant's variance request should be denied to protect the Sunoco gas station convenience store from competition. First, we note that the applicant's gas station pre-dates the Sunoco station. While admittedly small, the applicant's gas station has always had a "mini-mart" with very limited offerings. The Sunoco station and convenience was permitted to open even though there was a gas station and convenience store right next door. Finally, we note that the Sunoco convenience store, at 3,000 sq. ft., will be three times the size of the applicant's store which, incidentally, will be used for storage as well as retail sales. The Board finds that having two convenience stores next to each other will not be any more detrimental to the neighborhood than having two gas stations located next to one another. Free competition is one of the hallmarks of our society.

(2) WHETHER THE BENEFIT SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE.

The Board sees no alternative method for the applicant to achieve its goals of having a larger building and a canopy over its gas pumps. Given the size of the lot, without the requested area variances, these things cannot be accomplished.

(3) WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL.

At first blush, the front yard variance would appear to be substantial. The required front yard setback for an accessory structure in a B-15 Zone is 75 feet. Reducing the setback to 10 feet, as requested, seems to be a substantial reduction. However, in order to determine whether a variance is substantial, the Board needs to consider the prevailing conditions in the neighborhood with respect to front setbacks. We first need to consider that, as previously stated, as a result of the Hoosick Road widening project, the standard front yard setbacks on that road have been rendered largely meaningless. Even before the widening project, many businesses on Hoosick Road had accessory structures well less than 75 feet from the property line. The current gas pump island on the subject property is much closer to the road than that. Also, as indicated above, the front setback for the canopied gas pump island at the Sunoco station adjacent to the subject property was reduced to 8 feet by this Board. If this Board found a reduction to 8 feet to be insubstantial in that case, it would appear to be only fair to make the same finding here. The gas canopied pump island at the Mobil station located across Hoosick Road to the East is so close to the road that there were concerns that the widening project would result in the condemnation of the gas station. Finally, it is clear that having the new canopied gas pump island at the subject property set back 10 feet from the property line will result in its being located substantially further from Hoosick Road than the current pump island. Based upon all the foregoing, the Board finds that reducing the front yard variance to 10 feet is not substantial.

Turning to the rear yard variance, the proposed set back reduction is only 5 feet, to 25 feet from the required 30 feet. The Board notes that, with a rear setback of 25 feet, the subject property will have a significantly larger setback than the adjacent Sunoco station (15 feet) and the adjacent Gateway Plaza (under 23 feet). The Board finds the requested variance is not substantial.

(4) WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT.

Reference is made to the discussion of the first criterion above. The Board finds that the change in the gas station as a result of the grant of the variances will have minimal effects on the physical and environmental conditions of the neighborhood. The adverse effects of the gas station on the neighborhood are pre-existing and the applicant has agreed to significant mitigation measures which will help to reduce the pre-existing conditions as well as any marginal increase in the adverse conditions occasioned by the grant of the variances. We also reiterate that, in some respects, the proposed changes will improve the physical and environmental conditions in the neighborhood. Moving the gas pumps further from the road will greatly enhance employee and customer safety. Adding the canopy will result in the availability of modern fire suppression devices on site which also enhances safety.

(5) WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED, WHICH CONSIDERATION SHALL BE RELEVANT TO THE DECISION OF THE BOARD OF APPEALS, BUT SHALL NOT NECESSARILY PRECLUDE THE GRANTING OF THE AREA VARIANCE.

Clearly, the applicant purchased the gas station with knowledge of the size limitations of the lot. In that respect, the need for the variance is certainly self-created. However, the Board does not believe that should preclude the grant of the variances in this case. It appears that the applicant has tried to "live within" the physical confines of the lot. The Board is satisfied that the applicant is seeking only modest improvements in its operation to enhance customer and employee safety and convenience.

THE BENEFIT TO THE APPLICANT IF THE VARIANCE IS GRANTED, AS WEIGHED AGAINST THE DETRIMENT TO THE HEALTH, SAFETY AND WELFARE OF THE NEIGHBORHOOD OR COMMUNITY BY SUCH GRANT.

Although there was no proof at the hearing of the financial benefit to be gleaned by the applicant as the result of the changes allowed by the grant of these variances, the Board is satisfied that it will not be substantial. The second set of gas pumps, as originally proposed, are no longer

contemplated. It is unlikely that gas sales will substantially increase. The modest increase in the size of the building may result in increased retail sales, but part of the new, larger, building will be dedicated to storage because outdoor storage and displays will no longer be allowed.

The Board is satisfied that the major benefit to the applicant will be in having a safer, more modern, and more customer-friendly service station. As previously stated, the changes to the station permitted by the variance will not markedly exacerbate any pre-existing detrimental effects on the community that the station currently causes. In some respects, the community will be safer, due to the addition of modern fire suppression on the site and the relocation of the gas pumps further away from busy Hoosick Road. In addition, as previously stated, the applicant has agreed to various mitigation measures which will help to minimize existing and new negative effects on the community. These measures will be made conditions of the approval.

Based upon all of the foregoing, the front yard accessory setback for the subject property is reduced from 75 feet to 10 feet, and the rear yard setback is reduced from 30 feet to 25 feet, upon the following conditions:

1. The applicant shall construct a three (3) foot earthen berm containing vegetative screening in a saw-toothed pattern on each side of the proposed new building to shield the residences located to the rear from the headlights of those using the gas station.
2. The applicant shall place vegetative screening along the rear of the lot to further shield the residences located to the rear from the headlights of those using the gas station.
3. The handicapped parking and employee parking spaces shall be located on the West side of the lot.
4. The existing tool/storage shed on the premises shall be removed.
5. There shall be no outdoor storage or product displays
6. The lights on the gas pump island canopy will be adjusted to cast downward.
7. There shall be no signs on the gas island canopy.
8. The lights on the canopy will be turned off each night at 10:00 P.M.
9. The applicant will ensure that fuel tanker trucks filling the underground gasoline tanks will only do so during the gas station's regular business hours and will face Hoosick Road or

Gateway Plaza when so doing.

10. The site shall substantially comply in all respects to a plat entitled Proposed Site Modifications, USA Gas, Inc., NYS Route 7, prepared by Ranieri + Bossolini Associates LLP, dated February 20, 2004, bearing latest revision date 6/30/04, which plat was forwarded to the Town of Brunswick under cover letter dated July 12, 2004. In the event that the Planning Board, in the context of its site plan review, is unable to approve a site plan which substantially conforms to the said plat, and/or the above conditions, this matter shall be referred back to this Board for further proceedings.

Dated: Brunswick, New York  
August 16, 2004

PROJECT ID NUMBER

SHORT ENVIRONMENTAL ASSESSMENT FORM

for UNLISTED ACTIONS Only

PART 1 - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT / SPONSOR Umran Saracoglu - USA Gas, Inc.	2. PROJECT NAME USA Gas Site Improvements
3. PROJECT LOCATION: Town of Brunswick Municipality	Rensselaer County
4. PRECISE LOCATION: Street Address and Road Intersections, Prominent landmarks etc - or provide map 560 Hoosick Street, between Cortland Street and Sycaway Avenue	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification / alteration	
6. DESCRIBE PROJECT BRIEFLY: Construct 1080 SF convenience store building to replace existing; construct fuel island canopy.	
7. AMOUNT OF LAND AFFECTED: Initially 0.29 acres      Ultimately 0.29 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      If no, describe briefly: Existing use is allowed use, applicant seeks relief from setback requirements	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? (Choose as many as apply.) <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park / Forest / Open Space <input type="checkbox"/> Other (describe)	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (Federal, State or Local) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      If yes, list agency name and permit / approval:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No      If yes, list agency name and permit / approval: Existing, operating fuel filling station	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT / APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant / Sponsor Name _____ Date: _____ Signature <i>P. J. ... - Representing Owner</i>	

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

**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.  
 Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.  
 Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:  
 No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:  
 No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:  
 No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:  
 No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:  
 No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:  
 None

C7. Other impacts (including changes in use of either quantity or type of energy? Explain briefly:  
 None

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? (If yes, explain briefly:  
 Yes  No

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? If yes explain:  
 Yes  No  
 Complaints from adjacent residential property owners regarding existing conditions on the site - noise, light, traffic, litter, etc.

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question d of part ii was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

**XXX** Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

Zoning Board of Appeals  
 Name of Lead Agency

8/16/04  
 Date

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

Title of Responsible Officer

*James Hannan*  
 Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)



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

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

RECEIVED  
OCT 04 2004  
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 September 20, 2004, at 6:00 P.M.

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

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

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 regular meeting was called to order. The first item of business was approval of the Minutes of the August, 2004, meeting. Member Trzcinski 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 Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 15, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, on a lot located at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas to be affixed at a height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound, because a major personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Colleen Biseglia appeared on behalf of the applicant. Ron Laberge of Laberge Engineering, the Board's consultant, was also present.

Ms. Biseglia stated that she brought Peter Coppola, Nextel's RF Engineer with her to answer any questions the Board might have. She also said the lease agreement with Callanan is now final and signed. As requested by the Board, she provided Mr. Laberge with the drive test data and also provided photo simulations depicting a lattice tower rather than a monopole. Ms. Biseglia stated that she had already discussed the site plan preliminarily with the Planning Board. The Planning Board prefers the monopole.

Member Trzcinski asked which is stronger, a monopole or a lattice tower. Ms. Biseglia says it really depends on how it is designed. She explained that the difference is largely in the aesthetics. The cables go inside a monopole. They are outside on a lattice tower. Also, it is easier to retrofit

a lattice tower. If you want to strengthen a monopole, you have to replace it. On a lattice, you can just replace certain cross members.

Attorney Cioffi asked if the monopole could support additional antenna arrays from other carriers. Mr. Coppola said that a monopole tower could have multiple arrays on it. They simply tell the manufacturer how strong it has to be. Mr. Laberge agreed, so long as the monopole is designed correctly. Mr. Laberge added that as it is conceived in the plans, this tower is capable of accommodating five carriers. Also, he stated that the tower height in this case was driven by the topography. It really can't be lower. The lowest of the five arrays might not even work that well in this case.

Mr. Coppola explained how Nextel used computer modeling to design the tower specifications based upon the topography. They are expecting the tower to cover some 4 ½ to 5 miles. It will not reach Grafton. They originally considered a much higher tower, over 200 feet, but were concerned about FCC lighting regulations, etc. They subsequently decided on 150 feet, which they believe will meet their needs. The 150 foot height is the minimum they need to connect back to the Nextel antennas at 805 Hoosick Road. This is the best location to serve the Route 2 corridor. He does not believe they could have reached Grafton even at 190 feet.

Mr. Coppola stated that while no additional towers are currently planned for Brunswick, customer needs change each year and plans are re-evaluated. They may wish to find a site in Grafton but not right now.

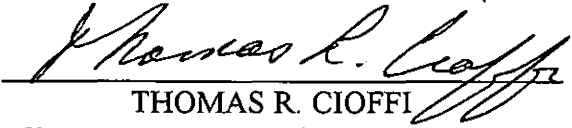
Mr. Laberge generally agreed with Mr. Coppola's analysis. The Board Members then discussed the visual impacts of the tower and the relative merits of the monopole and lattice, from both the visual and structural perspectives.

There being no further discussion, Member Jabour made a motion to close the public hearing. Member Sullivan seconded. The motion carried 4 - 0. Nextel agreed to provide a set of drawings depicting a lattice tower, in the event the Board decides to go in that direction. The matter was put over to the October meeting for a written decision.

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

Dated: Brunswick, N.Y.  
October 2, 2004

Respectfully submitted,

  
THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

## NOTICE OF PUBLIC HEARING

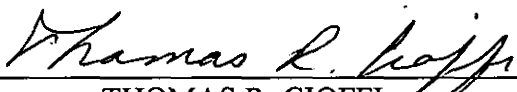
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of October, 2004, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of CINGULAR WIRELESS, applicant, dated September 17, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, consisting of a 100 foot steel monopole tower attached to and within an existing 80 foot Niagara Mohawk Transmission Tower, with nine (9) cellular antennas (six (6), initially, three (3) future) at a centerline height of 100 feet, an equipment shelter located within a 21' 5" x 33' 0" fenced compound, and a 750' long gravel access road, on Rensselaer County Tax Map Parcel 113.00-6-1, owned by Niagara Mohawk Power Corporation, located near Pinewoods Avenue, in the Town of Brunswick, because a major personal wireless telecommunications service 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 CINGULAR 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  
October 1, 2004

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 NOV 11 2004 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 18, 2004, at 6:00 P.M.

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

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

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 regular meeting was called to order. The first item of business was approval of the Minutes of the September, 2004, meeting. Member Trzcinski 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 RALPH ACKERLY, owner-applicant, dated July 19, 2004, for variances, pursuant to the Sign Law of the Town of Brunswick, in connection with the proposed construction of a 3' x 6' business advertising sign on a lot located at 897 Hoosick Road, in the Town of Brunswick, because the proposed construction violates the Sign Law in that advertising signs are not permitted in an R-15 District except in the case of home occupations as defined in the Zoning Ordinance, and in such cases the maximum size of any advertising sign is 1' x 2'. Attorney Cioffi read the Notice of Public Hearing aloud.

Thomas Lajuenesse, 897 Hoosick Road, appeared for the applicant. He explained that Ralph Ackerly is his grandfather. Mr. Ackerly recently deeded the property located at 897 Hoosick Road to him and his wife. Mr. Lajuenesse stated that he wants to put up a sign on his property advertising his carpet cleaning business. He stated that the sign had been there since 1997 but was recently taken down due to road construction on Route 7. He does not conduct business at this property. He lives there. He cleans and installs carpets at people's homes. He does paperwork for the business at his home. Mr. Kreiger stated that no permit was ever issued for the sign.

Mr. Lajuenesse went on to state that when his grandfather purchased the property, the former owners, Joe and Carl Fagan, told them that the land was zoned "professional". He has lived at the property since 1996. He said he contacted the Town before he put the sign up in 1997. He was told he would have to ask the State. He called DOT and was told that as long as the sign did not block

the road, they did not have a problem with it. DOT took down the sign during the road construction. When the construction was finished, they put it back up in a different spot. Then the sign fell down and he ordered a new one. He did not know there was a Sign Law or limits on the size of signs. He does not know who at the Town told him to talk to DOT about the sign.

Attorney Cioffi read from the Sign Law and the Zoning Ordinance. He explained that advertising signs were not allowed in residential zones except in the case of "home occupations", in which case one sign measuring 1' x 2' was permitted. Attorney Cioffi explained the types of activities that qualified as "home occupations" under the Zoning Ordinance.

The Chairman asked whether anyone from the public wished to speak. William Joyce, 13 Wyman Lane, stated that he lives next door. He supports the application. Susan Finn, 900 Hoosick Road, stated that she lives across the road. She stated that she has seen the sign. It is not an eyesore. The road is very commercial and she doesn't see any difference between that sign and Lori Schindler's. The sign has had lights on it in the past. The glare went into her house.

The Chairman stated that the law provides that the property has to be zoned commercial to have a sign, and it does not appear his carpet cleaning business qualifies as a home occupation. Mr. Lajuenesse stated that he is the only employee of his business, so it meets that criterion of the home occupation section. He stated that he does not have a large business. Everything at the site is kept residential looking. Mr. Lajuenesse stated that he really doesn't do any work at his home. Once and a while supplies and other things are dropped off there. He does use his carpet cleaning machine to clean his own car.

Member Trzcinski asked whether he advertises in some other way. Mr. Lajuenesse stated that he does advertise in the Yellow Pages, but that the sign accounts for a lot of his business. Member Schmidt says this appears clear. Under the law, he cannot have the sign. Member Sullivan stated that he disagreed.

The matter was put over to the November 15, 2004, meeting for a written decision.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of CINGULAR WIRELESS, applicant, dated September 17, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, consisting of a 100 foot steel monopole tower attached to and within an existing 80 foot Niagara Mohawk Transmission Tower, with nine (9) cellular antennas (six (6), initially, three (3) future) at a centerline height of 100 feet, an equipment shelter located within a 21' 5" x 33' 0" fenced compound, and a 750' long gravel access road, on Rensselaer County Tax Map Parcel 113.00-6-1, owned by Niagara Mohawk Power Corporation, located near Pinewoods Avenue, in the Town of Brunswick, because a major personal wireless telecommunications service 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.

Ryan Janowski, Pyramid Network Services, 3786 Wide Waters Parkway, Dewitt, NY 13214, appeared for the applicant. He explained that Cingular's original property acquisition agent for this matter, Tectonic, which submitted the application, was no longer involved. His firm is now

handling the matter.

Attorney Cioffi stated that he had recently been in contact with Steve Rupenthal of Techtonic and had agreed to let this matter go on tonight's agenda even though the property was not posted with copies of the Notice of Public Hearing, and certified mail notices were not sent to owners of nearby properties as required by the town's telecommunications law. Mr. Rupenthal had agreed that they would do the postings and notifications for the November 15 meeting. Attorney Cioffi explained that he had sent copies of the Notice of Public Hearing to Cingular at the address listed in the application. Cingular never passed them on to Techtonic. Mr. Jankowski agreed that he would cause the property to be properly posted and to have the notifications sent out for the November 15 meeting.

Mr. Jankowski stated that Cingular tries to co-locate its antennas on existing structures whenever possible. The Niagara Mohawk transmission tower they are looking at here it not high enough at only 80 feet to meet their needs. They propose to put a monopole inside the transmission tower which will extend some 20 feet above, and attach panel antennas to it. It will be a smaller monopole than is usually used to support antennas.

The Chairman then permitted public comment. Barbara Tozzi, 510 Pinewoods Avenue, and her father, Bob Schatzle, appeared. They live adjacent to the existing Niagara Mohawk right of way. ATV's are already a problem on the right of way. The noise is a serious problem for them. They are concerned that if the road is improved, the ATV traffic, and the noise, will greatly increase.

Member Jabour offered a Resolution to engage the services of Laberge Engineering to review the application and serve as the Board's consultant in this matter. The Chairman seconded. The motion carried 5 - 0. The matter was put over to the November 15 meeting for further proceedings.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 15, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, on a lot located at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas to be affixed at a height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound, because a major personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Colleen Biseglia appeared on behalf of the applicant.

Attorney Cioffi explained that the Board had before it a draft determination granting the requested special use permit to construct and operate a major personal wireless telecommunications service facility at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas affixed at a centerline height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound, as depicted in the plans and drawings submitted to the Board, 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.

After a brief discussion, The Chairman offered a Resolution adopting the draft determination. Member Jabour seconded. The Resolution Adopting Determination was put to a roll call vote. The Resolution was adopted by a vote of 4 - 1, with Member Trzcinski voting "No". The Determination and Resolution Adopting Determination are filed in the Office of the Town Clerk and are incorporated by reference herein.

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

Dated: Brunswick, N.Y.  
November 9, 2004

Respectfully submitted,

  
\_\_\_\_\_  
THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**October 18, 2004**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, the Application for Zoning Permit and Request for Special Use Permit of NEXTEL PARTNERS, INC., applicant, dated March 15, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, on a lot located at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas to be affixed at a height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound, 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; and

**WHEREAS**, the Board having caused to be prepared a written Determination with respect to the said application, 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:

**MEMBER SULLIVAN**  
**MEMBER SCHMIDT**  
**MEMBER JABOUR**  
**MEMBER TRZCINSKI**  
**CHAIRMAN HANNAN**

**VOTING** Aye  
**VOTING** Aye  
**VOTING** Aye  
**VOTING** No  
**VOTING** Aye

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

Dated: October 18, 2004



TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

---

In the Matter of the Application of

NEXTEL PARTNERS, INC.,

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 NEXTEL PARTNERS, INC., applicant, dated March 15, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, on a lot located at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas to be affixed at a height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound.

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 construction of a 150' monopole tower holding twelve (12) cellular panel antennas in the Callanan quarry located at Palitsch Road in Cropseyville. The antennas are proposed to be placed at a centerline height of 150 feet. Also contemplated is a 11.6' x 20' pre-fabricated equipment shelter. The tower and equipment are proposed to be located within a 50' x 50' fenced compound. No additional access road or parking is proposed or required.

Pursuant to the provisions of Town of Brunswick Local Law No. 2 For the Year 2002, this Board retained the services of Laberge Engineering to act as its consultant as regards this application.

The applicant has submitted all of the application materials required for a major personal wireless telecommunications service facility by the local law. 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, and which took place over several sessions, no one from the public even appeared, much expressed any opposition to the proposed facility.

The Board is satisfied that the "preliminary" prerequisites for entertaining a major facility application, as opposed to a minor, have been satisfied. Specifically, it appears clear that there are no existing towers or other facilities upon which the applicant can co-locate, which will serve the area in question. It also appears clear that there is no site where there are already telecommunications towers where the applicant can site this tower and still serve the desired geographic area.

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. Obviously, the main environmental issue is the visual impact. The Board has required, and the applicant has readily produced, significant data on visual impacts, including numerous photo simulations depicting the tower as both a monopole and a lattice type, from various locations and distances. Unquestionably, the tower will be visible. The proposal is for a 150' tower located atop the highest point in the area. The photo simulations indicate that the tower will be most visible from the south and the southwest. It must be remembered, however, that the tower is proposed to be constructed in a stone quarry, which necessitates the existence on the site of large, highly visible equipment, including conveyor apparatus, as well as the highly visible effects of the mining. From the south and southwest, where the tower is most visible, the quarry equipment and the mined embankments are plainly visible as well. It is difficult, therefore, to argue that the construction of the tower will add to the existing visual impacts on the site in any significant way. The Board also notes that while the tower will be visible from some areas to the west, the distance to the tower from those locations significantly lessens the impact. We also note that the area in the vicinity of the tower, from which the tower will be most visible, is quite sparsely populated. Obviously, the visual impact could be lessened by reducing the height of the tower. However, applicant's engineers have stated, and the Board's consultant has confirmed, that the given the topography and the service requirements, the tower cannot be less than 150 feet in height. Based upon a careful review of the EAF, and the record before us, and considering all of the above, we conclude that this action will not have a significant 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. The Board's consultant has confirmed that this tower will serve to increase the applicant's cellular telephone coverage along the Route 2 corridor in Brunswick, which is currently very weak. The tower is intended to link to the applicant's antennas which were recently co-located on an existing tower at 805 Hoosick Road. Applicant's service appeals to businesses and it is clear that this tower will increase the availability and quality of its service in the Town of Brunswick. The Board's consultant has also confirmed that the proposed tower height is appropriate to meet the stated coverage goal.

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 in the context of the SEQRA discussion above, the tower is proposed to be constructed in an active mine and stone quarry, where there is all manner of large, highly visible equipment, not to mention the visibly mined embankments. It is hard to believe that the addition of the tower will have any effects on the neighborhood character or property values in the immediate vicinity, which have not already been occasioned by the mine. And, while the tower will be visible from various locations, given the sparse population in the areas and the pre-

existing visual impacts of the quarry, the Board finds the addition of the non-significant visual impacts of this proposed tower will not adversely affect neighborhood character or property values.

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.

The Board notes that the applicant has proposed a monopole tower. During its consideration of the application, the Board questioned whether a lattice tower would be preferable because it would be stronger and more conducive to future co-location. The proof adduced at the hearing indicates that there is no strength or structural advantage to the lattice tower over the monopole, except that a lattice tower could be later modified to add additional strength. Both applicant's engineer and the Board's consultant stated that the either type of tower could be built to support multiple carriers. The applicant has stated that the tower will be constructed so as to have the ability to accommodate at least five (5) carriers. While visual impacts are often subjective, at least in part, we note that the monopole has the advantage of having all wiring and cabling inside the pole, while it would be visible on a lattice tower. There being no real advantage to the lattice tower, the Board will rule on the application as originally proposed, with the monopole.

Based upon all of the foregoing, the requested special use permit to construct and operate a major personal wireless telecommunications service facility at 90 Palitsch Road, in the Town of Brunswick, consisting of a 150' monopole tower with twelve (12) cellular panel antennas affixed at a centerline height of 150', and a 11.6' x 20' pre-fabricated concrete equipment shelter, within a 50' x 50' chain link fenced compound, all as depicted in the plans and drawings submitted to this Board, 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  
October 18, 2004

**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 Part 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 identified 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, 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.

Construction of a 150' Monopole and communications compound within an existing quarry owned by Callanan Industries

NAME OF ACTION

NAME OF LEAD AGENCY

PRINT OR TYPE NAME OF RESPONSIBLE OFFICER IN LEAD AGENCY

TITLE OF RESPONSIBLE OFFICER

SIGNATURE OF RESPONSIBLE OFFICER IN LEAD AGENCY

SIGNATURE OF PREPARED (IF DIFFERENT FROM RESPONSIBLE OFFICER)

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, 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.

	Column 1 Small to Moderate Impact	Column 2 Potential Large Impact	Column 3 Can Impact be Mitigated by Project Change
<b>1. Will the proposed action result in a physical change to the project site?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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%.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction on land where the depth to the water tables is less than 3 feet.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction of paved parking area for 1,000 or more vehicles.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction of land where the depth to the water table is less than 3 feet.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction that will continue for more than 1 year or involve more than one phase or stage.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction or expansion of a sanitary landfill.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

	Small to Moderate Impact	Potential Large Impact	Can Impact be Mitigated by Project Change
■ Specific land forms:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Will proposed action affect any water body designated as protected? (Under articles 15, 24, 25 of the Environmental Conservation Law, ECL) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
■ Developable area of site contains a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Dredging more than 100 cubic yards of material from channel of a protected stream.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Extension of utility distribution facilities through a protected water body.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction in a designated freshwater or tidal wetland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Will proposed action affect any non-protected existing or new body of water? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction of a body of water that exceeds 10 acres of surface area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Will Proposed Action affect surface surface or groundwater quality or quantity? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
■ Proposed action will require a discharge permit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action requires use of a source of water that does not have approval to serve proposed (project) action.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action requires water supply from wells with greater than 45 gallons per minute pumping capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction or operation causing contamination of a water supply system.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will adversely affect groundwater.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Liquid affluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action would use water in excess of 20,000 gallons per day.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action would 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will require the storage of petroleum or chemical products greater than 1,100 gallons.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will allow residential uses in areas without water and/or sewer services.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Will proposed action alter drainage flow or patterns, or surface water runoff? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
■ Proposed action would change flood water flows.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action may cause substantial erosion.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action is incompatible with existing drainage patterns.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will allow development in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON AIR</b>			
7. Will proposed action affect air quality? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
■ Proposed action will induce 1,000 or more vehicle trips in any given hour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will result in the incineration of more than 1 ton of refuse per hour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will allow an increase in the amount of land committed to industrial use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1. Small to Moderate Impact	2. Potential Large Impact	3. Can Impacts be Mitigated by Project Change
<ul style="list-style-type: none"> <li>Proposed action will allow an increase in the density of industrial development within existing industrial areas.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Other impacts:</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON PLANTS AND ANIMALS</b>			
8. Proposed action affect any threatened or endangered species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
<ul style="list-style-type: none"> <li>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.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Removal of any portion of a critical or significant wildlife habitat.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Other impacts:</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. Will Proposed action substantially affect non-threatened or non-endangered species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
<ul style="list-style-type: none"> <li>Proposed action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Proposed action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON AGRICULTURAL LAND RESOURCES</b>			
10. Will the Proposed action affect agricultural land resources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
<ul style="list-style-type: none"> <li>Proposed action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Construction activity would excavate or compact the soil profile of agricultural land.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>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.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>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).</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Other impacts:</li> </ul>			
<b>IMPACT ON AESTHETIC RESOURCES</b>			
11. Will proposed action affect aesthetic resources? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (if necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.) Examples that would apply to column 2:			
<ul style="list-style-type: none"> <li>Proposed land uses, or project components obviously different from, or in sharp contrast to current surrounding land use patterns, whether man-made or natural.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>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.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Proposed components that will result in the elimination, or significant screening, of scenic views known to be important to the area.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Other impacts:</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES</b>			
12. Will proposed action impact any site or structure of historic, pre-historic or paleontological importance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
<ul style="list-style-type: none"> <li>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.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Any impact to an archaeological site or fossil bed located within the project site.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<ul style="list-style-type: none"> <li>Proposed action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No



	Small to Moderate Impact	Potential Large Impact	Can Impacts be Mitigated by Project Change
<input type="checkbox"/> Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON OPEN SPACE AND RECREATION</b>			
13. Will proposed action affect the quantity or quality of existing or future open spaces or recreational opportunities? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
<input type="checkbox"/> The permanent foreclosure of a future recreational opportunity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> A major reduction of an open space important to the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON CRITICAL ENVIRONMENTAL AREAS</b>			
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)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. List the environmental characteristics that caused the designation of the CEA.:			
Examples that would apply to column 2:			
<input type="checkbox"/> Proposed action to locate within the CEA.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will result in a reduction in the quantity of the resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will result in a reduction in the quality of the resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will impact the use, function or enjoyment of the resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:			
<b>IMPACT ON TRANSPORTATION</b>			
15. Will there be an affect to existing transportation systems? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Examples that would apply to column 2:			
<input type="checkbox"/> Alteration of present patterns of movement of people and/or goods.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will result in major traffic problems.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:			
<b>IMPACT ON ENERGY</b>			
16. Will proposed action affect the community's sources of fuel or energy supply? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Examples that would apply to column 2:			
<input type="checkbox"/> Proposed action will cause a greater than 5% increase in the use of any form of energy in the municipality.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:			
<b>NOISE AND ODOR IMPACTS</b>			
17. Will there be objectionable odors, noise, or vibrations as a result of the Proposed Action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Examples that would apply to column 2:			
<input type="checkbox"/> Blasting within 1,500 feet of a hospital, school or other sensitive facility.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Odors will occur routinely (more than one hour per day).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will produce operating noise exceeding the local ambient noise levels for noise outside of structures..	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will remove natural barriers that would act as a noise screen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON PUBLIC HEALTH</b>			
18. Will Proposed action affect public health and safety? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Examples that would apply to column 2:			

	11 Small to Moderate Impact	12 Potential Large Impact	13 Can Impact be Mitigated by Project Change
■ 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Storage facilities for one million or more gallons of liquified natural gas or other flammable liquids.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD</b>			
19. Will Proposed action affect the character of the existing community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. 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%.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ The Proposed action will conflict with officially adopted plans or goals.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ The Proposed action will cause a change in the density of land use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ The Proposed action will replace or eliminate existing facilities, structures or areas of historic importance to the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Development will create a demand for additional community services (e.g., schools, police, fire, etc.).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
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 permitting Nextel Partners, Inc., to construct a 150' monopole telecommunications tower with 12 cellular panel antennas affixed, together with related ground equipment, on a lot located at 90 Palitsch Road., Town of Brunswick, 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:** Construction of New Monopole Telecommunications Tower

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

**Project Description:** The Project consists of the installation of a 150' monopole telecommunications tower with 12 cellular panel antennas and the installation of related equipment at the base thereof.

**Location:** 90 Palitsch Road, Cropseyville, 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 not used by the community as open space or recreation areas.
3. There will be no air emissions from the Project.
4. The Project will not substantially affect water discharges from the Project Site.
5. The Project will not generate solid or hazardous waste.
6. 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. It is noted that the tower is proposed to be constructed in the existing Callanan mine/stone quarry. There is, at present, on the project site, large and highly visible mining equipment, including conveyor apparatus. Additionally, the mined embankments at the site are highly visible. Although the monopole tower will

unquestionably be visible, especially from the south and southwest, the impact on the environment is not deemed significant given these pre-existing conditions, which already detract from the quality of the view shed in the area. It is also noted that the area from which the tower will be most visible is sparsely populated.

7. While the Project may result in minimal removal of vegetation at the Project Site, the Project will not significantly affect plants and animals in and around the Project Site.
8. The Project will not impact agricultural land.
9. 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.
10. There are no anticipated changes in traffic flow to and from the Project Site as a result of the Project.
11. The Project will not generate any unpleasant noise or odors.
12. Given existing property uses in the vicinity, most notably the mine/stone quarry itself, the Project will not significantly affect community character or property values.
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  
NOV 03 2004  
TOWN CLERK

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 November, 2004, 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 MICHAEL FENNELL, owner-applicant, dated September 21, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a storage shed on a lot located at 9 Mellon Avenue in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-9 District in that 10 feet is required but 5 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said MICHAEL FENNELL 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.

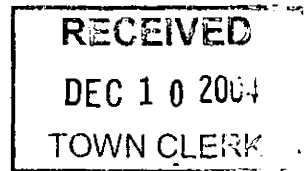
Dated: Brunswick, New York  
October 31, 2004

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 15, 2004, at 6:00 P.M.

Present at the meeting were: Caroline Trzcinski, Member  
James Sullivan, Member  
E. John Schmidt, Member  
Joseph Jabour, Member

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

At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. At approximately 6:10 P.M., the regular meeting was called to order. The first item of business was selection of a temporary chairman due to the absence of Chairman Hannan. Member Schmidt made a motion to select Member Jabour as temporary chairman. Member Trzcinski seconded. The motion carried 4 - 0, and Member Jabour assumed the temporary chair. The next item of business was approval of the Minutes of the October, 2004, meeting. Member Schmidt made a motion to approve the Draft Minutes as submitted. Member Trzcinski seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of MICHAEL FENNELL, owner-applicant, dated September 21, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a storage shed on a lot located at 9 Mellon Avenue in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-9 District in that 10 feet is required but 5 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud. Michael Fennell appeared. He stated that his neighbor on the side where he is seeking the variance has no objection. Member Trzcinski noted that the storage shed is already built. Mr. Fennell stated that he did not know he needed a variance. Member Schmidt said he is uncomfortable with the fact that the building is already up. Pete Cowan, 7 Mellon Avenue, said he is the next door neighbor. They are nice people. He has no objection to the variance.

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

***BE IT RESOLVED, that with regard to the appeal and petition of MICHAEL FENNELL, owner-applicant, dated September 21, 2004, for an area variance, pursuant to the Zoning***

*Ordinance of the Town of Brunswick, in connection with the construction of a storage shed on a lot located at 9 Mellon Avenue in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-9 District in that 10 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 Sullivan</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>Absent</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was a presentation to the Board by the applicants for the Carriage Hill Estates Planned Development District. Michael Uccelini of the United Group of Companies appeared. He stated that his company has an application to establish a Planned Development District on 217 acres of land located between Route 2 and Pinewoods Avenue. He stated that 97 of the 217 acres will actually be developed. The project will fill a critical need for middle income senior citizen's apartments in Brunswick. The project will have a New England feel.

The project has 3 components. The first is 192 units of independent living senior apartments. The units will be in 3 story buildings. Some buildings will have garages. There will be a full-time management and maintenance staff, as well as a nurse-call system. There will be an 8,000 sq. ft. common building, which will house a pool, community room, fitness center, media room and conference room. There will also be a Senior Umbrella Network to provide services for the seniors living there, including wellness, social, transportation, education and lectures. The apartment rent has not been set as yet.

The second component is 2 zones of carriage homes. There will be 49 units in one zone and 33 in the other. The lots will be about 1/4 acre. The homes will be about 1,600 - 1,800 sq. ft. on the first floor. There will either be a second floor or a full basement.

The third component will be 19 estate homes on 3 - 4 acre lots. These homes may sell for as much as \$1,000,000.00.

The United Group of Companies will own the senior apartments after they are constructed. One builder will be selected to build all the carriage homes. The purchasers of the estate home lots would choose their own builders. The majority of the project is in the Averill Park School District. The senior apartments will be in the Brittonkill School District. The property shown on the opposite side of Route 2 will likely remain vacant. The project is currently pending before the Town Board. The Town Board recently issued a Positive Declaration under SEQRA. They are in the process of preparing a full DEIS.

Bill Shanahan, 500 Pinewoods Avenue, inquired about the likely number of children residing in the project area. Mr. Uccelini stated that the senior apartments would have age restrictions. He also believes that the likely owners of the carriage homes will be baby boomers with grown children. In any case, consideration of the potential effect the project will have on the school district is part of the SEQRA process.

John Mack, 4 Checkerberry Lane, inquired about sewers. Mr. Uccelini stated that they looked at bringing the sewer line in from Route 7 or from the Central Avenue area. They are likely to bring it in from the Central Avenue area, either along the road, on the south side of Pinewoods, or off the road, along Pinewoods, through several private properties. They will pay to bring the sewer line out and form a sewer district encompassing the project. Residents along the way can petition the Town to form their own sewer districts and connect in. The sewer line will have to be extended 11,000 lineal feet to service the project. Mr. Mack said he is concerned this project will change the character of the community.

The next item of business was the appeal and petition of RALPH ACKERLY, owner-applicant, dated July 19, 2004, for variances, pursuant to the Sign Law of the Town of Brunswick, in connection with the proposed construction of a 3' x 6' business advertising sign on a lot located at 897 Hoosick Road, in the Town of Brunswick, because the proposed construction violates the Sign Law in that advertising signs are not permitted in an R-15 District except in the case of home occupations as defined in the Zoning Ordinance, and in such cases the maximum size of any advertising sign is 1' x 2'.

Attorney Cioffi stated that the matter was before the Board for issuance of a decision. The Board had before it a draft Determination. Attorney Cioffi read the draft Determination aloud. In brief, the draft Determination denied the variances on the ground that they were inconsistent with the purpose and intent of the Sign Law, and the business did not qualify as a home occupation, as defined in the Zoning Ordinance. Member Jabour offered a Resolution adopting the draft Determination. Member Schmidt seconded. The Resolution was put to a roll call vote and passed 4 - 0. A copy of the Resolution and draft Determination are incorporated by reference into these Minutes.



The next item of business was the Application for Zoning Permit and Request for Special Use Permit of CINGULAR WIRELESS, applicant, dated September 17, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, consisting of a 100 foot steel monopole tower attached to and within an existing 80 foot Niagara Mohawk Transmission Tower, with nine (9) cellular antennas (six (6), initially, three (3) future) at a centerline height of 100 feet, an equipment shelter located within a 21' 5" x 33' 0" fenced compound, and a 750' long gravel access road, on Rensselaer County Tax Map Parcel 113.00-6-1, owned by Niagara Mohawk Power Corporation, located near Pinewoods Avenue, in the Town of Brunswick, because a major personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals.

Deborah Burke, Pyramid Network Services, 3786 Wide Waters Parkway, Dewitt, NY 13214, appeared for the applicant. She reiterated that the project involved putting a 100 foot tall monopole telecommunications tower through an existing 80 foot Niagara Mohawk transmission tower. The monopole would extend 20 feet above the Niagara Mohawk tower. The antennas would be attached to the monopole. Ms. Burke handed up proof of certified mailings to nearby property owners required by the telecommunications law. The Board noted that the response to the referral to Rensselaer County Planning indicated that local considerations should prevail.

It was noted that the Board's consultant, Laberge Engineering, was not present. Ms. Burke stated that she did not send the application materials to Laberge. She thought that had already been done. Attorney Cioffi explained that he made it clear to her associate last month that it was their responsibility to get the materials to Laberge. Ms. Burke said she would attend to it. She also said that the \$5000.00 application fee had been paid.

John Lang, 484 Pinewoods Avenue, asked about the approval process. Attorney Cioffi briefly explained the special use permit process. Ms. Burke briefly explained the site selection project. This site was selected by RF engineers because it meets Cingular's coverage needs in the area. Mr. Lang was concerned that all of the photo simulations are from one direction. He feels a much broader study needs to be done. This tower will be very visible to a lot of people. Maybe it doesn't need to be so high. He objects to the proposal. Bill Shanahan, 500 Pinewoods Avenue, agreed that all of the simulations are from one side. There is a house about 20 feet to the right which is not shown. He asked why they could not pick a different Niagara Mohawk tower. Ms. Burke said she was not sure why this particular tower was selected. Beverly Crupi, 502 Pinewoods Avenue, said she is concerned about whether extending the height of the tower will further erode the value of her property. She is also concerned about possible effects on her television and telephone service.

Ms. Burke stated that the plans show all the Cingular antennas which will be located on the tower. Attorney Cioffi noted that typically other providers seek to co-locate on a new tower. Whether they can do so in this case depends on whether the monopole extension can support other carriers. In any case, every additional carrier would need to get a special use permit from this Board.

This matter was put over to the December 20, 2004, for further proceedings. Mr. Laberge will be asked to attend. Mr. Burke will arrange to have their RF engineer present as well.

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

Dated: Brunswick, N.Y.  
November 30, 2004

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 December 20, 2004, at 6:00 P.M.

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

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

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 regular meeting was called to order. The first item of business was approval of the Minutes of the November, 2004, meeting. Member Trzcinski 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 KENNETH and DIANNE McGUIRE, owner-applicants, dated November 12, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a garage and workshop on a lot located at 710 Brunswick Road, in the Town of Brunswick, because the proposed construction violates the front yard setback in an A-40 District in that 75 feet is required but 60 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Kenneth McGuire appeared. He stated that where he is asking to build is the only place on his 10 ½ acres that the garage can be located. The building will be half-garage and half-workshop. The building will not be used for any commercial purposes. No one from the public wished to comment on the application. Member Jabour 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 KENNETH and DIANNE McGUIRE, owner-applicants, dated November 12, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a garage and workshop on a lot located at 710 Brunswick Road, in the Town of Brunswick, because the proposed construction violates the front yard setback in an A-40 District in that 75 feet is required but 60 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 Sullivan</i>	<i>Aye</i>
<i>Member Schmidt</i>	<i>Absent</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 NANCY and ERNEST BEATTY o/b/o John and Stacy LaRose, applicants, dated August 20, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed sale of a portion of the lot located at 19 Green Street (Rensselaer County Tax Map Parcel No. 90.20-16-2.1), owned by John and Stacy LaRose to Nancy and Ernest Beatty, because the proposed sale will result in the further reduction in the size of said lot which is already below the minimum lot size of 9,000 square feet in an R-9 District, and will also cause the existing garage located on said lot to violate the Zoning Ordinance in that it will violate the side yard setback in an R-9 District in that 10 feet is required but one foot will result. Attorney Cioffi read the Notice of Public Hearing aloud.

Ernest Beatty appeared. He stated that they have been using a strip of land since they moved in there which actually belongs to the adjoining property owners, John and Stacy LaRose. He submitted several photographs to the Board which showed the strip of land in question. Nancy Beatty said that they only learned after the closing that they did not own the strip of land. Mr. Beatty stated that the strip is 60.6 feet long and 11 feet wide. It runs from the corner of the LaRose's garage to the rear of the lot. He has been taking care of the strip of land since they moved in there.

John and Stacy LaRose said that they bought their property in June, 2003. They don't use the strip of land in question. The Beattys take care of it. They have no problem selling the strip to the Beattys. Mrs. Beatty said they want the strip for the purpose of beautifying their lot. No one from the public wished to comment.

Attorney Cioffi said that the issues were the fact that authorizing the property transfer would make the LaRose's existing garage violate the side yard setback, and the fact that the LaRose's lot is already undersized per zoning standards, and the proposed land transfer will make it even smaller. Member Jabour said that he was concerned about permitting this subdivision. The Chairman said that he was concerned that this lot was already undersized and should not be made smaller. Even though there are other lots in the area which do not meet minimum lot size requirements, he is concerned that granting this will encourage others to seek to change their lot lines. He is also concerned about the closeness of the LaRose's garage to the new lot line. Other Board Members also expressed concern about the proposed transfer.

Member Jabour made a motion to continue the public hearing to January 18, 2005. Member Sullivan seconded. The motion carried 4 - 0.

The next item of business was further consideration of the Application for Zoning Permit and Request for Special Use Permit of CINGULAR WIRELESS, applicant, dated September 17, 2004, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a major personal wireless telecommunications service facility, consisting of a 100 foot steel monopole tower attached to and within an existing 80 foot Niagara Mohawk Transmission Tower, with nine (9) cellular antennas (six (6), initially, three (3) future) at a centerline height of 100 feet, an equipment shelter located within a 21' 5" x 33' 0" fenced compound, and a 750' long gravel access road, on Renssealer County Tax Map Parcel 113.00-6-1, owned by Niagara Mohawk Power Corporation, located near Pinewoods Avenue, in the Town of Brunswick, because a major personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Deborah Burke, Pyramid Network Services, appeared for the applicant, as did Rajeeve Bhardwaj, applicant's RF engineer. Ronald Laberge, P.E., the Board's consultant, also appeared.

The Board noted that Mr. Laberge had submitted a written report to the Board, dated December 16, 2004, setting forth various concerns he noted in reviewing the application materials. Mr. Laberge stated that, among his concerns were the facts that the new tower would not meet the minimum setback requirements in the Town's telecommunications law, and that it would be closer to nearby residences than is permitted by the telecommunications law.

Ms. Burke stated that they have added photo simulations as requested by the Board. There was then a discussion by the Board of the photo simulations. Mr. Laberge stated that photo simulation #4 really depicts the relative size of the proposed antenna array.

Ms. Burke then sought to address the comments in Mr. Laberge's report. She stated that the tower would not have to be lighted. They should be receiving something from the FCC verifying this, which they can submit to the Board. As to the color of the tower and array, although the application says it will be white, Ms. Burke agreed they are usually gray. She will check on this. Ms. Burke also noted that she has already submitted proof of the landowner's consent. She will provide a copy to Mr. Laberge for his review.

There was then discussion regarding how the tower would not meet the setback requirements and would be closer than 750 feet to several homes. Ms. Burke stated that she did not feel that these requirements should apply, since they were erecting a tower within an existing

structure. The Niagara Mohawk tower is pre-existing. They consider this more of a co-location than a new tower. Attorney Cioffi stated that the Board would have to consider whether these requirements should be applied in this situation.

Ms. Burke said no new landscaping is contemplated since there is none on the Niagara Mohawk tower now. If the Board wants landscaping they will certainly agree to something reasonable. As to the visibility map provided by applicants, Mr. Laberge stated that he thought it could more clearly depict where the tower is visible from.

As to future shared use, Ms. Burke stated that the new tower would be owned by Niagara Mohawk, which would have control over future shared use. She stated that she did not think that there was enough room on the new tower to accommodate any other carriers. Ms. Burke agreed to discuss the issue with Niagara Mohawk. Mr. Laberge asked whether they had considered just attaching the antennas to the existing tower, rather than building the new monopole within the existing tower. Mr. Bhardwaj said that would not work due to the topography. Mr. Laberge questioned that.

Ms. Burke said that the applicant would comply with the Town's liability insurance requirements. She also stated that she received responses from the National Heritage and the U.S. Fish and Wildlife Agency. Attorney Cioffi inquired about the new road. Mr. Laberge said he did not think it was a big issue. The Board asked Mr. Kreiger to provide the Town's private road/driveway standards to Mr. Laberge. Member Sullivan stated that some residents complained about ATV traffic on the existing road. Ms. Burke said she would speak to Niagara Mohawk about the possibility of gating the road.

The Board then reviewed the propagation maps submitted by applicant. Engineer Bhardwaj reiterated that the coverage needs could not be met if the antenna were placed on the existing tower. He said that even at 100 feet, they are losing some coverage. The Board stated that it wants propagation data with the antenna located directly on the existing tower. Mr. Laberge also asked for applicant's dropped call data for this area. Ms. Burke said she will ask, but she thinks it is considered confidential.

The matter was put over to the January 18, 2005, meeting for further proceedings. There being no further business, Member Sullivan moved to adjourn. Member Jabour seconded. The motion carried 4 - 0 and the meeting was thereupon adjourned.

Dated: Brunswick, N.Y.  
January 5, 2005

Respectfully submitted,

---

THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary