

ZONING MINUTES

2005

NOTICE OF PUBLIC HEARING

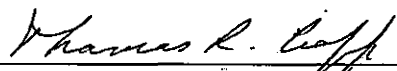
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of January, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated November 28, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space because the said use is not a permitted principal use in an A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said WILLIAM ZIMMERMAN, 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
December 31, 2004

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



THOMAS R. CIOFFI
Town Attorney

NOTICE OF PUBLIC HEARING

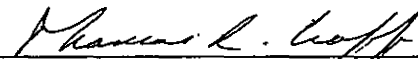
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FURTHER NOTICE IS HEREBY GIVEN that said WILLIAM PATRICK, applicant, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected 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
December 31, 2004

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

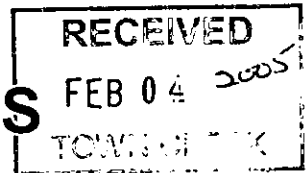


THOMAS R. CIOFFI
Town Attorney

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 January 19, 2005, at 6:00 P.M.

Present at the meeting were: Caroline Trzcinski, Member
James Sullivan, Member
Joseph Jabour, Member
E. John Schmidt, 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 6:05 P.M., the regular meeting was called to order. The first item of business was approval of the Minutes of the December, 2004, meeting. Member Trzcinski noted that on page 2, last paragraph, first line the date reference should be "2003", not "3003". Member Jabour made a motion to approve the Draft Minutes as corrected. Member Sullivan seconded. The motion carried 5 - 0.

The Chairman then recognized Ron Ishkanian, who had asked to address the Board regarding the cellular tower at the Callanan quarry. Mr. Ishkanian resides adjacent to the quarry. Yesterday, he noted that a cell tower was being constructed. He tried to reach Town officials but the office was closed due to the holiday. He did reach some executives at Callanan who advised him that they did not want to locate the tower there but the Town indicated to them that it was a good place for it. The Chairman asked who he spoke to. Mr. Ishkanian did not have the names. The Chairman stated that the Board does not direct where cell towers go. Rather, companies come before the Board requesting to locate a cell tower in a particular place that they have identified through their studies as requiring a tower to provide adequate service. Mr. Ishkanian said he has spoken to the Callanan people before because of problems he has with the mine, e.g., dust, taking trees down, etc. He said he had a conversation earlier that day with Mr. Cioffi. Mr. Cioffi told him that the tower was in an industrial zone and that people weren't that concerned with the visual impacts. However, he states, the tower affects him. He looks out his window now and sees a cell tower. He is confused why the Board chose that location. The Chairman stated that the Board did not choose the location. Mr. Cioffi added that applications are made to the Board to locate towers in a particular place where a need is perceived. Then the Board directs studies be done. Mr. Cioffi noted that cellular phone companies are recognized by the law as public utilities and they must be accorded significant deference in locating towers which they need to provide adequate coverage. The Board is required to follow federal law in processing these applications. The Board cannot tell a cellular carrier that it cannot

locate a tower in a particular area where a need is established simply because the Board does not want it there. In this case, Mr. Cioffi explained, Nextel submitted an application to locate the tower at the Callanan quarry. The Board reviewed the application as it is required by law to do. It retained a consulting engineer to assist in the technical review. Nextel established a coverage need in that location and that locating a tower there would meet that need. The Board conducting the public hearing in that matter over some five or six sessions. No property owners appeared at any of the hearing sessions and none were heard from. The Board issued a written decision in which the visual impacts of the tower were considered.

Mr. Ishkanian replied that he never received notice of the hearing. Mr. Kreiger stated that Mr. Ishkanian's name was not on the list of adjoining landowners who were sent notices by the Town. Mr. Kreiger said that he did not know why Mr. Ishkanian's name was not on the list. Mr. Ishkanian said that he is an adjoining property owner. Mr. Cioffi said he sent a notice to everyone on the list of adjoining property owners provided by Mr. Kreiger. He said the Town needs to look into this further and figure out what happened. Also, a Notice of Public Hearing was printed in the Town's official newspaper which is really the only thing that the law absolutely requires. Mr. Ishkanian also pointed to the provision in the Town's telecommunications law which states that the applicant is to provide notice to persons owning property within 750 feet of the proposed tower. Mr. Cioffi asked Mr. Kreiger to check the file to see if Nextel made the notifications. Mr. Ishkanian said that he had received no notice of this action and had no opportunity to be heard by the Board on the visual impact the tower would have on him. He also raised the issue of the health effect of the tower radiation. Also, the tower will affect the value of his property. Mr. Cioffi stated that the Town is absolutely precluded by federal law from turning down a tower based on the health impact of tower emissions. That is solely the province of the FCC and the Town can only insist that the tower meet FCC standards.

Mr. Ishkanian stated that he wants the Board to issue a stop work order on the tower and start the notification and review process over so that he would have an opportunity to be heard. Mr. Cioffi stated that the Board did not have the power to do that. It has already issued a decision approving the permit for the tower, and the time to appeal that determination has expired. Mr. Cioffi advised that the Board should look into the notification issue and then determine whether anything can or should be done. The Chairman agreed. He noted that cell phones are common now. Mr. Ishkanian said that he has one. Mr. Ishkanian said he is not against cell phones, only against the placement of the tower next to his property and the visual, health and financial impacts it has on him. Mr. Ishkanian said that he would be exploring his legal options.

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 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, appeared for the applicant, as did Rajeeve Bhardwaj, applicant's RF engineer. Bob Wagner from GridCom also appeared on behalf of the applicant. Ronald Laberge, P.E., the Board's consultant, also appeared.

Ms. Burke stated that although the Board is considering this a Major application, they believe it is a Minor facility because it involves a co-location and does not involve a new tower. She asked Bob Wagner of GridCom to address that. GridCom is the telecommunications division of National Grid Company, which also owns Niagara Mohawk. GridCom permits cellular companies to locate their antennas on existing Niagara Mohawk structures. This limits visual impacts. What is proposed here is called a power mount. It is a steel pole that can accommodate one or two carriers only. It is not a monopole. Although there is concrete at the bottom to anchor the bottom of the pole to the ground, the pole is attached in three areas to the existing transmission tower. The power mount can go through the center of the existing tower or along the side. A structural analysis is done on the structure to make sure it can support the wind loading. This structure has been approved for up to two carriers.

Mr. Laberge asked Mr. Wagner for further clarification. Mr. Wagner confirmed that this is not a monopole. It is not self supporting. There is a grid under the existing tower so a proper foundation for a monopole is not possible. The power mount must be attached to the existing structure.

Mr. Wagner stated that if the power mount extends to 100 feet, two carriers are possible. If the power mount only extends to 90 feet, only one carrier can locate there. There has to be 10 feet of separation between carriers.

Ms. Burke also submitted a letter from GridCom dated January 7, 2005, which confirms that antenna cannot be placed any closer than 5.5 feet from the electrical wires. Also, it notes that 20 feet is generally the maximum that a power mount can extend above the existing structure. 30 feet could be done but that is pushing the limit. Going any higher affects the wind loading and might have an effect on the integrity of the power transmission tower.

Mr. Laberge confirmed that based upon all this information and the submitted drawings, it would not be possible to attach the antennas directly to the power transmission tower.

Mr. Wagner stated that the power mount is made of steel and comes in sections. It is manufactured by a company based upon the specifications provided. The existing tower will support this power mount. However, before it can be built, it must be approved by the Public Service Commission as well. Mr. Wagner stated that GridCom is the entity that would be responsible for allowing another carrier to locate on the power mount. The intention in this case is to have Cingular and one other carrier on this location.

Ms. Burke submitted a letter to the Board from the RF Engineer dated December 28, 2004. As far as Cingular is concerned, locating their antennas at 90 feet would meet their coverage objectives. That would leave another spot at 100 feet for another carrier. Rajeeve Bhardwaj, applicant's RF engineer, handed up RF propagation data to the Board. Ms. Burke said she would provide copies for all the Members. He confirmed that locating at 90 feet would meet Cingular's

coverage goal, which is the Troy County Club area. Locating at 100 feet would be even better, but 90 is sufficient. Limiting the tower extension to 90 feet would mean that only one carrier could be accommodated. Mr. Wagner said that Gridcom would be satisfied if the Board only permitted one carrier at 90 feet. Mr. Wagner said that T-Mobile has spoken to him about the site.

Attorney Cioffi asked why this particular Niagara Mohawk tower was selected. Some property owners had asked at a prior session why another tower further away from their homes could not have been selected. Mr. Wagner stated that the next structure down was just as close to the homes and much further from the road, so access was an issue. The next structure in the other direction was at a lesser elevation and would have impacted wetlands. This was the only structure in the area that met their goals.

The Board then discussed the visual impacts and whether limiting the height of the power mount to 90 feet would reduce visual impacts. Attorney Cioffi said the biggest visual impact would probably be the additional antenna array.

The Chairman stated that the Board really needs to get any documentation well in advance of the hearing. Ms. Burke agreed. The Chairman asked Mr. Wagner whether carriers took down redundant equipment when mergers of carriers occurred. Mr. Wagner said that was largely up to the carriers, but that just because two carriers merged did not necessarily mean that their locations would become redundant. Mr. Cioffi said that the Board could require a bond to ensure the removal of an unused structure as a condition of the permit. The Chairman also asked about the gate on the access road that was requested by some neighbors. Ms. Burke said that the gate is now shown on the plan.

The matter was put over to the February 28, 2005, meeting for further proceedings.

The next item of business was the appeal and petition of JULIE HARPER, owner-applicant, dated November 10, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a single family residence on a lot located at 12 Berkshire Drive in the Town of Brunswick, because the proposed construction violates the front yard setback in an R-25 District in that 40 feet is required but 30 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Julie Harper appeared with her builder, Todd Corbett. Mr. Corbett explained that the road frontage for this property is on a curve and there is a steep incline to the property. Reducing the front setback will avoid them having to bring in a lot of gravel. Member Trzinski noted that there is a flat area on the property. Mr. Corbett stated that is where the septic system has been designed to go. It is a full fill system. Also, there is an existing gravel path that they would like to use as their driveway access. Member Schmidt observed that the property is quite steep. No one from the public wished to comment.

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 the following Resolution:

BE IT RESOLVED, that with regard to the appeal and petition of JULIE HARPER, owner-applicant, dated November 10, 2004, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a single family residence on a lot located at 12 Berkshire Drive in the Town of Brunswick, because the proposed construction violates the front yard setback in an R-25 District in that 40 feet is required but 30 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 Sullivan. 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 appeal and petition of WILLIAM PATRICK o/b/o ERNEST PITTMAN, applicant, dated December 7, 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 located at Lot 34 Orford Circle (Tax Map. No. 101.16-3-5), in the Town of Brunswick, because the lot on which the building is proposed to be constructed does not meet the 40,000 square feet minimum lot size in an R-40 District in that the lot is approximately 17,000 square feet in area. Attorney Cioffi read the Notice of Public Hearing aloud.

William Patrick and Ernest Pittman appeared. Mr. Pittman owns the property at present. Mr. Patrick wants to buy an undersized lot from Mr. Pittman and build a house there. It became clear that the lot mentioned in the Notice of Public Hearing was not the lot that Mr. Patrick is interested in purchasing and building on. The applicants provided incorrect information to the Town. Mr. Cioffi explained that because the notice was incorrect, the Board could not consider the matter. The Board did briefly review the tax map. Mr. Cioffi stated that the applicants had to do more research if they

want the Board to consider the matter at a future time. They need to show that the lot in question legally exists as a separate parcel and be more accurate in the information provided to the Board.

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. Mr. & Mrs. Beatty appeared.

Attorney Cioffi advised that the Board had before it a draft Determination with respect to this matter. Member Sullivan read the draft Determination aloud. The draft Determination denies the variances on the ground that all of the statutory criteria therefor were not satisfied, and that aesthetic considerations and the personal convenience of the parties were not sufficient grounds to warrant the grant of the variances. Member Cioffi stated that there was a written Resolution before the Board adopting the draft Determination. Chairman Hannan offered the Resolution and Member Jabour seconded. Before the vote was taken, Mrs. Beatty stated that she understood the Board's reasoning but that they were only seeking to beautify their property and did not see why the variances should not be granted. A roll call vote was then taken. All Members voted Aye. Members Schmidt and Sullivan stated that they wished they could give the Beattys what they wanted but that they felt compelled to follow the law. The Determination and the Resolution Adopting Determination are filed in the Office of the Town Clerk and are incorporated by reference into these Minutes.

The next item of business was the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated November 28, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space because the said use is not a permitted principal use in an A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

William Zimmerman appeared with his wife. He stated that the property is zoned A-40 and that he wants it to reflect its past commercial uses and prior variances on the property. He also said that it is assessed as commercial property by the Town. He states that it is impossible to sell the land as it is presently zoned. It was built as a veterinary hospital which is a permitted principal use in an A-40 District. He purchased the property from Dr. Herbert Dietrich, a veterinarian, in 1996. Dr. Zimmerman is also veterinarian and he purchased the building from Dr. Dietrich intending to have his practice there. He paid \$265,000.00, \$40,000.00 for the land and \$225,000.00 for the building. Prior to purchasing it, the building burned down. Although it was not then being operated as a veterinary hospital, for insurance reasons they decided to rebuild. Dr. Zimmerman's wife is Dr. Deitrich's daughter. Dr. Zimmerman stated that the property had previously been used as a restaurant and for other commercial uses. He also stated that the Town granted use variances to the property in the past. When asked about the specific uses and the variances, Dr. Zimmerman said that he did not have that information and Mr. Kreiger was unable to locate it. He stated that Dr. Deitrich

believed, and told him, that the property could be used for commercial purposes.

Dr. Zimmerman stated that the public hearing notice did not really reflect his wishes. He would like the property zoned commercial, possibly to be used as office space, but possibly for another commercial use. Attorney Cioffi explained that this Board did not have the power to re-zone the property. Only the Town Board can do that. This Board could only grant a variance allowing a specific use not otherwise allowed in the A-40 District to be conducted from the property, assuming all of the statutory criteria for a use variance were established. After some discussion, Dr. Zimmerman said that he wanted to pursue a use variance to use the building as commercial office space.

Attorney Cioffi further explained that several criteria had to be established by competent proof for a use variance to be issued. Most notably, an applicant for a use variance must establish that, for each and every permitted use in the District, he cannot get a reasonable return on his investment in the property. The Board provided Dr. Zimmerman with a list of all of the use variance criteria. Attorney Cioffi stated that it is not the Board's function to prove or disprove that he was entitled to a use variance. Rather, it is Dr. Zimmerman's burden to establish that he meets the criteria. Attorney Cioffi suggested that, among other things, Dr. Zimmerman present proof of his claim that he has tried to market the property as a veterinary facility but has been unable to do so.


Attorney Cioffi noted that usually when a use variance is sought, the applicant has a specific use in mind. This permits the Board to make an informed judgment as to whether the use should be allowed. Dr. Zimmerman said that he has spoken to one firm which expressed interest in using the building for office space. Nothing is firm and there is no contract.

The matter was put over to the February 28, 2005, meeting for Dr. Zimmerman to present further proof in support of his 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.
February 2, 2005

Respectfully submitted,


THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

January 18, 2005

RESOLUTION ADOPTING DETERMINATION

WHEREAS, 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, having been duly filed; 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 Aye
VOTING Aye

The foregoing Resolution was thereupon declared duly adopted.

Dated: January 18, 2005

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Appeal and Petition of

DETERMINATION

NANCY and ERNEST BEATTY o/b/o John and Stacy LaRose,
Applicants,

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

This matter involves 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.

Essentially, Nancy and Ernest Beatty reside at 41 Genesee Street, adjacent to John and Stacy LaRose, who reside at 19 Green Street. Both lots, as they presently exist, are below the 9,000 sq. ft. minimum lot size prescribed by the Zoning Ordinance in an R-9 District. The Beatty lot is about 7900 sq. ft., or about .18 acre. The La Rose lot is about 7600 sq. It should be noted that these lots are located in an "older" section of town, commonly called Sycaway. Many of the subdivisions in that area precede the enactment of the Zoning Ordinance. Accordingly, some of the lots do not meet the minimum lot size. A review of the tax map indicates that the lots in the general vicinity generally run anywhere from a minimum of about .07 acres up to about .27 acres. It is probably fair to say that, in the general vicinity, there are as many substandard lots as there are lots that meet zoning. For reference, one acre is equal to 43,560 sq. ft. The 9,000 sq. ft. minimum lot size is equivalent to about .21 acres.

According to Mr. & Mrs. Beatty, when they purchased their lot, they were under the impression that their lot included a parcel of land some 60.6 feet long and 11 feet wide, running from the corner of a garage located on the adjacent lot (19 Green Street) all the way to the rear of the lot. There is, in fact, a fence running from the corner of the garage on 19 Green Street to the rear of the

lot. Mr. & Mrs. Beatty state that they assumed that the fence was the property line, so they have been taking care of that strip of land. Once they learned that they did not own the property, they approached the owners of 19 Green Street, John and Stacy La Rose, and asked if they would sell them the strip of land. Mr. & Mrs. LaRose are apparently agreeable. However, the Planning Board was unable to grant subdivision approval permitting the LaRoses to sell that portion of their lot to the Beattys because the sale would cause the LaRoses' garage to violate the side yard setback, and would also make the LaRoses' already substandard lot even smaller. Hence, the application to this Board for area variances which would permit the subdivision process to go forward.

In order to assess the merits of the application for area variances, the Board must consider the criteria set forth in Town Law, Section 268-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 an old, well-established, residential area of town. Many of the lots in the immediate area do not meet the 9,000 sq. ft. zoning threshold. This is because many of the lots were created before the Zoning Ordinance was adopted. If the land

transfer is permitted, the LaRose parcel would go from about 7600 sq. ft. to about 7,000 sq. ft., or about .16 acre. Several lots in the area are smaller.

That said, however, the Board finds that granting the variances, thereby permitting the land transfer, subject to Planning Board approval, will cause a detriment to the La Rose parcel. The lot is already sub-standard, and this will make it even smaller. It is likely that making the lot smaller will make it less attractive to subsequent purchasers, and therefore less salable. Also, the garage on the LaRose parcel will be virtually on the Beattys property line. Clearly, this does not bother the LaRoses or the Beattys. However, these individuals will not always own these properties, and subsequent purchasers may not be so happy about the virtual absence of any setback between the garage and the adjacent lot.

(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 of permitting this proposed subdivision and land transfer.

(3) WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL.

As to the lot size issue, granting the variance, paving the way for the sale, would reduce the size of the LaRose lot by some 667 sq. ft. , to just under 7,000 sq. ft. The Board finds the requested variance to be substantial because the lot is already undersized. This will make it even more substandard. Certainly, in enacting the Zoning Ordinance the Town Board evinced an intent that lots in the R-9 district should be a minimum of 9,000 sq. ft. in size. That many lots not meeting that threshold were created before the Zoning Ordinance was enacted cannot be helped. However, the Town can take a hard, critical look when owners of existing substandard lots seek to subdivide to make them even smaller.

As to the side yard setback issue, as things presently stand, the LaRose garage is zoning compliant since it is set back 11 feet from the Beatty property line. Granting the requested variance will reduce the setback to 1 foot, when 10 feet is required. By any measure, this is a substantial reduction.

(4) WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR

IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT.

Granting these variances would not likely have an adverse environmental effect on the neighborhood or district.

(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 "difficulty", giving rise to the need for the variances, if, indeed, one exists, is self-created in the sense that there is no compelling reason for this property transfer. The Beattys want this strip of land, they state, to "beautify and improve their existing yard". The LaRoses, apparently, would rather get money for the strip than keep it and have to take care of it themselves. Clearly, there is no difficulty relating to the land driving this transaction. The Beattys do not need this strip of land to enable them to reasonably use and enjoy their existing lot as a single family residence.

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.

As indicated above, there is no compelling reason for this land transfer. It is really a matter of the personal convenience of both the Beattys and the LaRoses. Neither the minimum lot size requirement nor the minimum side yard setback are interfering with the reasonable use and enjoyment of their respective properties by the LaRoses or the Beattys. That it would be personally more convenient for them to be able to effect the land transfer is not sufficient cause to justify the granting of the variances. Property owners are not entitled to area variances by simply showing they are inconvenienced by the zoning restrictions (Fuhst v Foley, 45 NY 2d 441).

Also uniformly rejected by the courts as a basis for the grant of an area variance is the aesthetic preference of a landowner (DeSena v Board of Zoning Appeals of the Village of Hempstead, 45 NY2d 105; Gottlieb v Board of Appeals of the City of Rye, 139 AD2d 617). Here, the major motivation of the Beattys is, by their own statement, "beautification" of their existing lot.

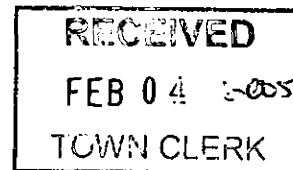
As previously stated, the Town has a compelling interest in ensuring that the requirements of the Zoning Ordinance are followed. The Town Board, in enacting the Zoning Ordinance, evinced a clear intent that the minimum size of a building lot in an R-9 District should be 9,000 sq. ft. Minimum lot size requirements are directly related to the health, safety and welfare of the community. That some lots smaller than 9,000 sq. ft. were created prior to the enactment of the Zoning Ordinance cannot be helped. However, the Town can and should require that new substandard lots are not created, or existing substandard lots made even smaller, absent compelling reason therefor. Similarly, in enacting side yard setback requirements, the Town Board evinced an intent that there be a reasonable distance between buildings and structures of a landowner and the adjacent property line. This too is directly related to the health, safety and welfare of the community in that it promotes harmonious relations and avoids disputes between neighbors.

Based upon all of the foregoing, the Board finds that the personal convenience of the applicants, and the expressed aesthetic considerations, offered as a basis for the grant of the variances, are outweighed by the overarching interest of the Town, and the community, in establishing and enforcing reasonable bulk zoning requirements. Accordingly, the variances are denied in all respects.

Dated: Brunswick, New York

January 18, 2005

NOTICE OF PUBLIC HEARING




NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 28th day of February, 2005, 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 PAUL ENGELKE, owner-applicant, dated January 5, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of parcel of land located at 463 Garfield Road, in the Town of Brunswick, for a commercial recreational canoeing, kayaking and snow and water tubing facility, because the said use is not a permitted principal use in an R-15 or A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said PAUL ENGELKE, 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
January 31, 2005

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 MAR 22 2005 TOWN CLERK
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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 28, 2005, 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 January, 2005, meeting. Member Jabour made a motion to approve the Draft Minutes as submitted. The Chairman 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 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, appeared for the applicant, as did Rajeeve Bhardwaj, applicant's RF engineer. Ronald Laberge, P.E., the Board's consultant, also appeared.

Ms. Burke summarized the status of the application. Cingular Wireless wants to have a power mount installation on the existing 80' Niagara Mohawk power transmission tower on Pinewoods Avenue. Cingular wants to locate its antennas at 100'. This would leave a spot for another carrier's antennas at 90'. She submitted a copy of the lease agreement between Niagara Mohawk and Cingular Wireless pertaining to this site. Ms. Burke stated that they were awaiting a ruling from the Board as to whether this application should continue to be treated as a Major Facility as opposed to a Minor Facility, and as to whether the tower setback requirements contained in the

Town's telecommunications law applied to the power mount installation contemplated here.

Attorney Cioffi stated that the Board had before it a draft Determination addressing those issues. He read the draft Determination aloud. Essentially, the draft Determination states that the facility contemplated in this application is a Major Facility, but that the setback requirements applicable to telecommunications towers do not apply to the proposed power mount installation because the power mount does not fall within the definition of "telecommunications tower". A copy of the draft Determination is annexed to and incorporated into these minutes. Attorney Cioffi stated that there was also before the Board a Resolution adopting the draft Determination. Chairman Hannan offered the Resolution. Member Jabour seconded. The Resolution was duly put to a roll call vote as follows:

Member Sullivan	Voting	Aye
Member Schmidt	Voting	Absent
Member Jabour	Voting	Aye
Member Trzcinski	Voting	Aye
Chairman Hannan	Voting	Aye

The Resolution was thereupon declared duly adopted.

The Board then continued with the discussion of the application. Mr. Laberge discussed some outstanding issues such as color of the power mount and antennas and the landscaping. Attorney Cioffi asked Mr. Laberge to review the access road to make sure it meets Town standards. The Board decided to continue the matter to the March 21, 2005, meeting for resolution of outstanding issues.

The next item of business was the appeal and petition of PAUL ENGELKE, owner-applicant, dated January 5, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of parcel of land located at 463 Garfield Road, in the Town of Brunswick, for a commercial recreational canoeing, kayaking and snow and water tubing facility, because the said use is not a permitted principal use in an R-15 or A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

Paul Engelke appeared. He stated that he recently purchased this property. He intends to grow ornamental trees on the property and also sell vegetables grown on the property at a farm stand. But that is long term, and he needs a way to make income so he can pay the mortgage on the property. He came up with the idea of having a recreational business on the property. In the winter, there would be snow tubing. In the summer, there would be water tubing in the creek. He feels this would be an unobtrusive use of the land and keep it as is, as opposed to developing the land.

The Chairman asked Mr. Engelke whether he was aware of the zoning of the property when he purchased it. He said he was aware the property was agricultural. Attorney Cioffi explained that this was a use variance application and that a use variance is the most extreme relief that this Board can grant. In order to grant a use variance, the applicant must establish all of the criteria set forth in Town Law, Section 267-b. Attorney Cioffi read the use variance criteria aloud. Member Hannan

then asked for public comment. Bill Niemi, Tamarac Road, stated that he is in favor of the proposal if an agricultural easement is placed on the tillable land. The applicant said he has a 5 year contract with Mr. Hewitt to farm the land. John Arecki, 41 Rutledge Lane, stated that the property is across the creek from his house and farm. He stated that his cows used to drink out of that creek but now DEC wants to restrict farming around it. He is concerned that people who use the property for recreation will go on his property or leave garbage on it. He already has problems with snowmobiles on the property. People already canoe down the creek. They leave cans, bottles and garbage on his land. He is concerned that people will go onto his land, get hurt, and sue him.

Veronica Purcell, Fitting Lane, stated that she has lived there for 35 years. She is concerned about the traffic the business will generate on Fitting Road, which she believes is a private road with town access. In the past, people used the property for hunting. Now, it is used as a lovers lane. People leave condoms and other garbage there. If there is a business there, it will only get worse. She is also concerned that there will be lighting on the property which will affect her property. She is also concerned that there will be truck traffic on Fitting Lane transporting customers. Mary Bryce, 449 Garfield Road, stated that this business will be about 35 feet from her property. Her husband is a paraplegic. They are concerned about the traffic and the noise from cars and snowmobiles that will be generated. They want privacy. Why should they have a business located next door? What happens if one of applicant's customers goes onto her property and gets hurt. Kathy Gilchrist, 186 Creek Road, is also concerned about customers going onto her land and getting hurt. She is also concerned about erosion, light pollution, noise pollution, and increased use of snowmobiles on the property. Amy Williams, 469 Garfield Road, stated she lives right next door. She thinks this will change the character of the neighborhood. She feels that a commercial venture does not belong in a residential area. Mike Hogan, 426 Garfield Road, stated that he lives about 800 feet away. He is concerned that once a commercial business is allowed, the neighborhood will change. Fitting Lane is a dirt road. Garfield Road is a small County road. They are not designed to accommodate the traffic this will generate.

Judy Rancourt, Carrolls Grove Road, stated that she was there on behalf of Mr. & Mrs. Spilker, who live at 229 Creek Road. The Spilkers sent a letter to the Board, which she summarized. The Spilkers are concerned about erosion, increased traffic, increased noise, increased litter and garbage. They are also concerned that this will effect the residential character of the property. They state that a SEQRA analysis needs to be conducted.

Attorney Cioffi stated that in order for the Board to process this application, it would need an Environmental Impact Statement (EAF) and an Agricultural Data Statement from the applicant. A referral needs to be sent to County Planning. Attorney Cioffi went on to explain that it is the applicant's burden to prove that all of the statutory criteria for a use variance have been established. It is not the Board's obligation to present the necessary proof, nor is it up to the Board to establish that a use variance should not be granted. Rather, the Board weighs the proof submitted by the applicant and determines whether the criteria have been established. Attorney Cioffi stressed that, among other things, the applicant has to establish that he cannot get a reasonable return from his investment in his property from uses which are allowed in the A-40 Zone, such as single family homes.

The public hearing was continued to the March 21, 2005, meeting.

The next item of business was the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated November 28, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space because the said use is not a permitted principal use in an A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals.

Dr. William Zimmerman appeared. Also present was Jeff Lang, Farm to Market Road, who is considering purchasing the property and Ann St. Peter, 471 Waterbury Road, Nassau, who is a real estate broker. Ms. St. Peter stated that she has been trying to sell the property for Dr. Zimmerman for several years. She has not been able to find a buyer because of the limited allowable uses. She has had a lot of interest from different businesses, such as an attorney's office and a pizza parlor, but they are not permitted uses under the current zoning. She also stated that the building is commercial in nature and it would take substantial retrofitting to convert it into a residence. Kathy Murray, 69 North Langmore Lane, asked whether the applicant was seeking to have the property zoned commercial. Attorney Cioffi explained that this Board has no power to re-zone land. It can only grant a variance permitting a specific use not otherwise allowed in the District, assuming the statutory criteria are established.

Dr. Zimmerman submitted a copy of the deed to the land to the Board. He also submitted detailed information as to the price he paid for the land and building and for improvements he made. He also submitted a list of former uses of the land which was compiled by Dr. Dietrich, the former owner. There were no dates associated with the various uses, but some of the uses were commercial in nature. Dr. Zimmerman explained that he was working as a veterinarian at the premises, building a practice, when the building burned down. It took several years to resolve all of the issues with the insurance company and get the building rebuilt. By then, he had established himself elsewhere, and did not want to try to rebuild the practice here. Before he made that decision, he purchased the land and building from Dr. Dietrich. He claims to have invested over \$270,000.00 out of his own pocket into this property.

Ms. St. Peter stated that she did advertise the premises for sale as a vet clinic. She had only one person express interest and that person was not a licensed veterinarian. She did get calls from two persons inquiring about using the premises as a private residence. There were concerns expressed by those persons about the cost of converting the building to a residence and about the traffic on Route 2.

Dr. Zimmerman stated that he understands that he needs to submit proof as to the cost of converting the building to a residence. Jeff Lang stated that he had been having discussions with Dr. Zimmerman about buying the property to use for his geological business but he was concerned about the zoning. The Board asked that Mr. Lang submit a written description of the business activities which would be conducted on the premises.

The matter was put over to the March 21, 2005, meeting for further proceedings.

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.
March 17, 2005

Respectfully submitted,

A handwritten signature in cursive script, reading "Thomas R. Cioffi", is written over a horizontal line.

THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

February 28, 2005

RESOLUTION ADOPTING DETERMINATION

WHEREAS, 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, having been duly filed; and

WHEREAS, the matter have duly come on for public hearing, which has been conducted over several sessions, and is currently continuing; and

WHEREAS, certain preliminary issues need to be determined by the Board; and

WHEREAS, the Board having caused to be prepared a written Determination with respect to the said preliminary issues, 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 Absent
VOTING Aye
VOTING Aye
VOTING Aye

The foregoing Resolution was thereupon declared duly adopted.

Dated: February 28, 2005

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of

CINGULAR WIRELESS,

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 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..

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. This application is currently being heard by the Board. Two (2) issues have arisen in the course of the review which need to be determined before the application can go forward: The two issues are as follows:

1. Is this a Major Facility or a Minor Facility?
2. Do the setback requirements set forth in Section 1, Paragraphs 7 and 8 of Local Law No. 1 for the Year 1999 apply to the construction contemplated in this application?

As to the first issue, essentially, the Board's attorney required at the time of the filing of the application that it be filed as a Major Facility. Applicant now disputes this. Essentially, applicant states that under Local Law No. 1 for the Year 1999, a Major Facility necessarily involves the construction of a new telecommunications tower. And, in this case, the "tower" is not a telecommunications tower, but rather what is called a "power mount". According to applicant, a power mount consists of a metal pole which is attached within or alongside an existing power

transmission tower to which telecommunications antennas are affixed. While it extends beyond the transmission tower in height, it is not freestanding, and requires the existing power transmission tower for support. Applicant claims the facility proposed in this application falls squarely within the definition of Minor Personal Wireless Telecommunications Service Facility set forth in Local Law No. 1 for the Year 1999.

In order to rule on this issue, the following definitions, set forth in Local Law No. 1 for the Year 1999, must be examined:

PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE FACILITY -

Any facility or equipment (including repeaters) used in connection with the provision of Personal Wireless Services, including but not limited to, antenna(s), ancillary and accessory telecommunications equipment, Telecommunications Towers and access.

MINOR PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE

FACILITY - Any Personal Wireless Telecommunications Service Facility installed on, in, or to an existing building or other existing structure including, but not limited to, an existing Telecommunications Tower, pole, other utility tower or pole, smokestack, steeple, water tank, silo, billboard or other signage or streetlight, comprised solely of antennas and ancillary and accessory telecommunications equipment, which do not individually, or in the aggregate, extend farther than twenty (20) feet above the highest point of the existing building or structure on which the Personal Wireless Telecommunications Service Facility is installed.

MAJOR PERSONAL WIRELESS TELECOMMUNICATIONS SERVICE

FACILITY - Any Personal Wireless Telecommunications Service Facility that is not a Minor Personal Wireless Telecommunications Service Facility and/or requires the erection of a new Telecommunications Tower, proposed to be used for the provision of Personal Wireless Telecommunications Services.

TELECOMMUNICATIONS TOWER - Any freestanding tower, lattice structure

or framework, monopole, or similar structure used for the provision of Personal Wireless Telecommunications Services and designed to support Personal Wireless Telecommunications Service transmission, receiving and or relaying antennas an/or equipment.

Considering these definitions, the Board must reject applicant's claim. First, we note that a Personal Wireless Telecommunications Service Facility includes access, as well as antennas, accessory equipment and towers. Clearly "access" is an integral part of this application, as a 750' gravel access road to the facility is contemplated. Although an "access path" currently exists, this proposal involves a substantial improvement. Under Local Law No. 1 for 1999, this access road must

be constructed to the standards applicable to private roads in the Town. And, by definition, a Minor Personal Wireless Telecommunications Service Facility may be "comprised solely (emphasis supplied) of antennas and ancillary and accessory telecommunications equipment ...". Since, this application involves access as well as antenna and ancillary telecommunications equipment, the proposed facility cannot be a Minor Facility. And, by definition, if it is not a Minor Facility, it must be a Major Facility. Applicant is simply wrong in its claim that a Major Facility requires the construction of a new telecommunications tower. Rather, a Major Facility can consist of either a facility that involves a new telecommunications tower, or it can consist of a facility which does not meet the definition of a Minor Facility. The Board agrees that this application does not involve a new telecommunications tower. The Board reads the definition of "Telecommunications Tower" to require that the structure be freestanding. In this case, based upon the most recent proof offered by applicants, the power mount proposed here is not freestanding. Therefore, the power mount is not a Telecommunications Tower. However, as previously stated, that does not necessarily mean that is not a Major Facility.

The second issue is simply disposed of since the Board has already ruled that the power mount proposed does not fall within the definition of Telecommunications Tower. The "setback" requirements in question are as follows:

Minimum Setbacks. The minimum setback of a Telecommunications Tower shall be a distance equal to the height of the proposed tower plus thirty (30) feet from any adjoining property line. Setbacks shall apply to all tower parts including guy wires, guy anchors and any accessory facilities.

The foregoing notwithstanding, the minimum distance of any Telecommunications Tower including guy wires and anchors from any single-family or two-family dwelling as measured from the nearest point to nearest point shall be seven hundred fifty (750) feet.

Safe Zone. Telecommunications Towers should be designed so that in the event of failure they will fall within the setback area of the site and/or away from adjacent development

Clearly, all of these "setback" requirements apply to Telecommunications Towers. And since the proposed power mount does not fall within the definition of Telecommunications Tower, the requirements do not apply.

The Board will continue to process this application consistent with this Determination.

Dated: Brunswick, New York
February 28, 2005

RECEIVED

FEB 28 A.M.

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 21st day of March, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of PATRICIA WOJTASZEK, owner-applicant, dated February 17, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of an existing garage on a parcel of land located at 366 Grange Road for a commercial yarn shop, because the said use is not a permitted use in an R-15 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said PATRICIA WOJTASZEK, 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
February 26, 2005

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



THOMAS R. CIOFALO
Town Attorney

RECEIVED
FEB 28 AM.
TOWN CLERK

NOTICE OF PUBLIC HEARING

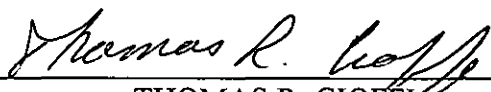
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of March, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of WILLIAM PATRICK o/b/o ERNEST PIRMAN, applicant, dated February 16, 2005, 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 located at 34 Oxford Circle (Tax Map. No. 101.16-3-22), in the Town of Brunswick, because the lot on which the building is proposed to be constructed does not meet the 40,000 square feet minimum lot size in an R-40 District in that the lot is approximately 30,000 square feet in area.

FURTHER NOTICE IS HEREBY GIVEN that said WILLIAM PATRICK, 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
February 26, 2005

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 APR 07 2005 TOWN CLERK
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DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on March 21, 2005, at 6:00 P.M.

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

Also present was Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary. Superintendent of Utilities & Inspections John 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 February, 2005, 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 WILLIAM PATRICK o/b/o ERNEST PIRMAN, applicant, dated February 16, 2005, 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 located at 34 Oxford Circle (Tax Map. No. 101.16-3-22), in the Town of Brunswick, because the lot on which the building is proposed to be constructed does not meet the 40,000 square feet minimum lot size in an R-40 District in that the lot is approximately 30,000 square feet in area. Attorney Cioffi read the Notice of Public Hearing aloud.

Ernest Pirman appeared. He stated that he purchased this lot from Donald Gray in 1980. Arthur Collins was the original subdivider/developer. In addition to Lot 34, he also owns Lot Nos. 35 and 36. His home is located on Lot 36 and he uses Lot 35, which is adjacent, as accessory to his home. He purchased all three lots at once from Mr. Gray. The Chairman inquired whether Mr. Pirman ever considered adding a portion of Lot 35 to Lot 34, so as to make it zoning compliant. Mr. Pirman said he had not considered that.

Janice Palm, 33 Oxford Circle, stated that she has concerns about building a house on Lot 34. Her church, by whom she is employed, owns Lot 33, and she lives there. She is concerned about her privacy. The back of her house faces Lot 34 and has a porch on it. There is not much of a border between Lots 33 and 34. She acknowledged that her house is closer to the Lot 34 lot line than it would normally be because a variance was obtained before she lived there. Ms. Palm stated that this

has been a stable neighborhood for several decades and she is concerned about a new house being built which violates zoning.

There was then a discussion of the sizes of other lots in the vicinity. The Board stated that it would need Mr. Kreiger to provide data as to the sizes of the lots. Madeline Jewett, 19 Oxford Circle, stated that she has lived in the neighborhood for 41 years and has no objection to this. David Heer, 37 Oxford Circle, stated that he has no objection.

Attorney Cioffi read various provisions of the Zoning Ordinance to the Board which pertain to undersized lots. Essentially, Attorney Cioffi explained that some research needs to be done to determine when the lot was originally created and whether it is entitled to any special consideration on that basis under the terms of the Zoning Ordinance. Mrs. Jewett stated that her house was built in 1964 and some of the original Collins homes were built 10 years earlier. Attorney Cioffi added that it might well be entitled to no special treatment and the usual standards pertaining to area variances may apply.

The Board stated that Mr. Kreiger needs to do some research. Additionally, it asked that Mr. Patrick attend the next meeting and provide details as to the house he wishes to build on the lot. The matter was put over to the April 18, 2005, meeting.

The next item of business was the appeal and petition of PATRICIA WOJTASZEK, owner-applicant, dated February 17, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of an existing garage on a parcel of land located at 366 Grange Road for a commercial yarn shop, because the said use is not a permitted use in an R-15 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

Patricia Wojtaszek appeared. She currently has a yarn shop in a building her mother owns. Her mother needs to sell that property so she needs to relocate her business. She cannot afford to pay rent for a business location. Her husband recently passed away and she has no use for their large, 4 car garage. She would like to use a portion of it as her yarn shop. It would not generate a lot of traffic. One night a week she might have an activity at the store which would draw 4 or 5 cars at once. Other than that, it is usually one car at a time. Mark LaPorto, 14 Downey Road, stated that his property adjoins and he has no objection. He believes there will be minimal traffic. Thomas Sawyer, 356 Grange Road, stated that he has no objection. It will not really add to the traffic. Betty Johnston, 363 Grange Road, stated that she has no objection. George Morrissey, Dusenberry Lane, stated that he has no objections.

Attorney Cioffi read and explained the criteria for granting use variances. He stated that the main problem here was that Ms. Wojtaszek might have a problem establishing that she cannot get a reasonable return from her investment in the property simply by using it or selling it as a single family home. Attorney Cioffi explained that a use variance is the most extreme form of relief that this Board can grant, and it may only do so if all of the statutory criteria are met. It is not enough that the neighbors do not object. Mrs. Wojtaszek stated that she really did not understand the criteria or what she needs to do. All she wants to do is operate her yarn shop in her garage. Attorney Cioffi suggested that Ms. Wojtaszek consult an attorney to assist her in this application. She stated she had

no money for an attorney.

George Morrissey stated that Ms. Wojtaszek has a hardship in that she does not have the money to hold on to her property. Having her business there will add to her income and allow her to keep the property. Attorney Cioffi explained that a personal hardship is not what the law requires. Rather, an applicant for use variance must establish that due to some problem or defect with her property, she cannot get a reasonable return on her investment in the property by using it for one of the uses permitted in that zoning district. The matter was put over to the April 18, 2005, meeting for further proceedings.

The next item of business was further consideration of the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated November 28, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space because the said use is not a permitted principal use in an A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. Dr. Zimmerman appeared. He submitted an EAF as well as an estimate indicating it would cost \$75,000.00 to \$100,000.00 to convert the building to a residence. He stated that he is still discussing a contract to sell the property to Jeff Lang to use as a geological office assuming a variance is granted, but nothing has been finalized. The matter was put over to the April 18 meeting for further proceedings.

The next item of business was further consideration of the appeal and petition of PAUL ENGELKE, owner-applicant, dated January 5, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of parcel of land located at 463 Garfield Road, in the Town of Brunswick, for a commercial recreational canoeing, kayaking and snow and water tubing facility, because the said use is not a permitted principal use in an R-15 or A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. Mr. Engelke appeared with his attorney, Paul Engster.

Mr. Engelke stated that he has prepared and submitted an EAF as requested. He stated that he submitted other information to try to alleviate some of the concerns raised by neighbors.

Attorney Cioffi asked whether additional information would be forthcoming concerning the satisfaction of the use variance criteria. Mr. Engelke stated that Attorney Engster would address that. Mr. Engster stated that he was under the impression that this was an application for a special use permit, not a use variance, and that it was their intention to ask the Board to waive the special use permit criteria and permit the proposed use. Essentially, their argument is that "recreation, not for gain" is a permitted use under the Zoning Ordinance in an A-40 District, and since the income earned from money charged to the public to use the proposed recreation facility would be offset by other expenses associated with keeping the property, there is no "gain", and therefore the proposed activity falls within the permitted use. Attorney Engster admitted that his client could not meet the use variance standards.

Attorney Cioffi stated that this could not be a special use permit application. A commercial recreational facility is not one of the enumerated special uses allowable by permit in an A-40 zone. Attorney Cioffi stated it would be up to the Board to interpret the meaning of "recreation, not for

gain" and determine whether, based on applicant's contentions, the proposed use falls within that permitted use.

Marty Toomajian, 15 Oxford Circle, said he cannot believe they are claiming this endeavor is "not for gain". A commercial business is being proposed. Tim Gilchrist, 186 Creek Road, stated that this proposal will alter the essential residential character of the neighborhood. He is also concerned about the effect of the business on the creek.

Mr. Engelke responded that the Master Plan encourages recreational uses like he is proposing. Nothing says the recreation can't be provided by a business. His proposal will provide recreation activities to kids who don't like organized sports. It will also keep the land agricultural. Some of his neighbors do not want this because they want the property to stay as it is. He does not want to "pay for their view". Tim Gilchrist responded that this land was purchased by the applicant with existing zoning in place. He is the one seeking a variance.

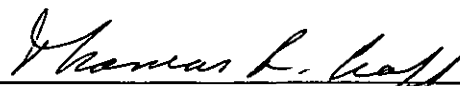
Mary Bryce, 449 Garfield Road, stated that the trees on Fitting Lane the applicant claims will mask the cars using the facility are just stumps. They don't need a recreational business there. The kids have been sledding there for years. Member Jabour observed that the proposal provides recreation, but it is a commercial business that generates income. Member Schmidt stated that he wants more of an explanation as to how the proposed business is "not for gain". Member Sullivan stated that the Board has to follow the law in considering use variance applications. Member Jabour stated that the applicant bought the land as agricultural. Applicant acknowledged that he knew it was zoned A-40 when he bought it. The matter was adjourned to the April 18, 2005, meeting for further proceedings.

The final item of business was a presentation by the developers of Brunswick Meadows, a proposed planned development district. John Mainello, Joe Zappone, Esq., and Thomas Murley appeared. They are proposing a 34 building condominium community on Route 142 about 300 feet from the Troy line. Each building will have 4 units. Each unit will have its own garage. Water and sewer will be extended to the site from Troy. The roads will be private. Garbage collection, snow plowing and lawn care will be provided by a homeowner's association. The community will have 57% green space. Units will sell for about \$150,000.00 and will appeal to young marrieds with no children or "empty nesters". The project will add substantial tax revenue to the Town and the school district, with little increase in services.

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.
April 4, 2005

Respectfully submitted,



THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING

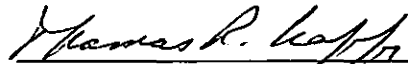
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of April, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of JENNIFER L. STROMAN, applicant, dated February 28, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a swimming pool and deck on a lot located at 7 Packer Avenue, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-9 District in that 20 feet is required but 10 feet is proposed, and also 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 JENNIFER L. STROMAN, 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
April 1, 2005

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



THOMAS R. CIOFFI
Town Attorney

NOTICE OF PUBLIC HEARING

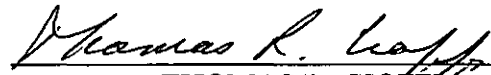
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of April, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of DAVID W. HEER o/b/o NANCY GAMBLE, applicant, dated February 28, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building on a lot located at 731 Hoosick Road, in the Town of Brunswick, for a real estate office, because the said use is not a permitted use in an R-15 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said DAVID W. HEER o/b/o NANCY GAMBLE, applicant, has petitioned for said use variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

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

Dated: Brunswick, New York
April 1, 2005

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


THOMAS R. CIOPPA
Town Attorney

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

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

RECEIVED
MAY 12 2005
TOWN CLERK

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on April 18, 2005, at 6:00 P.M.

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

Member Joseph Jabour 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 March, 2005, meeting. Member Trzcinski 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 appeal and petition of JENNIFER L. STROMAN, applicant, dated February 28, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a swimming pool and deck on a lot located at 7 Packer Avenue, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-9 District in that 20 feet is required but 10 feet is proposed, and also 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. Jennifer Stroman appeared. She stated that she had nothing to add to what is in the application.

Mare King, 9 Packer Avenue, stated that she has no objection to the variance. No one else from the public wished to speak. There were no questions from the Board. Member Trzcinski made a motion to classify the 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 JENNIFER L. STROMAN, applicant, dated February 28, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a swimming pool and deck on a lot located at 7 Packer Avenue, in the Town of Brunswick, because the proposed construction violates the rear yard setback in an R-9 District in that 20 feet is required but 10 feet is proposed, and also 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 Sullivan. 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>Absent</i>
<i>Member Trzcinski</i>	<i>Aye</i>
<i>Chairman Hannan</i>	<i>Aye</i>

The foregoing Resolution was thereupon duly adopted.

The next item of business was 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 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, appeared for the applicant. Also appearing for the applicant was Douglas Dimitroff, Esq., of Phillips, Lytle LLP.

Attorney Dimitroff stated that it was his understanding that the Board had previously ruled that this was a Major Facility application but that the setback requirements in the Town's telecommunications law do not apply because the proposed power mount installation does not constitute a telecommunications tower as defined in the Town's telecommunications law. He stated that he believes all questions have been addressed by the applicant and the only outstanding issue involves the access road improvements. He expressed concern that the Board would require the access road, which is currently a dirt path, to be paved.

Attorney Cioffi stated that to his knowledge no one on the Board mentioned paving the access road. What was discussed was compliance with the Town's private road or driveway specifications, and also a requirement that the road be gated. Deborah Burke stated that the road had to be improved to an extent to get the new equipment there, but after that it would be rarely used. The Chairman stated that he was concerned that if the road did not meet standards there might be a problem getting emergency vehicles to the facility if there is an injury or other emergency.

There was then a discussion regarding the applicable standards. Mr. Kreiger produced private road/driveway standards which appeared to apply to residential construction within the Town. Mr. Kreiger stated that he believed there were other standards that applied to commercial entities. It was agreed that Mr. Kreiger would locate the applicable standards and provide them to all concerned. Also, it was agreed that Attorney Dimitroff and Ms. Burke would contact Ronald Laberge, the Town's engineering consultant, to coordinate the review of the proposed access improvements in accordance with the applicable standards. The matter was put over to the May 16, 2005, meeting.

The Board noted that the appeal and petition of WILLIAM PATRICK o/b/o ERNEST PIRMAN, applicant, dated February 16, 2005, 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 located at 34 Oxford Circle (Tax Map. No. 101.16-3-22), in the Town of Brunswick, because the lot on which the building is proposed to be constructed does not meet the 40,000 square feet minimum lot size in an R-40 District in that the lot is approximately 30,000 square feet in area, had been withdrawn.

The Board noted that the appeal and petition of PATRICIA WOJTASZEK, owner-applicant, dated February 17, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of an existing garage on a parcel of land located at 366 Grange Road for a commercial yarn shop, had been adjourned to the May 16, 2005, meeting at the request of the applicant.

The Board noted that the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated November 28, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space had been adjourned to the May 16, 2005, meeting at the request of the applicant.

The Board noted that the appeal and petition of PAUL ENGELKE, owner-applicant, dated January 5, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of parcel of land located at 463 Garfield Road, in the Town of Brunswick, for a commercial recreational canoeing, kayaking and snow and water tubing facility, had been adjourned to the May 16, 2005, meeting at the request of the applicant.

The final item of business was the appeal and petition of DAVID W. HEER o/b/o NANCY GAMBLE, applicant, dated February 28, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building on a lot located at 731 Hoosick Road, in the Town of Brunswick, for a real estate office, because the said use

is not a permitted use in an R-15 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

David Heer, Jr., appeared. He wants to purchase the property from Nancy Gamble and convert it into a real estate office. He intends to have 2 full-time employees and 1 part-time receptionist. In addition, there would be 4 full-time sales people and 7 part-time. The receptionist would be there until 3:00 P.M. daily. There would usually be about 3 people in the office at any one time. The hours would be 9:00 A.M. to 5:00 P.M., Monday through Friday, and 10:00 A.M. to 2:00 P.M. on Saturday. There would not be a lot of modifications to the property. There would be some landscaping and cosmetic changes outside. The rear of the lot would be paved for parking. A privacy fence would be installed if needed. Mrs. Gamble does not live in the house at present. She currently owes \$134,000.00 on the property, and it has just been appraised for \$120,000.00. She can't sell it. It is a 5 bedroom home located directly across the street from Pollack's new building. No one wants to raise a large family there. He has contracted to purchase the house for \$155,000.00, assuming the use variance is approved.

At the Chairman's request, Attorney Cioffi read the statutory criteria for the granting of a use variance. Mr. Heer responded that Ms. Gamble purchased the property in 1998 for \$108,000.00. Generally, since then, properties in Brunswick have appreciated about 19%. The property should be worth \$130,731.00.

Nick Pascucci spoke on behalf of his mother, who resides at 729 Hoosick Road and also owns properties located at 733 and 727 Hoosick Road. They are against the variance. Their attorney wrote a letter to the Board explaining their concerns. His mother is in her eighties and has lived there over 40 years. She has had health problems but is very comfortable in the house. She would be willing to leave the area if all of the properties in the area, including hers, were made commercial as well. Attorney Cioffi explained that this Board had no power to change the zoning of any property. It can only grant variances to permit a specific use on a property upon which that use would not otherwise be allowed. Only the Town Board can change the actual zoning of property. The Chairman then read a letter from Robert Schrader, Esq., who represents Mrs. Pascucci.

Mary Ann Poletto, 735 Hoosick Road, stated that her property abuts the Gamble property to the rear. The proposed parking lot would abut her property. She is concerned about it.

William Vance, 9 Oakline Drive, Niskayuna, stated that he is Nancy Gamble's son-in-law. He believes that commercial uses will enhance the value of these properties, not detract from it. The proposed use here is very light commercial. If this variance is granted, Mrs. Pascucci will better be able to market her home. She can get a use variance as well. The Town's Master Plan states that Route 7 is a commercial area. Also, Mr. Heer has assured that he would retain the residential character of the structure.

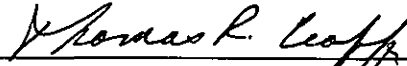
Member Trzcinski stated that this Board should refer the matter to the Town Board to consider re-zoning. Member Schmidt agreed, but added that he has not reviewed the submission to see if the use variance criteria have been met. Member Sullivan agreed. Attorney Cioffi recommended that the Board review the materials submitted and determine whether anything else is needed. Member Sullivan made a motion to continue the public hearing to the May 16, 2005,

meeting. Member Schmidt seconded. The motion carried 5 - 0.

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

Dated: Brunswick, N.Y.
May 12, 2005

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
JUN 21 2005
TOWN CLERK

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on May 16, 2005, at 6:00 P.M.

Present at the meeting were: Caroline Trzcinski, Member
James Sullivan, Member (arrived late)
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 April, 2005, meeting. Member Trzcinski made a motion to approve the Draft Minutes as submitted. Member Jabour seconded. The motion carried 4 - 0. Member Sullivan arrived after the vote was taken.

The next item of business was a presentation regarding the proposed Wal-Mart Super Center planned development district on Betts Road. Tom Farlow, of APD Engineering, appeared on behalf of Wal-Mart. He stated that he is the lead consulting engineer for the project. He briefly explained the project. He stated that the project is currently in the scoping stage of the SEQRA process. Two (2) access points are proposed, one directly off Route 7 and the other off Betts Road & Route 7. The parcel is 34 acres. Some existing buildings will be demolished. A gas station is proposed. There will be 1000+ parking spaces. The building will be 205,000 square feet. A drive-in pharmacy is proposed, as well as a tire/lube express, a seasonal garden center, and a designated seasonal outside display area. The project also includes proposed improvements for the adjacent Brunswick Little League. Mr. Farlow stated that there will be a pretty steep grade at the rear of the building and an underground system will be necessary to disperse the water run-off. They anticipate an increase in traffic due to the gas station.

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 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. Appearing for the applicant was Douglas Dimitroff, Esq., of Phillips, Lytle LLP.

Attorney Dimitroff stated that it was his understanding that the one remaining issue, that of the access road complying with town standards, had been resolved. He acknowledged receiving a copy of a letter from Ronald Laberge, P.E., the Town's consultant, dated May 16, 2005, which stated that the access road as shown on the latest plan was acceptable and presented no significant safety concerns. Mr. Laberge further indicated in the letter that there were no established Town standards for commercial driveways and that while the 18% slope of the road in one area exceeded the residential maximum slope standard of 15%, he felt that the road was acceptable as proposed. Reducing the slope, he explained in the letter, would require switchbacks, which would require disturbing significantly more land than currently proposed.

Mr. Cioffi mentioned that before the Board could act on the project, the applicant had to escrow funds sufficient to pay all of Mr. Laberge's outstanding bills. The Chairman if asked anyone from the public wished to comment further on the project. No one asked to speak. Member Jabour then made a motion to close the public hearing. Member Sullivan seconded. The motion carried 5 - 0. The Chairman indicated that the Board would issue a written decision.

The next item of business was the appeal and petition of PAUL ENGELKE, owner-applicant, dated January 5, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of a parcel of land located at 463 Garfield Road, in the Town of Brunswick, for a commercial recreational canoeing, kayaking and snow and water tubing facility. Paul Engster, Esq., appeared on behalf of the applicant. Mr. Engster stated that he had reviewed the use variance standards with Mr. Engelke, and they realize the standards cannot be met in this case. He stated they wished to withdraw the application. Tim Gilchrist, 186 Creek Road, stated that the applicant had placed an advertisement in The Advertiser, offering free raft rides if a person purchased a pumpkin to be delivered in the Fall. Attorney Cioffi stated that it was the Town's position that giving "free" canoe or raft rides when persons purchased pumpkins for later delivery was tantamount to simply charging for rides, which is a commercial activity not allowed in the A-40 District. However, unless the Town has proof that Mr. Engelke is actually doing this, as opposed to just advertising it, it cannot take enforcement action. Mr. Engster stated that he had informed his client of the Town's position. The application is deemed withdrawn.

The next item of business was the appeal and petition of PATRICIA WOJTASZEK, owner-applicant, dated February 17, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of an existing garage on a parcel of land located at 366 Grange Road for a commercial yarn shop. Paul Engster, Esq., appeared for the applicant. He stated that his client had a yarn shop in Lansingburgh for 18 years. However, her husband recently passed away, and she needs to stay close to home to care for a disabled child. She therefore wants to locate her yarn shop in her garage. Mr. Engster stated that he had reviewed the use variance criteria with his client, and they agree that they cannot meet the standards. They are therefore withdrawing the use variance application.

However, Mr. Engster added that he believes what his client proposes to do constitutes an allowable "home occupation" under the Zoning Ordinance. She lives on the premises. She is the only person who will work at the business. She has limited hours of operation. And, most importantly, his client teaches knitting as part of her business. In point of fact, his client states that over 50%, and possibly 60% - 70% of her work is teaching knitting, as opposed to just selling yarn. While she does sell specialty yarns, she caters mainly to a small group of customers who want quality yarn but also need her instruction and advice. His client teaches knitting two nights a week. At other times, she sells yarn, but she frequently gives advice and instruction to people who stop in to buy yarn.

Attorney Cioffi summarized the criteria for home occupations under the Zoning Ordinance. The main concern here is that the Board has never construed "home occupation" to include retail sales of merchandise. Also, the Ordinance states that only those occupations that are "customarily" carried on in the home can be considered home occupations.

The applicant stated that when people come in to buy yarn, they often stay for an hour or so and ask for help. She does not charge for that. Every Wednesday and Friday, she gives actual lessons.

Attorney Cioffi stated that it is all well and good for the applicant and her attorney to claim that the business is mainly teaching as opposed to retail sales, but the Board really requires proof. The applicant should be prepared to prove by documentary evidence or testimony from herself or others that her business is largely teaching and instruction. Mr. Engster said he would discuss the available proof with his client. The public hearing was continued to the June 20, 2005, meeting.

The next item of business was the appeal and petition of DAVID W. HEER o/b/o NANCY GAMBLE, applicant, dated February 28, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building on a lot located at 731 Hoosick Road, in the Town of Brunswick, for a real estate office, because the said use is not a permitted use in an R-15 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. David Heer, Jr., appeared.

Attorney Cioffi briefly addressed the use variance standards and how they apply to this application. He stated that the two main issues were whether Ms. Gamble could realize a reasonable return on her property by selling it as a private residence, and whether the property is unique.

Mr. Heer stated that the appraisal he submitted, performed by Doyle Appraisal Group, indicates that the property is worth \$120,000.00 as a private residence. If it was not located on busy Route 7, and across from commercial businesses, it would be worth \$131,000.00. This is based on appreciation rates provided to the Town Assessor by New York State. Mr. Heer stated that the property has not been marketed for sale as a residence. Mr. Heer stated that nothing sells on Route 7 except commercial properties. The Chairman expressed concern that they did not even try to sell the property as a residence. Mr. Heer explained that that was because they could not get enough to even cover the debt on the property. Mr. Heer stated that the property is unique in that it is a 5 bedroom house. The busy nature of Route 7, and the commercial nature of the area, will have greater affect on the value of a 5 bedroom house than those factors would on a 2 or 3 bedroom home.

William Bantz, 9 Oakline Court, Niskayuna, Mrs. Gamble's son-in-law, stated that granting the variance and allowing the commercial use makes logical sense. There are only a few residential properties left in the area. It is hard to sell residences on Route 7. Professional offices are now located on both sides of the property. Nick Pascucci, P.O. Box 381, Kinderhook, stated that his mother's properties, located adjacent to this one, will be adversely impacted if the commercial use is allowed. They would feel otherwise if his mother's properties could be changed to commercial as well.

Attorney Cioffi explained that the Board cannot grant "blanket" use variances. Each property must be considered separately, on its own application. The Chairman suggested that the Board go into private session to get legal advice from Attorney Cioffi. Member Jabour made a motion to do so. The Chairman seconded. The motion carried 5 - 0. After meeting with Attorney Cioffi, Member Jabour made a motion to return to regular session. Member Sullivan seconded. The motion carried 5 - 0.

The Board stated that an independent appraisal of the property should be obtained. Mr. Heer was advised that he would have to escrow funds with the Town to pay the cost. Mr. Krieger will inform him of the amount of the escrow.


Member Jabour made a motion to keep the public hearing open and continue the matter to the June 20, 2005, meeting. The Chairman seconded. The motion carried 5 - 0.

As to the pending application of William Zimmerman for a Use Variance pertaining to 4118 NYS Route 2, the Board noted that there was no appearance. The matter was put over to the June 20, 2005, meeting.

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

Dated: Brunswick, N.Y.
June 15, 2005

Respectfully submitted,


THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING

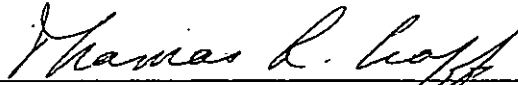
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the *20th day of June*, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of BRUCE DONOVAN, owner-applicant, dated May 2, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed reconstruction of a single family residence located at 3748 NY Route 2, in the Town of Brunswick, because the proposed reconstruction violates the rear yard setback in an R-15 District in that 35 feet is required but 30 feet is proposed, and also violates the front yard setback in an R-15 District in that 35 feet is required but 23 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said BRUCE DONOVAN, 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
June 1, 2005

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 June 20, 2005, 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 May, 2005, meeting. Member Trzcinski said that on the second page, third paragraph, second line of the Draft Minutes, the words "if asked" should read "asked if". Member Jabour made a motion to approve the Draft Minutes as corrected. Member Trzcinski seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of BRUCE DONOVAN, owner-applicant, dated May 2, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed reconstruction of a single family residence located at 3748 NY Route 2, in the Town of Brunswick, because the proposed reconstruction violates the rear yard setback in an R-15 District in that 35 feet is required but 30 feet is proposed, and also violates the front yard setback in an R-15 District in that 35 feet is required but 23 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud. Bruce Donovan appeared with Jane Donovan, his wife.

Mr. Donovan explained that he first intended just to renovate the house. The existing stone foundation needed to be repaired so he reinforced it with concrete. He claims that the footprint of the foundation has not changed. When he got into the repairs to the house, he encountered so much rotten wood that he just took everything down to the foundation. He had thought some of the house could be saved, but it was not repairable. Mr. Donovan stated that he purchased the property at a tax sale. It had not been occupied for 6 years. He intends to live in the house when it is finished. He believes the house will be no closer to the road than several others in the vicinity.

Mr. Kreiger stated that prior to September 30, 2003, when the building permit was issued, he told Mr. Donovan that he could repair the structure, but that he could not take it down and rebuild

it. He had no occasion to speak further with Mr. Donovan about it. On January 12, 2005, he received a complaint that the house was being taken down. When he went to investigate, Mr. Donovan was not there. So, he issued a stop work order and posted it on the house. Mr. Donovan continued to work on the house so he issued an appearance ticket and started a Justice Court proceeding against Mr. Donovan. At court, Mr. Donovan told him that he did not receive the stop work order. The Town Justice directed Mr. Donovan to the Zoning Board to see if he was eligible for a variance.

Bill Lindeman, 3756 NY Route 2, stated that he opposes the variance. He handed up to the Board and described numerous pictures which depict conditions on the site and which appear to show someone working on the house even after the court proceeding was started. He claims that no one lived on the property for 13 years. The vehicles parked on Mr. Donovan's property obscure his view of oncoming traffic on Route 7, making it unsafe for him to pull out onto the road. He is also concerned that Mr. Donovan's house will violate the side yard setback. Mr. Kreiger said he had not measured the side setback. Mr. Donovan denied doing any construction after he went to court.

Attorney Cioffi said that Mr. Kreiger should inspect the site and report his finding to the Board. Mr. Donovan agreed to permit Board Members and Mr. Kreiger to enter the property. He just asked that they be careful. Attorney Cioffi added that the Board may need to retain an engineer, at applicant's expense, to inspect the building and report to the Board.

Mr. Donovan claimed that his working on the house had not changed the site distance with regard to Mr. Lindeman's driveway. Mr. Lindeman said that there did not used to be cars parked there. Mr. Donovan said that once the house is finished he will be able to park his vehicles back from the road so they won't bother Mr. Lindeman.

There was some discussion of whether the house will require a new septic system. Attorney Cioffi advised Mr. Kreiger to consult with the County Health Department. Attorney Cioffi read aloud excerpts from the Zoning Ordinance pertaining to nonconforming uses.

Member Schmidt made a motion to continue the matter to the July 18, 2005, meeting. The Chairman seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of PATRICIA WOJTASZEK, owner-applicant, dated February 17, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of a portion of an existing garage on a parcel of land located at 366 Grange Road for a commercial yarn shop. Paul Engster, Esq., appeared for the applicant. He stated that his client understands that she cannot meet the criteria for a use variance but he believes what she wants to do constitutes a "home occupation" as defined in the Zoning Ordinance. Specifically, 70% of her business is teaching and giving lessons in knitting and crocheting, and helping people finish projects when they get stuck. She gives group lessons two evenings a week. Three afternoons a week she gives lessons. Other times, people stop by and ask for the help or advice. She has 15 steady students, some of whom are present.

Attorney Cioffi stated that the Board was looking for proof that the bulk of the applicant's business was teaching and given lessons, as opposed to simple retail sales. The Board would like

to see business records showing the breakdown in receipts between retail sales of yarn, etc., and lessons. Mr. Engster said he did not have such proof to submit this evening.

Attorney Cioffi showed the applicant a "flyer" which had apparently been sent out by the applicant which advises that she is moving her business to 366 Grange Road. The applicant explained that the people she sent it to knew it was contingent on her receiving an approval from this Board. She had to have a sale to try to deplete stock so she would not have to move it. The flyer only referred to yarn sale, not lessons.

Mr. Cioffi suggested that Mr. Engster have applicant's students testify. Carolyn Riegert, 115 Hoosick Road, testified that she attends applicant's knitting class once a week. There are usually 5 or 6 people there. She also buys yarn from the applicant, but she goes there primarily for lessons. The lesson lasts for 2 hours and she pays \$40 for a 4 week period, or \$5.00 and hour. If she has a problem, she gets a private lesson from applicant, which costs \$5.00.

Elida Dillon, 765 Seventh Avenue, Troy, NY, stated that she has been going to applicant for lessons once a week since 1997. The lessons are 2 hours and she pays \$40 for a 4 week period. She pays \$5.00 for a private lesson when she needs it. She purchases yarn there as well. Jackie Gibbons, 8 Dyke Road, Latham, NY, testified that she has been taking one knitting lesson a week for the past 5 years. The lesson is 2 hours long. She buys yarn from the applicant and elsewhere. She does not take private lessons from applicant.

Lisa Bowen, 2660 Fifth Avenue, stated that she has been taking private knitting lessons from applicant for about 7 years. She usually goes once a week, sometimes more. She pays \$8.00 per lesson. She also buys yarn from the applicant. She usually spends \$50 - \$64 a month on lessons. Geraldine Shanley, 1 Lemar Lane, Troy, testified that she has gone to applicant's yarn shop for 19 years. She does not take lessons but she does ask applicant for help. She does buy yarn there. Applicant does not charge her for giving advice. Pam Mulligan, 399 Seventh Avenue, Troy, testified that she has taken group knitting lessons from applicant for about 4 years. She goes at least once a week. She sometimes takes a private lesson as well. She pays \$10 a lesson. She buys yarn from the applicant and elsewhere as well. Peggy Tully, 472 Seventh Avenue, Troy, testified that she has taken knitting lessons from applicant once a week for about 8 years. She pays \$10 a lesson. She sometimes takes private lessons. She purchases yarn only from applicant. Catherine Conroy, Troy, NY, testified that she has known applicant all her life. She does not take lessons from her but she goes to her with knitting problems and to ask advice. Sometimes she pays applicant for her time. She buys most of her yarn from applicant.

Pat Wojtaszek, the applicant, stated that she lives at 366 Grange Road. She has been giving knitting lessons for about 18 years. Her yarn shop was located at 595 Second Avenue, Troy, NY. 65% to 75% of her business is giving lessons. She does not keep written records of when she gives private lessons. She does not have a lot of business records and what she has is not in the best order. She would not be in business if it were not for lessons. Her business hours are Tuesdays and Thursdays from 10:00 AM to 4:40 PM, Wednesdays from 1:00 PM to 8:00 PM, Fridays from 12:00 noon to 8:00 PM, and Saturdays from 10:00 AM to 2:00 PM. She is open about 30 hours a week. Half of her time is spent giving lessons. She hopes to use part of her garage for the business. She would put bins of yarn around and a large table for lessons. She gives group lessons in the evenings.

Some people do come in just to buy yarn. She did not mention lessons in the flyer she sent out announcing her move. She sent out 250 - 300 flyers. She has 15 people signed up for regular lessons. She believes she has room on the property to park 8 or 9 cars. Her gross sales in 2004 were \$11,300.00.

George Morrissey, Dusenberry Lane, stated that applicant's garage is set back 60 - 70 feet from the road. The garage is large enough to accommodate the business and it is heated. There is enough room for parking. A letter from Nancy Perkins was read into the record. She states that she has taken knitting lessons from applicant for 10 years. She pays \$5.00 an hour. Applicant also helps her obtain specialty yarns.

The Chairman stated that he wanted to go into private session to ask Attorney Cioffi some legal questions. He suggested, in the meantime, that applicant and her attorney see if they can compile some documentary evidence relating to the amount of the business income which is derived from lessons and teaching, and return later. The Chairman made the motion to go into private session. Member Jabour seconded. The motion carried 5 - 0. The Board Members asked Attorney Cioffi for legal advice, which he provided. No action was taken. The Chairman made a motion to return to regular session. Member Schmidt seconded. The motion carried 5 - 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. There was no appearance for applicant.

Attorney Cioffi stated that the Board Members had been provided, prior to the Meeting, with a draft Determination. Essentially, the draft Determination provides that a negative declaration under SEQRA be issued and grants the special use permit on certain conditions. Noting that no one other than the Board and staff were present, the Board dispensed with the reading of the draft Determination. Attorney Cioffi stated that the Board had before it a Resolution adopting the draft Determination. The Chairman offered the Resolution. Member Sullivan seconded. A roll call vote was taken and all Members voted in the affirmative. The Determination and the Resolution adopting the Determination are incorporated by reference into these Minutes.

The Board then proceeded to further consider the Patricia Wojtaszek matter. Applicant produced records showing that she paid sales tax of \$221.13 in June, 2005. She paid \$186.00 in March, 2005.

Member Jabour made a motion to close the public hearing. The Chairman seconded. The motion carried 5 - 0. The Chairman then made a motion to classify this matter a Type 2 action under

SEQRA. Member Schmidt seconded. The motion carried 5 - 0. Member Schmidt then offered the following Resolution:

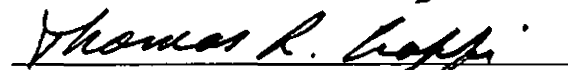
BE IT RESOLVED, that based upon the evidence and testimony submitted, it appears that the activity Patricia Wojtaszek wishes to undertake in the garage of her residence located at 366 Grange Road falls within the definition of "home occupation" as that term is defined in the Zoning Ordinance in that the Board is satisfied that the primary activity is teaching and lessons as opposed to retail sales. This finding is personal as to Mrs. Wojtaszek and shall not be deemed or construed to run with the land or to apply to any future different activity that Mrs. Wojtaszek or any future owner of the premises may wish to undertake. All stipulations in the Zoning Ordinance pertaining to home occupations shall apply and be complied with.

Member Sullivan seconded. The matter was put to a roll call vote with all Members voting in the affirmative.

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.
July 9, 2005

Respectfully submitted,


THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

June 20, 2005

RESOLUTION ADOPTING DETERMINATION

WHEREAS, 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, having been duly filed; and

WHEREAS, the matter have duly come on for public hearing, which has been conducted over several sessions; 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 Sullivan, 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 thereupon declared duly adopted.

Dated: June 20, 2005

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of

CINGULAR WIRELESS,

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 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..

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.

As this application progressed, the proposed construction was described as a "power mount". As opposed to a free-standing tower, the power mount consists of a steel monopole which is attached within or alongside an existing power transmission tower to which telecommunications antennas are affixed. While it extends beyond the transmission tower in height, it is not freestanding, and requires the existing power transmission tower for support. In this case, the power mount is proposed to be constructed within the existing tower.

This Board has previously ruled, by Determination dated and adopted on February 28, 2005, that the proposed facility is a "Major Facility" as that term is defined by the Town's Telecommunications Law. Essentially, the Board ruled that even though the "power mount" installation proposed in this application did not constitute a new Telecommunications Tower, the proposed facility was still a Major Facility because of the access improvements proposed. The Board further ruled that the setback requirements set forth in Section 1, Paragraphs 7 and 8 of Local Law No. 1 for the Year 1999 did not apply to the construction contemplated in this application because,

once again, the proposed power mount facility does not constitute a new Telecommunications Tower.

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, there was initially some opposition from persons residing nearby based upon perceived visual impacts and supposed effects on property values. As the Board's review of the project continued over several sessions, where the visual impacts were considered, the neighbors who initially expressed concern did not continue to attend or participate, even though the public hearing was kept open.

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 applicant has submitted ample proof, both documentary and statements from its RF Engineer, which establishes that the applicant has significant coverage deficiencies in the vicinity of this installation, and that permitting this facility to be constructed will greatly increase its coverage in the 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 proposed power mount and antennas from various locations and distances. Unquestionably, the power mount and antennas will be visible. However, it must be noted that the power mount, and the antennas located thereon, are being constructed within and affixed to a large, existing, lattice-type Niagara Mohawk power transmission tower. The power mount will extend only twenty (20) above the existing eighty (80) foot high power transmission tower. Based upon the photo simulations provided, it is the Board's view that the addition of the twenty (20) foot high monopole and the affixed antennas, will not add in any significant way to the existing negative visual impacts of the existing, large, ungainly power

transmission tower. These large, visually-offensive, power transmission towers are, unfortunately, a fact of life, and it must be considered that adding to the power transmission tower in an insignificant way is vastly superior, from a visual standpoint, to building a new, free-standing, Telecommunications Tower. We note that the applicant has offered to reduce the location of its antennas to a centerline height of ninety (90) feet, rather than one hundred (100) feet, even though it would degrade its coverage to some extent. The downside of so doing would mean that only one carrier could locate on the power mount, which would then only extend to ninety (90) feet. The Board finds that the value of having the capability of accommodating a second carrier, thereby likely obviating the need for yet another new Telecommunications Tower, clearly outweighs the minor reduction in visual impact which would be gained by reducing the height of the extension to ten (10) feet from twenty (20) feet.

Based upon a careful review of the EAF, and the record before us, and considering all of the above, the Board concludes 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 in the Pinewoods Avenue area in Brunswick, which is currently very weak, with significant gaps. 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, and elsewhere, 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 proposed antennas will be affixed to a monopole power mount tower structure which will be located within and extend above an existing eighty (80) foot high Niagara Mohawk power transmission tower. It is hard to believe that adding the monopole extension and antennas to the large, ungainly, power transmission tower will have any effects on the neighborhood character or property values in the immediate vicinity, which have not already been occasioned by the existing tower. And, while the tower will be visible from various locations, given the pre-existing visual impacts of the existing tower, the Board finds the addition of the non-significant visual impacts of this proposed facility 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.

There is, however, one issue that merits further mention. The applicant is proposing significant improvement to the existing gravel access "road" which serves the power transmission tower. The applicant is proposing to significantly widen and improve the road, although it will remain a gravel road. The road will not be open to the public, nor is the proposed new telecommunications facility or the existing Niagara Mohawk facility manned, so there will be no significant traffic on the access road. It also appears that there are no Town commercial driveway standards, only residential standards. The applicant's latest version of the facility site plan depicts a slope of 18 % at the central portion of the proposed driveway, which is in excess of the residential

maximum standard of 15%. The Board's engineer recommended that the proposed slope be permitted because reduction does not appear to be warranted in light of the proposed limited use of the driveway. He noted that the proposed slope would not deter emergency vehicles from accessing the facility and that the only way to reduce the grade would be to create switchbacks along the slope leading up to the facility, resulting in the disturbing of a much larger area than currently proposed. Of course, this Board notes that the precise site details, including details pertaining to the road, are the province of the Planning Board in the context of its site plan review. Because of the lack of clearly applicable standards, and the above-mentioned recommendations of the engineering consultant, this Board does not find the slope of the road to be an impediment to the granting of the special use permit.

And, speaking of the road, the Board is cognizant of the expressed concerns of some of the neighbors regarding the use of the existing access road by kids joy-riding on ATV's and the like. Both the applicant and Niagara Mohawk have agreed that the access driveway be gated, and the Board deems it appropriate to make that a condition of the permit.

Based upon all of the foregoing, the requested special use permit to construct and operate a major personal wireless telecommunications service facility consisting of a 100 foot steel monopole power mount structure 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, all as depicted in the plans and drawings submitted to this Board, is granted upon the following conditions:

1. All site requirements, including but not limited to those pertaining to the access road/drive, set forth in the Town's telecommunications law, or elsewhere, to the extent deemed applicable by the Planning Board in its site plan review, shall be fully complied with.

2. That the access drive/road to the facility be gated to deter unauthorized persons from using the same.

3. 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.

4. That all outstanding sums due and owing for the fees and expenses of the Board's engineering consultant pursuant to Town of Brunswick Local Law No. 2 For the Year 2002 shall be paid in full by the applicant prior to the issuance of a building permit.

Dated: Brunswick, New York
June 20, 2005

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

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

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

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

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

THIS AREA FOR LEAD AGENCY USE ONLY

DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project:

Part 1

Part 2

Part 3

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

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

*A Conditioned Negative Declaration is only valid for Unlisted Actions

Power Mount and Cellular Antennas on Niagara Mohawk Tower

Name of Action

Zoning Board of Appeals

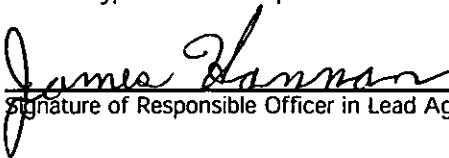
Name of Lead Agency

James Hannan

Chairman

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer



Signature of Preparer (If different from responsible officer)

6/20/05

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 affect 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 the 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: Eagle Ridge Telecommunications Facility		
Location of Action (include Street Address, Municipality and County): Pinewoods Avenue, Town of Brunswick, Rensselaer County, New York		
Name of Applicant/Sponsor: Cingular Wireless		Business Telephone: (518) 577-4330
Address: 5841 Bridge Street		
City/PO: East Syracuse	State: New York	Zip Code: 13057
Name of Owner (if different): Niagara Mohawk Corporation		Business Telephone: (315) 428-6688
Address: 300 Erie Blvd West		
City/PO: Syracuse	State: New York	Zip Code: 13202
Description of Action: The project generally includes the installation of a 100-steel monopole pole attached to an existing 80 foot tall utility structure and the attachment of 6 cellular antennas initially (3 future), to the top of the proposed tower. Also included is the installation of an equipment shelter which will be located inside of a 21'-5" x 33'-0" compound, enclosed by an 8 foot high chain-link fence. In addition, a gravel access road, approximately 750 ft. in length will be constructed which will follow the route of the existing access trail to the tower.		

Please Complete Each Question--Indicate NA if not applicable.

A. SITE DESCRIPTION

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

- Present land use: Urban Industrial Commercial Residential(suburban) Rural(non-farm)
 Forest Agriculture Other Utility Transmission Structure
- Total acreage of project area: 0.23 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>0.23</u> acres	<u>0.0</u> acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland(Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) <u>Gravel and stone</u>	<u>0.0</u> acres	<u>0.23</u> acres
- What is predominant soil type(s) on project site? Unknown. Pending results of soil boring and sampling.
 - Soil drainage: Well-drained _____ % of site Moderately well drained _____ % of site
 Poorly drained _____ % of site
 - 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).
- Are there bedrock outcroppings on project site? Yes No
 - What is depth to bedrock? >unknown (in feet)
- Approximate percentage of proposed project site with slopes: 0-10% 10 % 10-15% 90 % 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 (Awaiting confirmation from the New York State Office of Parks, Recreation & Historic Preservation)
- 7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? Yes No (Awaiting confirmation from the New York State Office of Parks, Recreation & Historic Preservation)
- 8. What is the depth of the water table? unknown (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 are identified as threatened or endangered?
 Yes No Awaiting confirmation from the New York Natural Heritage Program and US Fish & Wildlife.

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 NA
- 16. Lakes, ponds, wetland areas within or contiguous to project area:
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
- 18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?
 Yes No
- 19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? Yes No
- 20. Has the site ever been used for the disposal of solid or hazardous wastes? Yes No

B. PROJECT DESCRIPTION

- 1. Physical dimensions and scale of project (fill in dimensions as appropriate)
 - a. Total contiguous acreage owned or controlled by project sponsor NA acres.
 - b. Project acreage to be developed: 0.23 acres initially; 0.23 acres ultimately.
 - c. Project acreage to remain undeveloped 0 acres.
 - d. Length of project, in miles: NA (if appropriate).
 - e. If the project is an expansion, indicate percent of expansion proposed NA %.
 - f. Number of off-street parking spaces existing NA; proposed NA.
 - g. Maximum vehicular trips generated per hour average of once per month (upon completion of project).
 - h. If residential, Number and type of housing units:

	One Family	Two Family	Multiple Family	Condominium
Initially	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
Ultimately	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>
 - i. Dimensions (In feet) of largest proposed structure (Cell Tower) 100 feet height; (Compound) 21'-5" width; 33 length.
 - j. Linear feet of frontage along a public thoroughfare project will occupy is? NA 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 NA
 - a. If yes, for what intended purpose is the site being reclaimed? Prevent Soil Erosion and Sedimentation
 - 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? 0.23 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: NOT APPLICABLE
- a. Total number of phases anticipated _____ (number).
- b. Anticipated date of commencement phase _____ 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? 5; 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) _____
22. If water supply is from wells, indicate pumping capacity NA gallons/minute.
23. Total anticipated water usage per day NA gallons/day.
24. Does project involve Local, State or Federal funding? Yes No If yes, explain _____

25. Approvals Required:

	<input type="checkbox"/> Yes <input type="checkbox"/> No	Type	Submittal Date
City, Town, Village Board	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____	_____
City, Town, Village Planning Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Special Use Permit	July 2004
City, Town Zoning Board	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Special Use Permit	July, 2004
Other Local Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	_____	_____
Other Regional Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	_____	_____
State Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	_____	_____
Federal Agencies	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	_____	_____

C. ZONING and PLANNING INFORMATION

1. Does proposed action involve a planning or zoning decision? Yes No
If yes, indicate decision required:
 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? A-40
3. What is the maximum potential development of the site if developed as permitted by the present zoning?
N/A
4. What is the proposed zoning of the site? N/A
5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?
N/A
6. Is the proposed action consistent with the recommended uses in adopted local land use plans? Yes No
7. What are the predominant land use(s) and zoning classifications within a 1/4 mile radius of proposed action?
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? NA
 - 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 projected demand? Yes No
12. Will the proposed action result in the generation of traffic significantly above present levels? Yes No
 - a. If yes, is the existing road network adequate to handle the additional traffic? Yes No

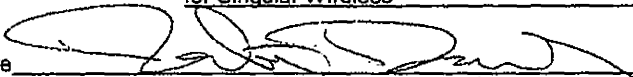
D. INFORMATIONAL DETAILS

Attach any additional information as may be needed to clarify your project. If there are, or may be, any adverse impacts associated with your proposal, please discuss such impacts and the measures that 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 Robert N. Duclos, P.E., C&S Engineers, Inc. Date July 18, 2004
for Cingular Wireless

Signature  Title Managing Engineer

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

Instructions (Read carefully)

- Answer each of the 19 questions in PART 2. Answer Yes if there will be any impact.
- Maybe answers should be considered as Yes answers.
- If answering Yes to a question then check the appropriate box (column 1 or 2) to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the Yes box in column 3. A No response indicates that such a reduction is not possible. This must be explained in Part 3.

IMPACT ON LAND

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

Examples that would apply to column 2

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

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

• Specific land forms: _____

1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated By Project Change	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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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 and/or sewer services.
- Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.
- Other impacts: _____

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

IMPACT ON AESTHETIC RESOURCES

11. Will proposed action affect aesthetic resources? NO YES
(If necessary, use the Visual EAF Addendum in Section 617.21, Appendix B.)

Examples that would apply to column 2

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

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

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

Examples that would apply to column 2

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

IMPACT ON OPEN SPACE AND RECREATION

13. Will Proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities? NO YES

Examples that would apply to column 2

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

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

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

Examples that would apply to column 2

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

IMPACT ON ENERGY

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

Examples that would apply to column 2

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

NOISE AND ODOR IMPACTS

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

Examples that would apply to column 2

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

IMPACT ON PUBLIC HEALTH

17 Will Proposed Action affect public health and safety?
 NO YES

Examples that would apply to column 2

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

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

IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

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

Examples that would apply to column 2

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

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

19. 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)

Appendix B State Environmental Quality Review Visual EAF Addendum

This form may be used to provide additional information relating to Questions 11 of Part 2 of the Full EAF.

(To be completed by Lead Agency)

Visibility	Distance Between Project and Resource (in Miles)				
	0-¼	¼-½	½-3	3-5	5+
1. Would the project be visible from:					
• A parcel of land which is dedicated to and available to the public for the use, enjoyment and appreciation of natural or man-made scenic qualities? *	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• An overlook or parcel of land dedicated to public observation, enjoyment and appreciation of natural or man-made scenic qualities? *	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• A site or structure listed on the National or State Registers of Historic Places?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• State Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• The State Forest Preserve?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• National Wildlife Refuges and state game refuges?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Rivers designated as National or State Wild, Scenic or Recreational?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Any transportation corridor of high exposure, such as part of the Interstate System, or Amtrak?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• A governmentally established or designated interstate or inter-county foot trail, or one formally proposed for establishment or designation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• A site, area, lake, reservoir or highway designated as scenic?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Municipal park, or designated open space?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• County road?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• State?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Local road?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the visibility of the project seasonal? (i.e., screened by summer foliage, but visible during other seasons)					
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
3. Are any of the resources checked in question 1 used by the public during the time of year during which the project will be visible?					
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					

DESCRIPTION OF EXISTING VISUAL ENVIRONMENT

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

	Within	
	*1/2 mile	*1 mile
Essentially undeveloped	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Forested	<input type="checkbox"/>	<input type="checkbox"/>
Agricultural	<input type="checkbox"/>	<input type="checkbox"/>
Suburban residential	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Industrial	<input type="checkbox"/>	<input type="checkbox"/>
Commercial	<input type="checkbox"/>	<input type="checkbox"/>
Urban	<input type="checkbox"/>	<input type="checkbox"/>
River, Lake, Pond	<input type="checkbox"/>	<input type="checkbox"/>
Cliffs, Overlooks	<input type="checkbox"/>	<input type="checkbox"/>
Designated Open Space	<input type="checkbox"/>	<input type="checkbox"/>
Flat	<input type="checkbox"/>	<input type="checkbox"/>
Hilly	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Mountainous	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

NOTE: add attachments as needed

5. Are there visually similar projects within:

- *1/2 mile Yes No
- *1 miles Yes No
- *2 miles Yes No
- *3 miles Yes No

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

EXPOSURE

6. The annual number of viewers likely to observe the proposed project is The annual number of viewers

NOTE: When user data is unavailable or unknown, use best estimate. cannot be estimated

CONTEXT

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

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

**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 Cingular Wireless., to construct a power mount monopole and antennas and install related equipment within and upon an existing Niagara Mohawk power transmission tower located on Rensselaer County Tax Map Parcel 113.00-6-1, owned by Niagara Mohawk Power Corporation, near Pinewoods Avenue, in the Town of Brunswick. Such action will not have a significant adverse impact upon the environment and a negative declaration pursuant to SEQRA may be issued. Reasons supporting this determination are fully explained below.

Project Name: Construction of Power Mount and Cellular Panel Antennas on Existing Niagara Mohawk Power Transmission Tower

SEQR Status: Type I _____ Unlisted: XX

Project Description: The Project consists of the installation of a power mount and telecommunication antennas within and upon an existing Niagara Mohawk Power Transmission Tower and the installation of related equipment at the base thereof. The project also includes improvements to existing access to the site.

Location: Rensselaer County Tax Map Parcel 113.00-6-1, owned by Niagara Mohawk Power Corporation, near Pinewoods Avenue, in the Town of Brunswick. ("the Project Site").

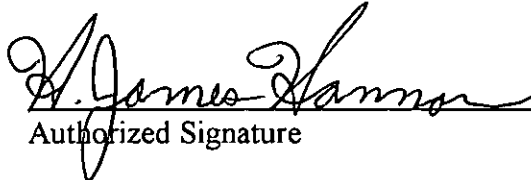
Reasons Supporting This Determination:

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 public utility purposes, specifically, a large, 80 foot high, power transmission tower, 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

NOTICE OF PUBLIC HEARING

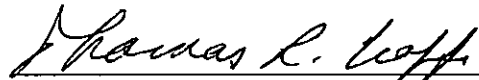
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of July, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of JOHN PLAYOTES, owner-applicant, dated June 6, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a two-car detached garage with future apartment on a lot located at 16 South Lake Drive in the Town of Brunswick, because the proposed construction violates the maximum allowable height in an R-15 District of 12 feet in that a height of 26 feet to the peak is proposed.

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

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

Dated: Brunswick, New York
July 1, 2005

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 18th day of July, 2005, 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 TRACY LAJUENESSE, owners-applicants, dated October 18, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a garage and storage building on a lot located at 897 Hoosick Road in the Town of Brunswick, because the proposed construction violates the maximum allowable height in an R-15 District of 12 feet in that a height of 24 feet to the peak is proposed, and also violates the maximum percentage of lot occupancy allowed for a garage of 4% in that 10% is proposed.

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

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

Dated: Brunswick, New York
July 1, 2005

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


THOMAS R. GIOFFI
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 18th day of July, 2005, 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 GLEN MACNAUGHTON, owner-applicant, dated May 31, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a detached garage on a lot located at 1 Fane Court in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 60 feet is required but 18 feet is proposed and also violates the rear yard setback in an R-15 District in that 20 feet is required but 18 feet is proposed.

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

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

Dated: Brunswick, New York
July 1, 2005

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


THOMAS R. CIOFFI
Town Attorney

RECEIVED
JUL 20 2005
TOWN CLERK

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

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

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on July 18, 2005, at 6:00 P.M.

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

Member Jabour 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 June, 2005, meeting. Member Sullivan said that on the second page, first full paragraph, fifth line of the Draft Minutes, the words "Route 7" should read "Route 2". Member Sullivan made a motion to approve the Draft Minutes as corrected. Member Schmidt seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of JOHN PLAYOTES, owner-applicant, dated June 6, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a two-car detached garage with future apartment on a lot located at 16 South Lake Drive in the Town of Brunswick, because the proposed construction violates the maximum allowable height in an R-15 District of 12 feet in that a height of 26 feet to the peak is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

John Playotes appeared with his wife. He stated that their neighbor, Fred Fowler, has no objection to this. He has nothing in writing from Mr. Fowler. There was then discussion about the need for the building height. Mr. Playotes said they wanted to have an apartment above the garage for when people visit. Attorney Cioffi stated that the instant application is only for the height variance. An apartment over the garage would require a special use permit. Mr. Playotes said that if they could not have an apartment over the garage they did not need the height variance. It was agreed that Mr. Playotes would file a special permit application and both matters would be heard together.

The next item of business was the appeal and petition of GLEN MACNAUGHTON, owner-applicant, dated May 31, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a detached garage on a lot located at 1 Fane Court in the Town of Brunswick, because the proposed construction violates the side yard setback

in an R-15 District in that 60 feet is required but 18 feet is proposed and also violates the rear yard setback in an R-15 District in that 20 feet is required but 18 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

The applicant stated that once the garage is built, the existing shed will come down. The pool will stay, but the deck off the house would come down. The garage will be 12 feet high. He does not think he will have to take down any trees. It was noted that this is a corner lot. No one wished to speak for or against.

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

BE IT RESOLVED, that with regard to the appeal and petition of GLEN MACNAUGHTON, owner-applicant, dated May 31, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a detached garage on a lot located at 1 Fane Court in the Town of Brunswick, because the proposed construction violates the side yard setback in an R-15 District in that 60 feet is required but 18 feet is proposed and also violates the rear yard setback in an R-15 District in that 20 feet is required but 18 feet is proposed, the Zoning Board of Appeals:

1. Finds and determines as follows:

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

2. Grants the variances as requested.

Member Schmidt. 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 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 THOMAS and TRACY

LAJUENESSE, owners-applicants, dated October 18, 2004, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a garage and storage building on a lot located at 897 Hoosick Road in the Town of Brunswick, because the proposed construction violates the maximum allowable height in an R-15 District of 12 feet in that a height of 24 feet to the peak is proposed, and also violates the maximum percentage of lot occupancy allowed for a garage of 4% in that 10% is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Thomas and Tracy Lajeunesse appeared. Mr. Lajeunesse stated that they need a large garage for storage and to house the vehicles they use in their carpet cleaning business. They need a second floor for storage. Two vans have to be inside as well as a lot of other things they own. They have a carpet cleaning business. They do the carpet cleaning at customers' homes. They just store the business vans there. They also do all accounting and record keeping from the house. They have no plans to add an apartment to the garage. People may occasionally bring a carpet to their home. But they don't clean it there. The proposed garage will be 28' x 40', with 2 floors. In addition to the vans, they need to store 5 dirt bikes, 5 street bikes and some lawnmowers. They also have chemicals for the business which cannot be left outside in the cold. The garage is more for personal use than for business. Their current garage can barely house one van.

William Joyce, 13 Wyman Lane, said he has no problem with it. He sees no impact. Tracy Lajeunesse said that she has spoken to Dan Smith, 899 Hoosick Road, and he had no problems with it. The Chairman said his concern is that this is a major expansion for a business purpose, and this property is not zoned for a business. Member Trzcinski made a motion to continue the public hearing to the August 15, 2005, meeting. The Chairman seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of DAVID W. HEER o/b/o NANCY GAMBLE, applicant, dated February 28, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building on a lot located at 731 Hoosick Road, in the Town of Brunswick, for a real estate office, because the said use is not a permitted use in an R-15 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. David and Dean Heer were present.

Attorney Cioffi stated that the appraisal had just arrived earlier that day. He asked whether the Board wished the appraiser to come to the next meeting to answer any questions. David Heer stated that the appraisal confirmed his position as to the value of the property. The Board's appraiser came in several thousand dollars lower than the appraisal he submitted. Mr. Heer also stated that the appraisal confirmed that this property is unique in that it is a 5 bedroom home, and therefore less salable in this location. He sees no reason why the Board need inquire any further.

The Chairman stated that this was an important matter and the Board just received the appraisal. He also feels that the appraiser should come in to answer questions. The Board decided to put the matter over to the August 15, 2005, meeting.

The next item of business was the appeal and petition of BRUCE DONOVAN, owner-applicant, dated May 2, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed reconstruction of a single family residence located at

3748 NY Route 2, in the Town of Brunswick, because the proposed reconstruction violates the rear yard setback in an R-15 District in that 35 feet is required but 30 feet is proposed, and also violates the front yard setback in an R-15 District in that 35 feet is required but 23 feet is proposed.

Member Schmidt said he had been to the location. Mr. Donovan did a good job on the foundation. He appears to have stayed on the original footprint of the foundation, but the part of the house he rebuilt overhangs the foundation. Mr. Donovan said he wanted to make the house a little bigger. Member Schmidt said he is still concerned that he tore the house down when Mr. Kreiger told him not to.

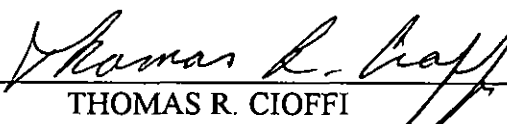
Mr. Lindeman, who used to live next door, stated that he moved to Sand Lake. He is still opposed to the variance. He has the same concerns about visibility with cars parked in the front. He still visits the area. The Chairman said that he is also concerned that Mr. Donovan was told to stop rebuilding but didn't. Also, he is concerned that he is trying to make the house bigger.

The Board put the matter over to the August 15 meeting, for a further report from Mr. Kreiger on the septic system issues and other setbacks in the vicinity.

There being no further business, Member Sullivan made a motion to adjourn. Member Schmidt seconded. The motion carried 4 - 0.

Dated: Brunswick, N.Y.
July 25, 2005

Respectfully submitted,



THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

RECEIVED
JUL 25 2005
TOWN CLERK

NOTICE OF PUBLIC HEARING

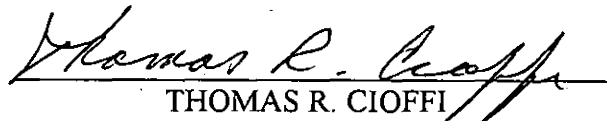
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 15th day of August, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of RICHARD and MARGARET HYDE, owners-applicants, dated July 7, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a two-car detached garage on a lot located at 492 Plank Road in the Town of Brunswick, because the proposed construction violates the side yard setback in an A-40 District in that 25 feet is required and 7 feet is proposed.

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

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

Dated: Brunswick, New York
July 25, 2005

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 15, 2005, at 6:00 P.M.

Present at the meeting were: Joseph Jabour, Member
James Sullivan, Member
E. John Schmidt, Member (arrived late)
James Hannan, Chairman

Member Trzcinski 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 July 18, 2005, meeting. Member Jabour made a motion to approve the Draft Minutes as presented. Member Sullivan seconded. The motion carried 3 - 0.

The next item of business was a presentation regarding the proposed Highland Creek Planned Development District which is currently pending before the Town Board. Project engineer Lee Rosen appeared as did Bob Marini of Marini Builders. A positive declaration under SEQRA has been issued by the Town Board. A DEIS is now being prepared. The project is proposed to be located on a 200 acre parcel located off McChesney Avenue Extension. The entrance will be south of Bonesteel Lane. There will be little visibility of the construction from McChesney Avenue Extension. The project is proposed to be comprised of a variety of types of single family homes, situated around open space such as gazebos, tennis courts, etc. There will be a Homeowner's Association. There are proposed to be three types of homes. Carriage homes, meant for empty nesters, will be located on smaller lots. Lawns and snow removal will be attended to by the Homeowner's Association for these homes. Traditional single family homes, of 2000 - 3000 square feet will also be offered on lots of approximately 90' x 170'. Finally, Manor homes, of 3000 - 3800 square feet, will be offered on lots of about ½ acre. All of the homes will have public water and sewer. The proposed roads in the subdivision will be 24' wide, with 2' gutters on each side.

The next item of business was the appeal and petition of RICHARD and MARGARET HYDE, owners-applicants, dated July 7, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a two-car detached garage on a lot located at 492 Plank Road in the Town of Brunswick, because the proposed construction violates the side yard setback in an A-40 District in that 25 feet is required and 7 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Richard and Margaret Hyde appeared. Mr. Hyde submitted pictures showing where they want to build the garage. He also submitted a written statement from Scott Miller, who lives on Wager Lane, and owns the land on all three sides of their parcel, stating that he had no objection to the proposal. No one from the public wished to comment. The Board discussed the pictures and the proposal in detail. Member Sullivan commented that 7 feet from the line is very close. The Chairman agreed. Mrs. Hyde said they have no other options. The septic tank and leech field are on the other side. Member Sullivan suggested they build farther to the rear. Mrs. Hyde stated that the area is heavily wooded and there is a small stream back there. Member Jabour suggested that they build the new garage adjacent to the existing attached garage. They could use the existing driveway. Member Sullivan said that another alternative might be to try to buy some land from Mr. Miller.

Attorney Cioffi explained that the Board Members felt that the proposed building was too close to the property line. He read the area variance criteria aloud. The Board suggested that Mr. & Mrs. Hyde reconsider their options. Member Sullivan made a motion to continue the public hearing to the September 19, 2005, meeting. Member Jabour seconded. The motion carried 3 - 0.

The next item of business was further consideration of the appeal and petition of DAVID W. HEER o/b/o NANCY GAMBLE, applicant, dated February 28, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building on a lot located at 731 Hoosick Road, in the Town of Brunswick, for a real estate office, because the said use is not a permitted use in an R-15 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. David and Dean Heer were present.

Jackie Conti, of Conti Appraisal, the Board's consultant, appeared. She referred the Board to the appraisal she had prepared and submitted. She noted that in 1998, Ms. Gamble paid \$109,900.00 for this property. The current market value as reflected in her appraisal is \$115,000.00. According to her research, from 2000 to 2005, the average rate of appreciation for single family homes in Brunswick was 40.2%. If this property had appreciated at that rate, it would be worth about \$155,000.00. This property is not appreciating as fast as other single family homes in the town. The 40.2 % figure is a statistical average. It only includes sales through the MLS. Some properties naturally appreciate more than others, depending on factors like location, age, number of bedrooms, etc. Location is the biggest factor. From 1/05 - 6/05, 47 single family homes were sold in Brunswick. The average price was \$177,342.00. For 2004, there were 118 sales, with an average price of \$181,155.00. Member Schmidt arrived at the meeting.

Ms. Conti reviewed her appraisal with the Board and described how it was prepared. She concluded that 2 or 3 bedroom homes would be easier to sell at this location. People with large families, who would find a 5 bedroom home desirable, would tend to shy away from this location due to the heavy commercial traffic and noise on Hoosick Road. Ms. Conti stated that permitting a commercial use on this property would probably not adversely affect the value of the adjacent residences. She note people might actually be more interested in these other properties because of the possibility that they will all eventually become commercial.

In response to questions from Attorney Cioffi, Nancy Gamble stated as follows: Since November 2004, she has lived in Watervliet with her mother. From 1998 until then, she lived at 930

Hoosick Road. She purchased the property in April 1998 with her husband, Ira. She was somewhat familiar with the neighborhood when she purchased the house. Wal-Mart was there, as was the Price Chopper and some of the other stores in the Pollock shopping center. She bought the property to live in as a single family home. She was not concerned about the commercial nature of the area. Since buying the house, she has put in some \$15,000.00 in improvements, including, plumbing, sump pumps, and a hot water tank. When the State widened Route 7, they took a tree for which she received \$1100.00. None of her land was permanently taken. In 2003, she approached a realtor about selling the property as a residence. Since she owes \$135,000.00 on the property, and it is worth considerably less than that as a residence, she never listed the property. When she purchased the property, she felt she got good value for the property. Most recently, there is a Blockbuster Video right across the street. Cars are going in and out all hours of the night. She purchased the 5 bedroom house thinking of her grandchildren. None of her own children lived with her when she bought the house. It was also close to where she worked.

William Bantz, Mrs. Gamble's son-in-law, noted that as she first tried to sell the property, commercial establishments kept popping up in the area. He also noted that other houses located within 1/10 of a mile of this property have obtained use variances.

No one from the public wished to comment further. The applicant had nothing further to submit. Member Jabour made a motion to close the public hearing. Member Sullivan seconded. The motion carried 4 - 0. The Board will issue a written decision.

The next item of business was further consideration of the appeal and petition of BRUCE DONOVAN, owner-applicant, dated May 2, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed reconstruction of a single family residence located at 3748 NY Route 2, in the Town of Brunswick, because the proposed reconstruction violates the rear yard setback in an R-15 District in that 35 feet is required but 30 feet is proposed, and also violates the front yard setback in an R-15 District in that 35 feet is required but 23 feet is proposed. The Chairman stated that he had to leave for another meeting. Member Schmidt made a motion to appoint Member Jabour temporary chairman. Member Sullivan seconded. The motion carried 3 - 0. Mr. Donovan submitted a list of other houses and structures in the vicinity which are as close or closer to Route 2 than his is. He included pictures of these structures showing their proximity to the road, as well as a map plotting the locations.

William Lindeman, who formerly lived in an adjacent house, stated that he still opposes the application. The other structures do not block the view of traffic as this one does when cars park in the front. When the property was occupied while he lived nearby, no cars were parked in the front. It was mostly vacant, though. Mr. Lindeman also complained that he had inquired several times about rebuilding this structure. He wanted to buy it and rebuild it. He was always told that it could not be taken down and rebuilt. Now, Mr. Donovan has done so.

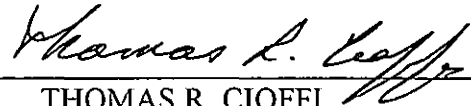
The Board noted it is still waiting to hear from the Health Department regarding the septic system. Member Schmidt made a motion to continue the public hearing to September 19, 2005. Member Sullivan seconded. The motion carried 3 - 0.

There being no further business, Member Schmidt made a motion to adjourn. Member

Sullivan seconded. The motion carried 3 - 0.

Dated: Brunswick, N.Y.
August 30, 2005

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 September, 2005, 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 VAN and CHRISTINE FRANHOFER, owners-applicants, dated September 2, 2005, 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 property known as Lots 197, 198, 199, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, 215, 216, and 217 on a map or plan of Sycaway Heights, dated August, 1912, made by Ernest W. Branch, Civil Engineer, and filed in the Office of the Clerk of Rensselaer County, Drawer 16, Map 24, because the said property does not have direct access on an improved public street as required by Section 280-a of the Town Law, and the applicants propose that access to from the said property be on the improved part of Cortland Steet by way of an easement over a portion of Cortland Street shown on the said map which was dedicated to the Town of Brunswick for highway purposes but never opened or used as a public street.

FURTHER NOTICE IS HEREBY GIVEN that said VAN and CHRISTINE FRANHOFER, owners-applicants, have petitioned for said area variance, 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
September 1, 2005

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 September, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated August 9, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) small panel antennas to be affixed to an existing 90 foot self-support lattice tower located at 227 Bald Mountain Road, in the Town of Brunswick, at a centerline height of 72 feet, and a 9' x 12' pre-concrete pad within the existing fenced area to house call processing cabinets, 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 INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, 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
September 1, 2005

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 September 19, 2005, at 6:00 P.M.

Present at the meeting were: Joseph Jabour, Member
James Sullivan, Member
E. John Schmidt, Member
Carolyn Trzcinski, 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 5:55 P.M., prior to the arrival of Member Sullivan, Member Jabour made a motion to go into private session to ask legal questions of the Board's attorney. Member Schmidt seconded. The motion carried 4 - 0. Member Sullivan arrived during, and participated in, the private session. No action was taken in the private session.

At approximately 6:15 P.M., the regular meeting was called to order. The first item of business was approval of the Minutes of the August 15, 2005, meeting. Member Trzcinski noted that on page 1, paragraph 3, 4th line from the end, the word "thise" should read "these". Member Jabour made a motion to approve the Draft Minutes as corrected. Member Schmidt seconded. The motion carried 5 - 0.

The Chairman then opened the meeting to public access. Ronald Ishkanian stated that he had appeared before the Board on January 18, 2005, regarding a cell tower which had been installed at the Callanan quarry property. He complains that he, as an adjoining landowner, and some of his neighbors, did not receive notice of the application for approval of that tower as required by the Town's own telecommunications law. He had asked the Board in January to look into the matter. He has heard nothing. Attorney Cioffi pointed out that Mr. Ishkanian had filed a Notice of Claim against the Town, which is still pending.

Mr. Ishkanian went on to state that none of the photo simulations submitted by Nextel during the review of the application were taken from a Coons Road perspective. He stated that these towers are a blight on the landscape. He requested that the Board rule that Nextel not be allowed to install any additional antenna arrays on the tower. Attorney Cioffi explained that each new carrier wanting to co-locate on that tower would have to apply for its own special use permit. Each application would have to be reviewed separately, on its own merits.

Rita Pettitore, 69 Coons Road, stated that she is offended that the Town permitted that tower without notifying the residents on Coons Road. She stated it appeared to be a deliberate oversight.

The next item of business was the appeal and petition of VAN and CHRISTINE FRANHOFER, owners-applicants, dated September 2, 2005, 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 property known as Lots 197, 198, 199, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, 215, 216, and 217 on a map or plan of Sycaway Heights, dated August, 1912, made by Ernest W. Branch, Civil Engineer, and filed in the Office of the Clerk of Rensselaer County, Drawer 16, Map 24, because the said property does not have direct access on an improved public street as required by Section 280-a of the Town Law, and the applicants propose that access to from the said property be on the improved part of Cortland Steet by way of an easement over a portion of Cortland Street shown on the said map which was dedicated to the Town of Brunswick for highway purposes but never opened or used as a public street. Attorney Cioffi read the Notice of Public Hearing aloud.

Van and Christine Fronhofer appeared with their attorney, John Stockley, Esq. Mr. Stockley explained that his clients purchased several lots in an old subdivision known as Sycaway Heights in July, 2005. He showed the Board a map depicting the subdivision and the lots purchased by his clients. At the same time, certain other parcels shown in the subdivision were purchased from the same grantor by Patrick and Coleen Biseglia. Mr. & Mrs. Fronhofer thought, when they purchased the property, that they could gain access to their lots over Cortland Street and Schuyler Street, which are "paper streets", in that while shown on the subdivision plat, they do not actually exist as roads. Mr. Stockley stated that the "unbuilt" portion of Cortland Street, was dedicated to the Town in 1953, but the road was never built by the Town, and it has not been opened or used as a road.

Mr. Stockley went on to state that the purpose of this application is to ask the Board to allow his clients to satisfy the requirement that the lots have frontage on an existing pubic street before a building permit is issued by recognizing their common right as expressed in their deed to use unbuilt portion of Cortland Street (and the other unbuilt streets shown in the subdivision map) as a means of gaining access to the improved, open portion of Cortland Street. However, since the application was filed, his clients have reconsidered and now propose that their access to their property be by way of an easement granted to them by the Biseglias, which will give them access to Oneida Avenue. They still need a variance from the Board to permit their access or frontage on a public road to be by easement rather than fee ownership. If approved, they will construct a driveway from their lot, across the Biseglia property, to Oneida Avenue.

The Chairman opened the matter for public comment. Davis Wos, who resides in North Greenbush, stated that he owns lots 314, 315 and 316 as shown on the map. He has no problem with the revised proposal. Andy Brown, 6 Nassau Street, stated that he is concerned that the Fronhofers already disturbed the paper street part of Cortland Street. He brought in a bulldozer to start clearing his land. Van Fronhofer stated that his title company told him he had a right to do so. Attorney Cioffi disagreed, but stated that it was a non-issue if the Board accepts the new proposal put forward by the Fronhofers. Joe Matarazzo, 25 Cortland Street, stated he has a concern about their using the paper street for access, but if the alternative proposed is approved, he has no problem with that. Kelly Creamer, 24 Seneca Street, stated that she has no problem with their building there. The

alternative proposed is a good solution. Lou Morizio, 29 Genesee Street, Erin Glasheen, 82 Oneida Avenue, and Kevin Earl, 84 Oneida Avenue, all said they had no problem with the alternative proposed. Patrick and Colleen Biseglia stated that they would grant the Fronhofers the necessary easement to access Oneida Avenue from their property.

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

BE IT RESOLVED, that with respect to the appeal and petition of Van and Christine Fronhofer dated September 2, 2005, the Zoning Board of Appeals grants a variance pursuant to Section 280-a and 267-b of the Town Law from the requirement that property owned by Van and Christine Fronhofer consisting of lots 197, 198, 199, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, 215, 216, and part of 217 on a map or plan of Sycaway Heights dated August 1912, made by Ernest W. Branch, Civil Engineer, and filed in the Office of the Rensselaer County Clerk, Drawer 16, Map 24, have a minimum 15 feet of access to an existing public street before a building permit could be issued for said property by permitting ingress and egress to and from said parcels to be by way of an easement of 25 feet in width to be granted to Van and Christine Fronhofer by Patrick and Colleen Biseglia, which said easement shall run across lots 106, 107, 188, 189, 190, 191, 192, 193, 194 and part of lot 217, owned by Patrick and Colleen Biseglia, as shown on said map, and provides access to Oneida Avenue, an improved, open, public street; and be it further

RESOLVED, that such variance is granted on the following conditions:

- 1. A building permit may be issued only upon receipt by the Town of a copy of the recorded easement, as described above; and*
- 2. The easement area shall comply in all respects with the private road specifications of the Town of Brunswick.*

Member Jabour seconded. The matter was put to a roll call vote as follows:

Member Sullivan	Voting Aye
Member Schmidt	Voting Aye
Member Jabour	Voting Aye
Member Trzcinski	Voting Aye
Chairman Hannan	Voting Aye

The Resolution was declared duly adopted. The Chairman stated that it would be a nice gesture if the Fronhofers would re-seed the areas on the "paper street" portion of Cortland Street that they disturbed with the bulldozer. The Fronhofers agreed to do so.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated August 9, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) small panel antennas to be affixed to an existing 90 foot self-support lattice

tower located at 227 Bald Mountain Road, in the Town of Brunswick, at a centerline height of 72 feet, and a 9' x 12' pre-concrete pad within the existing fenced area to house call processing cabinets, 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.

Dan Schweigart of Infinigy Engineering appeared for Independent Wireless One (IWO) as well as Crown Castle, the owner of the Tower. He explained that Sprint PCS needs to improve its coverage in the area and is asking to install up to 6 antennas on the existing tower at a height of 72 feet, as well as a concrete pad to hold the necessary equipment cabinets. He stated that all required items have been submitted.

The Chairman asked whether there were photo simulations showing the proposed antennas. Mr. Schweigart stated that he felt they were not required since this is an existing tower in an area where other towers are located as well. Attorney Cioffi stated that the Board still has to assess any visual impacts under SEQRA and the photo simulations are helpful in that regard. Mr. Schweigart said he would provide them.

Mr. Kreiger stated that a referral had been sent to County Planning. The determination was that local considerations should prevail. Member Schmidt made a motion that the Board retain the services of Laberge Engineering, at the applicant's expense, to review this application and serve as the Board's consultant. The Chairman seconded. The motion carried 5 - 0.

No one from the public wished to speak. The matter was put over to the October 17, 2005, meeting.

The final item of business was further consideration of the appeal and petition of BRUCE DONOVAN, owner-applicant, dated May 2, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed reconstruction of a single family residence located at 3748 NY Route 2, in the Town of Brunswick, because the proposed reconstruction violates the rear yard setback in an R-15 District in that 35 feet is required but 30 feet is proposed, and also violates the front yard setback in an R-15 District in that 35 feet is required but 23 feet is proposed. Mr. Donovan appeared.

Mr. Kreiger reported that the Rensselaer County Health Department has now issued a permit to construct a septic system on the property. In 1992, the Health Department had sent the former owner of the property a Notice of Violation because the septic system had failed. Those proceedings were discontinued when the owner vacated the property.

Bill Lindeman, who formerly owned adjacent property, again stated that he was told by the Town that the building could not be taken down and rebuilt. If it were a new building, the requirements for a septic system could never be met on that lot. The County only issued a permit because they are considering it a rebuild of an existing structure. Mr. Kreiger stated that he told Rich Kempter at the Health Department all of the background, including the fact that Mr. Donovan took down the house and started to rebuild without permission. He stated that, with respect to septic system requirements, the Town does not look beyond the Permit to Construct and the Certificate of


Compliance, which are issued by the Health Department. Mr. Kreiger stated that the proceeding pending against Mr. Donovan in Justice Court for violating the stop work order has been adjourned pending the Board's decision in this case.

Member Jabour made a motion to close the public hearing. Member Trzcinski seconded. The motion carried 5 - 0. A written decision will be issued.

There being no further business, Member Jabour made a motion to adjourn. The Chairmann seconded. The motion carried 5 - 0.

Dated: Brunswick, N.Y.
October 1, 2005

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 17th day of October, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, applicant, dated September 13, 2005, 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) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and a 11'6" x 30' pre-fabricated equipment shelter within the existing facility, 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 CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

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

Dated: Brunswick, New York
October 1, 2005

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 October 17, 2005, at 6:00 P.M.

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

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., Attorney Cioffi advised that since the Chairman was not present, the first order of business was for the Board to elect a temporary chairman. Member Trzcinski made a motion to elect Member Jabour temporary chairman. Member Schmidt seconded. The motion carried 4 - 0. The regular meeting was called to order by temporary chairman Jabour. The next item of business was approval of the Minutes of the September, 2005, meeting. Member Schmidt 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 CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, applicant, dated September 13, 2005, 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) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and a 11'6" x 30' pre-fabricated equipment shelter within the existing facility, 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. Member Cioffi read the Notice of Public Hearing aloud.

Scott Olson, Esq., Cooper, Erving & Savage, appeared for the applicant. Attorney Olson handed up to the Board the notification letters and proof of mailing. He stated that this proposal is to add 12 antenna arrays to the existing cell tower. They would be at the 120 or 130 foot level. There will also be an equipment shelter added. Chairman Hannan arrived at this point and assumed the Chair. Attorney Olson continued by stating that the site disturbance would be minimal. The application includes a structural engineering report which indicates that the tower can hold the additional antennas, an RF emissions report prepared by an RF engineer which states that the tower

emissions comply with FCC regulations, a full EAF, and some photo simulations. Mr. Olson stated that the addition of the new antennas will not have a significant effect on the visual vista. He agreed with Member Sullivan that the proposed equipment shelter is larger than usual. He explained that Verizon likes to make its equipment shelters on the large side to accommodate future expansion and because it contains a generator to supply its own power in the event of a power loss. Mr. Olson stated that the notification letters went out to all property owners within 750 feet, and that he posted the property with the hearing notices. Mr. Kreiger added that additional owners on Coons Road were notified even though beyond the 750 feet.

Ronald Ishkanian, 69 Coons Road, opposes the application. He stated that he first became aware of this tower on January 17, 2005, when he saw it being built. He was never notified about the application for the tower. Mr. Kreiger verified to him that he was not sent a notice. He has complained about this to the Board previously but nothing was done. He is appalled that the Board is considering adding more antennas to a tower that was constructed illegally. He claims that the tower is affecting the value of his property and the character of his neighborhood.

Attorney Olson said that Verizon is trying to minimize the impacts of these additional antennas. He does not know what happened when the tower was approved. Mr. Ishkanian said that Nextel should have notified the property owners like him when the tower application was filed. He reiterated his position that the tower was approved illegally. Attorney Olson stated that the permit for the existing tower has never been legally challenged.

Rita Pettitore, 69 Coons Road, said that the tower was built without due process. There will be no end to this so long as additional arrays are approved. Attorney Olson stated that he had nothing to do with the original application. He also noted that the law requires that co-location on existing structures be considered when new telecommunications facilities are proposed. Howard Rist, 10 Windy Acres Road, said that he is against the application. Mr. Olson reiterated that this is a co-location. The law mandates this. Verizon needs a facility at this location. These towers are designed to accommodate more than one carrier. Rebecca Kaiser, 398 Moonlawn Road, stated that she is concerned that people are not being notified when these applications are filed. Peter Meskoskey, 168 Town Office Road, asked about the land the tower is on. Mr. Olson stated that the entire parcel is 90 acres. The tower is 349 feet from the property line. Mr. Meskoskey asked about the stability of the land on which the tower sits. Attorney Olson stated that the structural report addresses that. Mr. Meskoskey stated that this is an Industrial Zone which is where these towers belong.

Mr. Ishkanian asked if the photo simulations provided to the Board were taken from a Coons Road perspective. Chairman Hannan said they were not but that the Board would ask that additional simulations be provided from that perspective. Attorney Olson said that he would provide them but he wanted to know everything that was being required. Attorney Cioffi advised him to work with the Board's consultant, once appointed, to discuss anything additional which might be required.

Member Jabour made a motion to retain Laberge Engineering as the Board's consultant, at the applicant's expense. Member Trzcinski seconded. The motion carried 5 - 0. Member Schmidt made a motion to continue the public hearing to November 21, 2005. The Chairman seconded. The motion carried 5 - 0.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated August 9, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) small panel antennas to be affixed to an existing 90 foot self-support lattice tower located at 227 Bald Mountain Road, in the Town of Brunswick, at a centerline height of 72 feet, and a 9' x 12' pre-concrete pad within the existing fenced area to house call processing cabinets, 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. Dan Schweigart of Infinigy Engineering appeared for Independent Wireless One (IWO) as well as Crown Castle, the owner of the Tower.

Mr. Schweigart stated that he sent out notices to the abutting landowners by certified mail but that some were returned unclaimed or were not picked up. Ronald Laberge, P.E., the Board's consultant, stated that he reviewed the application as a Minor Facility. The structural analysis report appeared inaccurate in some respects and he asked Mr. Schweigart to address that. He also asked him to correct the EAF because it did not comport with the application in all respects.

There was then a discussion about which property owners did and did not get notice, and which had picked up their mail. It was noted that there was an error on the notification letters sent out by Mr. Schweigart regarding the date of this meeting. Mr. Schweigart agreed to send out new letters to all of the owners within 750 feet. He will send them out by regular mail this time since several persons refused or did not pick up the notice he sent by certified mail. In the future, the Board will consider asking applicants to send out notices by ordinary and certified mail. The matter was put over to the November 21, 2005, meeting.

The next item of business was the issuance of the Board's decision on the appeal and petition for a use variance filed by David Heer on behalf of Nancy Gamble to allow property located at 731 Hoosick Road for a real estate office. Attorney Cioffi stated that the Board had before it a draft Decision granting the use variance as well as a Resolution adopting that determination. Member Jabour offered the Resolution adopting the determination. Chairman Hannan seconded. A roll call vote was taken and all voted "Aye" except Member Trzcinski, who voted "No". The Resolution was adopted. The Resolution and Determination are filed in the Town Clerk's Office.

The next item of business was further consideration of the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated November 28, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space because the said use is not a permitted principal use in an A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. The Board noted that this matter has been dormant for some time. Tim Fitzpatrick of the ENNIS Group appeared stating that he represents Prime Rate and Return Financial Planning, 13 First Street, Troy, N.Y., which has contracted with Dr. Zimmerman to purchase this property if the use variance is obtained. Prime Rate is owned by Matthew Ryan. Mr. Fitzpatrick stated that the Board has heard Dr. Zimmerman's proof in support of the use variance application. Prime Rate proposes to use the property as offices for a combined law office, CPA/Financial Planner, and real estate broker operation. This will be strictly office use. It will be less offensive to neighbors than the former veterinary business.


Member Jabour made a motion to go into private session to ask legal questions of the Board's attorney. Member Sullivan seconded. The motion carried 5 - 0. After a brief discussion with Attorney Cioffi, the Chairman made a motion to return to regular session. Member Jabour seconded. The motion carried 5 - 0. Chairman Hannan announced that he was recusing himself from further proceedings in this matter. Member Jabour assumed the chair.

Member Sullivan stated that he wanted Mr. Fitzpatrick to provide a detailed, written description as to all of the activities that are being proposed. Mr. Fitzpatrick agreed. He also handed up to the Board a copy of the sales contract. Attorney Cioffi stated that a proposed site plan would also be helpful. They will need one for site plan approval in any event. The matter was put over to the November 21, 2005, meeting for further proceedings.

There being no further business, Member Sullivan made a motion to adjourn. Member Trzcinski seconded. The motion carried 4 - 0.

Dated: Brunswick; N.Y.
November 5, 2005

Respectfully submitted,


THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

October 17, 2005

RESOLUTION ADOPTING DETERMINATION

WHEREAS, the appeal and petition of DAVID W. HEER o/b/o NANCY GAMBLE, applicant, dated February 28, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building on a lot located at 731 Hoosick Road, in the Town of Brunswick, for a real estate office, because the said use is not a permitted use in an R-15 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals, having been duly filed; 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	VOTING <u>Aye</u>
MEMBER SCHMIDT	VOTING <u>Aye</u>
MEMBER JABOUR	VOTING <u>Aye</u>
MEMBER TRZCINSKI	VOTING <u>No</u>
CHAIRMAN HANNAN	VOTING <u>Aye</u>

The foregoing Resolution was thereupon declared duly adopted.

Dated: October 17, 2005

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Appeal and Petition of

DETERMINATION

DAVID W. HEER o/b/o NANCY GAMBLE,

Applicant,

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

This matter involves the appeal and petition of DAVID W. HEER o/b/o NANCY GAMBLE, applicant, dated February 28, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building on a lot located at 731 Hoosick Road, in the Town of Brunswick, for a real estate sales office, because the said use is not a permitted use in an R-15 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals.

The applicant is David W. Heer, a licensed real estate broker. He is the contract vendee as concerns a piece of property located at 731 Hoosick Road, in the Town of Brunswick, owned by Nancy Gamble. The property consists of a five (5) bedroom frame house with attached one-car garage situated on a lot of approximately .34 acre. The property is located in an R-15 residential zone. Mr. Heer wishes to use the property for his real estate office, a commercial use not permitted in the R-15 District. In their contract, Mr. Heer has agreed to pay Ms. Gamble \$155,000.00 for the property, the sale being contingent on the grant of a use variance by this Board, permitting him to use the property as his real estate office. The property is located on Hoosick Road, the main commercial area of the Town. While there are some five (5) residential properties located adjacent to the subject property, these residential properties are "sandwiched" between light commercial "office" uses, which exist pursuant to use variances previously issued by this Board. Across the street from the subject, on Hoosick Road, we have heavily commercial uses including a shopping plaza containing a Price Chopper store, a hardware store, a Blockbuster video, banks, restaurants retail stores, and other assorted commercial enterprises.

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

obtain a use variance, the applicant must establish:

1. that based upon competent financial evidence, the land in question cannot yield a reasonable return if used for a purpose allowed in that district; and
2. that the alleged hardship relating to the land is unique, and does not apply to a substantial portion of the district or neighborhood; and
3. that the proposed use will not alter the essential character of the neighborhood; and
4. that the alleged hardship with the property has not been self-created.

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

LACK OF REASONABLE RETURN

The record reflects that Ms. Gamble acquired the subject property on April 23, 1998. At that time, she and her former husband paid \$109,900.00 for the property. Ms. Gamble is now the sole owner. Mr. Heer, on behalf of Ms. Gamble, submitted an appraisal of the property prepared by Doyle Appraisal Group, which concluded that the current market value of the property is \$120,000.00. This Board retained an independent appraisal to verify the applicant's figures. It is noteworthy that the Board's consultant, Conti Appraisal & Consulting LLC, concluded that the current market value of the property is \$115,000.00, less than that claimed by applicant. So, assuming Ms. Gamble paid a fair price when she purchased the property, in seven (7) years, the property has actually appreciated between \$5,000.00 and \$10,000.00. In normal times, this rate of return might be deemed reasonable. However, it is common knowledge that we are in the midst of a real estate boom and strong "sellers market" as far as the sale of existing homes is concerned, and prices have been steadily escalating for the past few years. As applicant has claimed, and as verified by the Board's consultant, from 2000 to 2005, the average rate of appreciation for single family homes in Brunswick was 40.2%. If this property had appreciated at that rate, its current market value would be about \$155,000.00. Of course, the 40.2% rate of appreciation is a statistical average. Not all properties appreciate at the same rate. According to Ms. Conti, the Board's consultant, the most important factor determining the rate of appreciation is the property's location. Obviously, the location of the property in the most dense commercial area of Town has impeded its appreciation. Be that as it may, the Board concludes that the \$5,000.00 to \$10,000.00 in appreciation that Ms. Gamble would realize if the property were to be sold as a residence is not reasonable under the circumstances. We note, in that regard, that Ms. Gamble's investment in the property is actually considerably more than the \$109,900.00 she paid for the property. She has made some \$15,000.00

in improvements, including, plumbing, sump pumps, a storm sewer, electrical improvements, chimney repairs, and a new hot water tank.

Based upon the foregoing, the Board finds that Ms. Gamble cannot realize a reasonable return on her investment in the property if sells it as a single family residence.

UNIQUENESS OF THE HARDSHIP

The hardship claimed with respect to this property is that it is a residentially zoned property in a neighborhood predominated by commercial uses. Arguably, however, it is hardly unique in that regard. As previously stated, there are five (5) other residential properties located immediately adjacent to the subject which are also zoned residential. In point of fact, much of Hoosick Road is residentially zoned. Existing businesses in those areas either pre-dated zoning in the Town, enjoy use variances, or are the result of planned development districts such as the "Wal-Mart Plaza" and the Price Chopper Plaza".

Mr. Heer, and Ms. Gamble, contend, however, that the property is unique in that it is a spacious five (5) bedroom home, while the adjacent residences and those located nearby are generally substantially smaller. They contend that this actually makes the property less salable than smaller properties. While this may seem counterintuitive, Ms. Conti, the Board's consultant, confirmed this. Ms. Conti stated that larger, five (5) bedroom homes appeal more to large families, with small children. Families with small children, she stated, are far less inclined to locate themselves in busy commercial areas, where there is a lot of noise and heavy traffic. Clearly, Hoosick Road, in the area of the subject property, is just such an area. Traffic in that area approaches virtual gridlock conditions at various times. Even when there is not gridlock, there is substantial noise from considerable truck traffic. The Board also notes that the State of New York recently widened Hoosick Road in the vicinity of the subject property. That resulted in the taking of a tree in the front yard but, more importantly, the house is even closer to the road than it was, This presents a potential danger to small children and provides a reason why families with small children would be unlikely to want to live there.

Based on the foregoing, the Board finds that the claimed alleged hardship in this case, i.e., the location of the property in a n area with numerous and heavy commercial uses, has a far greater effect on the value of the subject property than it does on the value of other properties similarly situated. The Board finds, in that sense, it is unique.

CHARACTER OF THE NEIGHBORHOOD

It is hard to imagine that granting this use variance will have any effect on the character of the neighborhood. The use proposed is that of a real estate sales office. The record indicates that David W. Heer Realty, Inc., is operated by David Heer and Dean Heer. They are the only full-time employees of the business. A receptionist will be on duty weekdays from 9:00 A.M. to 3:00 P.M. In addition, they have eleven (11) sales agents who are independent contractors rather than employees, four (4) of whom work full-time. One agent will be on phone duty daily, from 9:00 A.M. to 5:00 P.M., and on Saturday from 10:00 A.M. to 2:00 P.M. There would usually be about 3 people in the office at any one time. The hours of operation would be 9:00 A.M. to 5:00 P.M., Monday through Friday, and 10:00 A.M. to 2:00 P.M. on Saturday. There would not be a lot of physical modifications to the house. There would be some landscaping and cosmetic changes outside. The rear of the lot would be paved to provide parking for 8 - 10 cars. A privacy fence would be installed if needed.

This is hardly the type of use that will have any effect on the character of this neighborhood. As previously stated, the subject property is located in the busiest commercial area in the Town. It is literally "sandwiched" between other professional offices located on the same side of the road. On the other side of Hoosick Road, we have the "Price Chopper Plaza" and, further to the East, the "Wal-Mart Plaza". The neighborhood has substantial noise and traffic from the busy State highway. Much of the business of a real estate office is conducted away from the office. It does not appear that permitting this business to locate here would substantially increase traffic. It will not substantially increase noise. There will be no truck deliveries or the like to the real estate office.

The Board does note, however, that the two (2) owners of the five (5) immediately adjacent residential properties have objected to this variance being granted on the ground that it will negatively effect their use and enjoyment of their properties. The owners are both elderly and one of them is in poor health. Understandably, they feel that another business located near their residences will only make a bad situation worse. The Board, however, might give greater credence to their concerns had they not adopted the rather incongruous position that they opposed the granting of the use variance unless all their properties could be made commercial as well, in which case they were in favor. As the Board indicated at the hearing, this Board cannot "make" residential properties commercial. It can only grant variances permitting a particular use otherwise prohibited. Nor, they were advised, could the Board grant "blanket" use variances. Each property must be considered separately.

It is also important to note that the Board's consultant, Ms. Conti, stated that permitting the real estate office to operate at this location would not adversely impact the value of these adjoining properties. If anything, she stated, the grant of this variance would increase the value of those properties because investors would speculate that, based on the grant of the use variance, the other

properties would likely receive similar permission to have a commercial use in the future.

Based upon the foregoing, the Board finds that granting this variance will not alter the essential character of the neighborhood.

SELF-CREATED HARDSHIP

If the Board finds that the owner of the property created the alleged hardship with the property, the variance request must be denied.

Arguably, the hardship is self-created in the sense that there is no claim that Ms. Gamble did not purchase the property in 1998 subject to its limitations as a residentially zoned property and with full knowledge thereof. Ms. Gamble stated that she purchased the property to live in, not as an investment, anticipating that the property would later become commercial. She states the reasons she does not live there now are personal, and have nothing to do with the property itself. She stated that she felt she got good value for the property when she purchased it. It was close to where she worked.

It is clear that the "commercial" nature of Hoosick Road in the vicinity of this road has dramatically increased since she purchased the property in 1998. Ms. Gamble stated, at that point, there was the Price Chopper, Pollock's, and a few other stores in the "Price Chopper Plaza". Further up the road was the Wal-Mart. In the past several years, as she points out, the "Price Chopper Plaza" first became full and then dramatically expanded. Most recently, states Ms. Gamble, there is a Blockbuster Video store right across the street which is very busy day and night. In that same vein, since she purchased the property, the State has widened Hoosick Road, taking the tree in front of her home, and making her house that much closer to the busy road.

Given that the commercial nature of the neighborhood has so dramatically increased since Ms. Gamble purchased the property, and that the extent of the increase was not reasonably foreseeable, and taking into account the changes to Hoosick Road made by the State since the property was purchased, the Board is disinclined to find that the hardship with this property was created by Ms. Gamble.

Having determined that all of the criteria for the grant of the variance as requested have been satisfied, the Board now turns to its obligation under SEQRA. The applicant prepared a short form EAF, Part 1, a copy of which is attached. The attached Part II was prepared at the behest of the Board. Based upon the EAF, the Board finds that the proposed action, if granted, will not have a significant effect on the environment. A Negative Declaration under SEQRA will therefore issue

Based upon all of the foregoing, it is the determination of this Board that the applicants have established all of the statutory criteria for the granting of a use variance. Accordingly, the appeal and petition DAVID W. HEER o/b/o NANCY GAMBLE, applicant, dated February 28, 2005, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building on a lot located at 731 Hoosick Road, in the Town of Brunswick, for a real estate sales office, because the said use is not a permitted use in an R-15 District, be and hereby is GRANTED on the following terms and conditions:

1. This variance is strictly limited to the specific use stated above.
2. Any change of use, not permitted as of right in the R-15 District, shall require a new use variance.
3. The use permitted by this variance may not be undertaken unless and until site plan approval has been granted by the Planning Board.

Dated: Brunswick, New York
October 17, 2005

Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

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

1. APPLICANT/SPONSOR NANCY GAMBLE	2. PROJECT NAME HEER REALTY OFFICE
3. PROJECT LOCATION: Municipality BRUNSWICK County RENJSELAER	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 731 HOOSICK RD, TOWN OF BRUNSWICK OPPOSITE MCHESNEY AVENUE	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: CONVERSION OF EXISTING 1 FAMILY RESIDENTIAL DWELLING TO REAL ESTATE SALES OFFICE FOR DAVID W HEER REALTY	
7. AMOUNT OF LAND AFFECTED: Initially <u>.38</u> acres Ultimately <u>SAME</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly APPLYING FOR USE VARIANCE. PROPERTY IS PRESENTLY ZONE R15 (RESIDENTIAL)	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: TOWN OF BRUNSWICK PLANNING BOARD	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: DAVID HEER REALTY Date: 4/6/05 Signature: David Heer Jr. Nancy Gamble	

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

NOTICE OF PUBLIC HEARING

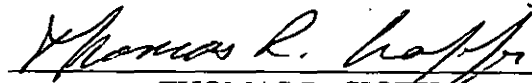
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of November, 2005, at 6:00 P.M., at the Town Office Building located at 308 Town Office Road in the Town of Brunswick, on the appeal and petition of DAWN HETTRICK, owner-applicant, dated October 4, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a shed on a lot located at 611 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but the shed was constructed 5 feet from the side property line.

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

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

Dated: Brunswick, New York
November 1, 2005

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 21, 2005, at 6:00 P.M.

Present at the meeting were: Joseph Jabour, Member
James Sullivan, Member (arrived late)
E. John Schmidt, Member
Caroline Trzcinski, 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 5:50 P.M., Member Jabour made a motion to go into private session to discuss a legal issue with Attorney Cioffi. Member Trzcinski seconded. The motion carried 4 - 0. At approximately 6:05 P.M., Member Jabour made a motion to adjourn the private session. Member Trzcinski seconded. The motion carried 4 - 0. The regular meeting was then called to order. The first item of business was approval of the Minutes of the October 17, 2005, meeting. Member Trzcinski stated that on page 1, last line, the word "repaired" should read "prepared". And on page 3, third paragraph, third line, "bu" should read "by". Member Jabour made a motion to approve the Draft Minutes as corrected. 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 CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, applicant, dated September 13, 2005, 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) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and a 11'6" x 30' pre-fabricated equipment shelter within the existing facility, 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. The Chairman advised the public that there would be no appearance on the part of the applicant. The applicant advised the Board in writing that it was in the process of attending to the outstanding concerns expressed by the Board's engineering consultant and would like to be placed on the agenda for the December 19, 2005, meeting. The Chairman stated that he would permit the public to comment on the project in any event. Member Sullivan arrived at approximately 6:10 P.M.

Ron Ishkanian, 69 Coons Road, stated that he wanted to read a letter from Joe Ecker, 65 Coons Road, into the record. Mr. Ecker stated in the letter that he received no notice of the original application for this cell tower, and that if he had, he would have asked that the tower be placed further to the South so that it would be less visible to people living on Coons Road. Mr. Ecker added in his letter that no more antennas should be added to the tower, as that would only make things worse. Mr. Ishkanian added that he is concerned about the long term health effects of cell tower emissions on his neighbors. Having five carriers on this tower will make things worse. Also, any additional antennas would be visibly detrimental. He asks that the Board not add insult to injury by approving additional antennas on a tower which should not be there in the first place. Mike Trinkala, 45 Coons Road, stated that he is concerned about his quality of life. If the tower were placed further to the South, it would not be as obtrusive to the surrounding community. Ed McCarthy, Lockrow Road, stated that the tower is an eyesore. He had no idea it was going up. He is concerned about the environment and health effects. It is offensive to his view. Steve Petty, 70 Coons Road, stated that he is a latecomer to this issue. The tower presents no direct problem to his view, but he is concerned that people were not notified. The Chairman stated that the matter would be placed on the December 19 agenda.

The next item of business was further consideration of the appeal and petition of BRUCE DONOVAN, owner-applicant, dated May 2, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed reconstruction of a single family residence located at 3748 NY Route 2, in the Town of Brunswick, because the proposed reconstruction violates the rear yard setback in an R-15 District in that 35 feet is required but 30 feet is proposed, and also violates the front yard setback in an R-15 District in that 35 feet is required but 23 feet is proposed. Attorney Cioffi advised that the Board had before it a draft Determination as well as a Resolution adopting the draft Determination. Essentially, the draft Determination provides that the variances be granted but that all construction must be complete and a Certificate of Occupancy issued within 18 months or the variances would be deemed null and void. The Resolution adopting the draft Determination was offered by Chairman Hannan, and seconded by Member Trzcinski. The matter was put to a roll call vote. All Members voted in the affirmative. The Resolution and the Determination have been filed in the Office of the Town Clerk.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated August 9, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) small panel antennas to be affixed to an existing 90 foot self-support lattice tower located at 227 Bald Mountain Road, in the Town of Brunswick, at a centerline height of 72 feet, and a 9' x 12' pre-concrete pad within the existing fenced area to house call processing cabinets, 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. Dan Schweigart of Infinigy Engineering appeared for Independent Wireless One (IWO) as well as Crown Castle, the owner of the Tower.

Mr. Schweigart stated that he sent out additional notices to the abutting landowners for tonight's meeting by certified and regular mail but that some were returned unclaimed or were not picked up. The Board was satisfied that every effort had been made to notify the abutters. Attorney Cioffi advised the Board that it had before it a draft Determination as well as a Resolution adopting

the draft Determination. The draft Determination grants the requested special use permit to construct and operate a minor personal wireless telecommunications service facility, consisting of three (3) panel antennas on an existing 90 foot self-support lattice tower located at 227 Bald Mountain Road, Town of Brunswick, at a centerline height of 72 feet, and related ground equipment on a 9' x 12' concrete equipment pad. The Resolution adopting the draft Determination was offered by Member Jabour, and seconded by Member Sullivan. The matter was put to a roll call vote. All Member voted in the affirmative. The Resolution and the Determination have been filed in the Office of the Town Clerk.

The next item of business was the appeal and petition of DAWN HETRICK, owner-applicant, dated October 4, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a shed on a lot located at 611 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but the shed was constructed 5 feet from the side property line. Attorney Cioffi read the Notice of Public Hearing aloud.

Dawn Hettrick stated that the shed is 8' x 10'. She states that in September, 2001, she asked whether any permits were needed to build the shed. She was told none was needed. She was unaware of the setback requirements, so she built the shed where she thought best. Alda Riley, 615 Brunswick Road, stated that the shed and the trash next to it offend her view. Mary Ann Willets, 608 Brunswick Road, stated that the shed does not offend her view, but she is disturbed that the shed was built without a variance. Ms. Hettrick stated that she has cleaned up around the shed. There is a woodpile near the shed and some good construction materials that she has yet to use. Ms. Riley stated that the trees near the shed are dying and they had to be cut back. Now the shed and the trash are very visible from her window. Ms. Hettrick showed pictures of the shed on her laptop computer. Mr. Kreiger clarified that although no building permit was required due to the size of the shed, it still had to comply with all setbacks. The Chairman asked if the shed could be moved. Ms. Hettrick said she was not sure. It is placed on cinder blocks. She does not know how the floor is constructed. She is also afraid of moving the shed atop her leach field. Ms. Reilly asked why Ms. Hettrick couldn't move the shed near her porch. Ms. Hettrick said she was not sure it would fit. Kathy Paul, 8 1/2 George Street, Green Island, stated that she is Alda Riley's daughter. The shed will still bother them even if the trash is cleaned up. Ms. Riley added that she believes the shed is killing her trees because it keeps them from getting the sun.

Member Schmidt stated that moving the shed would probably not save the trees. Member Sullivan said the shed could probably be moved. Member Jabour agreed. Attorney Cioffi stated that the applicant should get some estimates for moving the shed. Member Sullivan stated that she should check with the County Health Department to see where the leach field is located and whether placing the tower on top of it would hurt the field. Ms. Hettrick said she has removed the shingles which were near the shed. All that is left is a woodpile, a length of gutter, and some pressure treated lumber. Ms. Riley said there is still trash there. The Chairman asked Mr. Kreiger to investigate and report. The Chairman stated that the public hearing should be continued. Member Sullivan summarized that Ms. Hettrick needs to provide estimates for moving the shed and a plot plan showing her leach field. Ms. Riley should provide some proof that the shed is killing the trees if she has it. The matter was adjourned to the December 19 meeting.

The next item of business was further consideration of the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated November 28, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space because the said use is not a permitted principal use in an A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. Tim Fitzpatrick of the ENNIS Group appeared, representing Prime Rate and Return Financial Planning, 13 First Street, Troy, N.Y., and its principal, Matthew Ryan, which has contracted with Dr. Zimmerman to purchase this property if the use variance is obtained. He stated Prime Rate proposes to use the former veterinary clinic building as offices for a combined law office, CPA/Financial Planner, and real estate broker operation. Mr. Fitzpatrick handed up the old site plan for the vet clinic. He stated there would be no real changes to the outside of the building. The inside will have to be remodeled. Thirteen parking spaces are proposed. He stated that he will be the real estate part of the operation. No attorney is involved at this point. Mr. Fitzpatrick handed up a written description of the proposed operations. The Chairman commented that it will be a fairly busy operation. Mr. Fitzpatrick said that this is worst case; there is not even an attorney on board yet. Mr. Fitzpatrick stated that none of Mr. Ryan's other businesses, such as his snow plowing business, will operate from these premises or store their equipment on site. Mr. Fitzpatrick added that this will be a less intrusive use than the vet clinic, and that not all of the employees mentioned in the written description will be there all day every day. There was a discussion of whether there was sufficient parking. The Board noted that is primarily a site plan issue for the Planning Board.

Kathy Murray, 69 North Langmore Lane, asked about the hours of operation. Mr. Fitzpatrick said they would likely be open on weekdays and some Saturdays. They will do some residential real estate. So there might be some evening, but nothing after 9:00 P.M. She also asked about the outside lighting. Mr. Fitzpatrick said the only external lighting would be that required by the Planning Board. They have no plans to have lighting poles; only security lighting on the building. Ms. Murray asked whether the use variance would change the zoning of this property to commercial. Attorney Cioffi explained that this Board cannot change zoning. It can only grant a variance to permit a specific use, which would otherwise be prohibited, on the premises if various statutory criteria are satisfied. If the Board grants the variance and permits a specific use, any proposed future changes to or expansion of that use would have to come before this Board.

Member Jabour made a motion to close the public hearing. The Chairman seconded. The motion carried 5 - 0. The Board will issue a written decision within 62 days.

Bob Henry, 222 Bellview Road, said he was there about the proposal to add antennas on the cell tower on Bellview Road. He is concerned about the power output. Attorney Cioffi stated that the special use permit had already been granted earlier that evening. Further, only the FCC can regulate the power output of the antennas.

There being no further business, the Chairman made a motion to adjourn. Member Sullivan seconded. The motion carried 5 - 0.

Dated: Brunswick, N.Y.
December 14, 2005

Respectfully submitted,

A handwritten signature in cursive script that reads "Thomas R. Cioffi". The signature is written in black ink and is positioned above a horizontal line.

THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

**RECEIVED
DEC 19 2005
TOWN CLERK**

REGULAR MEETING

November 21, 2005

RESOLUTION ADOPTING DETERMINATION

WHEREAS, the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated August 9, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) small panel antennas to be affixed to an existing 90 foot self-support lattice tower located at 227 Bald Mountain Road, in the Town of Brunswick, at a centerline height of 72 feet, and a 9' x 12' pre-concrete pad within the existing fenced area to house call processing cabinets, 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, having been duly filed; 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 Member Sullivan, 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 thereupon declared duly adopted.

Dated: November 21, 2005

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of

INDEPENDENT WIRELESS ONE LEASED REALTY
CORPORATION,

Applicant

DETERMINATION

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

This matter involves the Application for Zoning Permit and Request for Special Use Permit of INDEPENDENT WIRELESS ONE LEASED REALTY CORPORATION, applicant, dated August 9, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of six (6) small panel antennas to be affixed to an existing 90 foot self-support lattice tower located at 227 Bald Mountain Road, in the Town of Brunswick, at a centerline height of 72 feet, and a 9' x 12' pre-concrete pad within the existing fenced area to house call processing cabinets. Subsequent to the filing of the application, the number of antennas requested was reduced from six (6) to three (3).

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 three (3) additional antennas on the existing lattice tower located at 227 Bald Mountain Road. The tower is 90 feet high. There are currently several other antenna arrays on the tower, including some whip antennas and dish antennas. The antennas are proposed to be placed at a centerline height of 72 feet. The equipment shelter will be placed on a 9' x 12' concrete pad and located within an existing fenced compound on the premises.

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

The Board takes notice of the fact that the Town Board, in enacting the Town's telecommunications law, expressed a clear intent that minor personal wireless facilities be used whenever possible. The law provides, essentially, that once the applicant submits all the information and materials required for a minor facility, if it appears that the modifications to the existing building or structure are insignificant, the permit should be granted. In this case, the applicant has submitted all of the required information and documentation, including an engineering report which establishes that the structural integrity of the tower will not be compromised in any way by the proposed construction. In point of fact, the structural engineering report concludes that the tower would be able to support the six (6) antennas originally proposed, so it would appear clear that the tower could easily accommodate the three (3) antennas currently proposed.

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 applicant has provided sufficient materials to evaluate the visual impact of the tower. The Board notes that the tower exists at present and is really not being added to in any significant way, at least from a visual standpoint. The height of the tower will not be increased. It does not appear that the visual impact of the tower will be significantly greater with the addition of the proposed antennas than it is now. The proposed antennas are to be flush mounted and will stick out from the tower considerably less than the antenna presently on the tower. Most importantly, the tower is located in an area of Town which, due to its geography, has been long sought after by telecommunications carriers. There are several towers of varying heights on Mt. Rafinesque, as it is called, including the WNYT television broadcast tower of some 765 feet, which dwarfs them all. It should be further noted that the telecommunications facility is being built without the necessity of a new telecommunications tower, which would most certainly have a much greater environmental impact. Based upon a careful review of the EAF, and the record before us, we conclude that this action will not have an adverse effect on the environment and, accordingly, a negative declaration shall issue. Copies of Part 1 and 2 of the EAF, and the Negative Declaration, are annexed hereto.

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

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

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

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

There are no issues here relating to location in relation to necessary facilities or to public parking, or to traffic. This facility is not open to the public, nor is it "manned". No other government approval is required at this stage. Details regarding the site plan itself, including strict adherence to the specific site requirements set forth in the telecommunications law, will be dealt with subsequently by the Planning Board. We note that the applicant has already filed an application for site plan review and has appeared preliminarily before the Planning Board. Apparently, the Planning Board is examining the issue of the adequacy of the existing access road. Since that will be addressed by the Planning Board, we do not find any issues pertaining to the adequacy of the access road to be an impediment to the granting of a special use permit.

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 an area of Town in which numerous telecommunications towers have been sited over the years. The addition of the three (3) antenna panels, which will add nothing to the height of the pre-existing 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, and the several others located in the immediate vicinity.

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

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

Accordingly, the requested special use permit to construct and operate a minor personal wireless telecommunications service facility, consisting of three (3) panel antennas on an existing 90 foot self-support lattice tower located at 227 Bald Mountain Road, Town of Brunswick, at a centerline height of 72 feet, and related ground equipment on a 9' x 12' concrete equipment pad, is granted upon the following conditions:

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

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

Dated: Brunswick, New York
November 21, 2005

617.20
Appendix A
State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

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

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

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

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

THIS AREA FOR LEAD AGENCY USE ONLY

DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project:

Part 1

Part 2

Part 3

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

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

*A Conditioned Negative Declaration is only valid for Unlisted Actions

Independent Wireless One Bald Mountain Wireless Telecommunications Facility

Name of Action

Town of Brunswick Planning Board

Name of Lead Agency

James Hannan

Print or Type Name of Responsible Officer in Lead Agency

Chairman

Title of Responsible Officer

James Hannan

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

11/21/05

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 Independent Wireless One Bald Mountain Wireless Telecommunications Facility

Location of Action (include Street Address, Municipality and County)

227 Bald Mountain Road, Town of Brunswick, County of Rensselaer, New York

Name of Applicant/Sponsor Infinigy Engineering representing Independent Wireless One

Address 99 Pine Street

City / PO Albany State NY Zip Code 12207

Business Telephone 518-434-2288

Name of Owner (if different) Crown Atlantic Company, LLC

Address 46 Broadway

City / PO Albany State NY Zip Code 12204

Business Telephone 518-433-6240

Description of Action:

The proposed action includes the collocation of Independent Wireless One telecommunications equipment to an existing tower owned by Crown Atlantic Company, LLC located at 227 Bald Mountain Road.

IWO's proposed collocation would consist of mounting up to three (3) antennas on the existing ninety (90) foot tall lattice tower located at Bald Mountain at a center line height of seventy-two (72) feet above ground level flush mounted to the legs of the existing tower and consistent with the existing wireless facilities of additional carriers presently located on the premises. Associated unmanned equipment will be located at the base of the existing tower inside a secure compound within weatherproof equipment cabinets and within a 200 square foot (0.005 acre) lease area on a 9' x 12' concrete pad. Site access and vehicle parking is proposed via existing access road and parking for existing carriers maintenance personnel.

Please Complete Each Question--Indicate N.A. if not applicable

A. SITE DESCRIPTION

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

1. Present Land Use: Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Other Wireless Telecommunications Facility
Public Utility

2. Total acreage of project area: 0.005 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>0</u> acres	<u>0</u> acres
Forested	<u>0</u> acres	<u>0</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	<u>0</u> acres	<u>0</u> acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	<u>0</u> acres	<u>0</u> acres
Water Surface Area	<u>0</u> acres	<u>0</u> acres
Unvegetated (Rock, earth or fill)	<u>0</u> acres	<u>0</u> acres
Roads, buildings and other paved surfaces	<u>0</u> acres	<u>0</u> acres
Other (Indicate type) <u>Wireless Telecommunications Facility</u>	<u>0.005</u> acres	<u>0.005</u> acres

3. What is predominant soil type(s) on project site?

- a. Soil drainage: Well drained 100 % of site Moderately well drained 0 % of site.
 Poorly drained 0 % of site

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

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

a. What is depth to bedrock > 6 +/- (in feet)

5. Approximate percentage of proposed project site with slopes:

- 0-10% 100 % 10- 15% 0 % 15% or greater 0 %

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or 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:

Letters received from NYSDEC and USFWS June 28, 2001 and April 18, 2001 respectively. No analysis is required for telecommunications installations on existing structures or buildings except in defined cases. This structure is exempt from review.

Identify each species:

n/a

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

Yes No

Describe:

n/a

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

Yes No

If yes, explain:

n/a

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

n/a

15. Streams within or contiguous to project area:

None

a. Name of Stream and name of River to which it is tributary

n/a

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

None

b. Size (in acres):

n/a

17. Is the site served by existing public utilities? Yes No
- a. If YES, does sufficient capacity exist to allow connection? Yes No
- b. If YES, will improvements be necessary to allow connection? Yes No
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? Yes No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? Yes No
20. Has the site ever been used for the disposal of solid or hazardous wastes? Yes No

B. Project Description

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: 0.005 acres.
- b. Project acreage to be developed: 0.005 acres initially; 0.005 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. < 1 %
- f. Number of off-street parking spaces existing 1; proposed 1
- 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>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Ultimately	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>

- i. Dimensions (in feet) of largest proposed structure: 90' height; 10' width; 18' 6" length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? Zero (0) ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? Zero (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?

n/a

- b. Will topsoil be stockpiled for reclamation? Yes No
- c. Will upper subsoil be stockpiled for reclamation? Yes No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 0 - Zero acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

Yes No

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

7. If multi-phased:

a. Total number of phases anticipated n/a (number)

b. Anticipated date of commencement phase 1: n/a month n/a year, (including demolition)

c. Approximate completion date of final phase: n/a month n/a year.

d. Is phase 1 functionally dependent on subsequent phases? Yes No

8. Will blasting occur during construction? Yes No

9. Number of jobs generated: during construction +/- 5; after project is complete 0 (Zero)

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

11. Will project require relocation of any projects or facilities? Yes No

If yes, explain:

n/a

12. Is surface liquid waste disposal involved? Yes No

a. If yes, indicate type of waste (sewage, industrial, etc) and amount n/a

b. Name of water body into which effluent will be discharged n/a

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

If yes, explain:

n/a

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? n/a tons

b. If yes, will an existing solid waste facility be used? Yes No

c. If yes, give name n/a; location n/a

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? Yes No

e. If yes, explain:

n/a

17. Will the project involve the disposal of solid waste? Yes No

a. If yes, what is the anticipated rate of disposal? n/a tons/month.

b. If yes, what is the anticipated site life? n/a 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)

During construction, the use of fossil fuels will occur for construction equipment. Post construction, the developed telecommunications facility will use electricity to power transmission and receiving equipment.

22. If water supply is from wells, indicate pumping capacity n/a gallons/minute.

23. Total anticipated water usage per day n/a gallons/day.

24. Does project involve Local, State or Federal funding? Yes No

If yes, explain:

n/a

25. Approvals Required:

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

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? Yes No

If Yes, indicate decision required:

- | | | | |
|---|--|--|--------------------------------------|
| <input type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance | <input type="checkbox"/> New/revision of master plan | <input type="checkbox"/> Subdivision |
| <input checked="" type="checkbox"/> Site plan | <input checked="" type="checkbox"/> Special use permit | <input type="checkbox"/> Resource management plan | <input type="checkbox"/> Other |

2. What is the zoning classification(s) of the site?

A-1 Agricultural

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

n/a

4. What is the proposed zoning of the site?

n/a - No proposed changes to zoning.

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

Addition of a public utility to premises currently being utilized as a public utility.

6. Is the proposed action consistent with the recommended uses in adopted local land use plans?

Yes

No

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

Public Utility, Rural Residential, B-13 Commercial District

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ 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? n/a

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

n/a

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 projected demand? Yes No

n/a

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

n/a

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 Infinigy Engineering for Independent Wireless One Date _____

Signature _____

Title Land Planner

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	2	3
	Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

Impact on Land

1. Will the Proposed Action result in a physical change to the project site?

NO YES

Examples that would apply to column 2

- | | | | | |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on 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 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 on land where bedrock is exposed or generally within 3 feet of existing ground surface. | <input 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 |

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

Addition of panel antennas on an existing Crown Atlantic Wireless Telecommunication Tower and related equipment at the base thereof on a concrete pad at grade.

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)

NO YES

• Specific land forms: Yes 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.	<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?

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.	<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

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

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 | <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 |

IMPACT ON AIR

7. Will Proposed Action affect air quality?

NO YES

Examples that would apply to column 2

- | | | | | |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will induce 1,000 or more vehicle trips in any given hour. | <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 |
| • 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 |

IMPACT ON PLANTS AND ANIMALS

8. Will Proposed Action affect any threatened or endangered species?

NO YES

Examples that would apply to column 2

- | | | | | |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site. | <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
• 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?

NO YES

Examples that would apply to column 2

• 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
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will Proposed Action affect agricultural land resources?

NO YES

Examples that would apply to column 2

• The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction activity would excavate or compact the soil profile of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• 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.	<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
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<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

IMPACT ON AESTHETIC RESOURCES

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)

NO YES

Examples that would apply to column 2

• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Project components that will result in the elimination or significant screening of scenic views known to be important to the 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

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?

NO YES

Examples that would apply to column 2

• Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Any impact to an archaeological site or fossil bed located within the project site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.	<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
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON OPEN SPACE AND RECREATION

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

- NO YES

Examples that would apply to column 2

- | | | | |
|---|--------------------------|--------------------------|--|
| • The permanent foreclosure of a future recreational opportunity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • 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 |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

IMPACT ON CRITICAL ENVIRONMENTAL AREAS

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?

- NO YES

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

Examples that would apply to column 2

- | | | | |
|---|--------------------------|--------------------------|--|
| • Proposed Action to locate within the CEA? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| • 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 |
| • 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 |
| • 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 |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

1	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

IMPACT ON TRANSPORTATION

15. Will there be an effect to existing transportation systems?

NO YES

Examples that would apply to column 2

- | | | | | |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Alteration of present patterns of movement of people and/or goods. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in major traffic problems. | <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 |

IMPACT ON ENERGY

16. Will Proposed Action affect the community's sources of fuel or energy supply?

NO YES

Examples that would apply to column 2

- | | | | | |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • 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 |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

NOISE AND ODOR IMPACT

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. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Odors will occur routinely (more than one hour per day). | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • 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 |
| • 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 |
| • Other impacts: | <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
• 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 environment 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 (If you need more space, attach additional sheets)

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.

This section is not applicable, there are no potentially large impacts foreseen as a result of the proposed project.

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

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

The Board has determined that the agreement between Crown Atlantic Company LLC, Inc., and Independent Wireless One Leased Realty Corporation (IWO) authorizing IWO to collocate antennas and install related equipment at the existing Crown Castle lattice tower located at 227 Bald Mountain Road, will not have a significant adverse impact upon the environment and that a negative declaration pursuant to SEQR may be issued. Reasons supporting this determination are fully explained below.

Project Name: Collocation of PCS Antennae on Existing Lattice Tower

SEQR Status: Type I _____ Unlisted: XX

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

Location: 227 Bald Mountain Road, Brunswick, State of New York ("the Project Site").

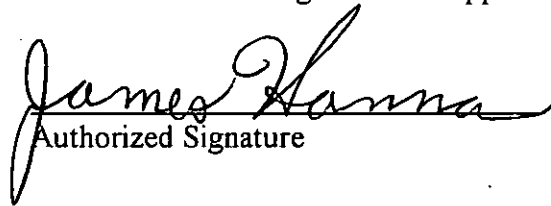
Reasons Supporting This Determination:

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

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

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

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


Authorized Signature

Dated: November 21, 2005

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

**RECEIVED
DEC 19 2005
TOWN CLERK**

REGULAR MEETING

November 21, 2005

RESOLUTION ADOPTING DETERMINATION

WHEREAS, the appeal and petition of BRUCE DONOVAN, owner-applicant, dated May 2, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed reconstruction of a single family residence located at 3748 NY Route 2, in the Town of Brunswick, because the proposed reconstruction violates the rear yard setback in an R-15 District in that 35 feet is required but 30 feet is proposed, and also violates the front yard setback in an R-15 District in that 35 feet is required but 23 feet is proposed, having been duly filed; 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 Trzcinski, was duly put to a roll call vote as follows:

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

The foregoing Resolution was thereupon declared duly adopted.

Dated: November 21, 2005

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Appeal and Petition of

DETERMINATION

BRUCE DONOVAN,

Applicant

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

This matter involves the appeal and petition of BRUCE DONOVAN, owner-applicant, dated May 2, 2005, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed reconstruction of a single family residence located at 3748 NY Route 2, in the Town of Brunswick, because the proposed reconstruction violates the rear yard setback in an R-15 District in that 35 feet is required but 30 feet is proposed, and also violates the front yard setback in an R-15 District in that 35 feet is required but 23 feet is proposed.

The basic facts of this proceeding are simply stated. The applicant purchased the above-mentioned property at a County tax sale. The lot is approximately 22,000 sq. ft. in area and was improved by a very rundown single family home. The Town issued a building permit to the applicant on September 30, 2003, which authorized the applicant to make repairs to the existing structure. The Superintendent of Utilities & Inspections made it clear to the applicant that, because the building was nonconforming in that it violated front and rear setbacks, he could not demolish the building and rebuild it; rather, he could only repair the building. The applicant claims that he intended only to repair and renovate the structure, but once he got into it he encountered so much rotted wood that he had to take the building down to the foundation. On January 12, 2005, the Superintendent received a complaint that the building was being taken down. He confirmed this upon an inspection of the premises. Since the applicant was not present when he inspected the premises, the Superintendent issued a "stop-work" order and posted it on the building. The Superintendent subsequently determined that the applicant continued to work on the building and initiated a proceeding in Justice Court based on the violation of the "stop work". In Justice Court, applicant claimed that the "stop work" order was not on the building and that he was unaware it had been issued. The Town Justice hearing the case referred the applicant to this Board to see if a variance was appropriate under the circumstances. Applicant is now requesting variances from the front and rear setback requirements, as described above, which, if granted, would make the building

“conforming” and permit him to rebuild the structure.

The Superintendent again inspected the premises at the behest of the Board after this application was filed. The Superintendent found that, in addition to taking down the existing structure, the applicant had reinforced the existing foundation with concrete, without changing the existing “footprint”. He also found that the applicant had started to rebuild the structure and that part of it overhangs the foundation, which may result in a larger structure than that which previously existed.

At the public hearing on this matter, which extended over several months, only one person from the public had any comment on the application. The application was strenuously and consistently opposed by an adjoining property owner who produced photographic evidence which appears to indicate that someone was present at the premises working, even after the Justice Court proceeding was pending. He also complained that when cars were parked on the subject parcel, they impede his view of oncoming traffic on Route 2, making it difficult and dangerous to pull out onto the road. The applicant denied that he did any work on the premises after being taken to Court, although he admitted that he may have been at the premises cleaning things up. Subsequently, it became evident that the adjoining landowner had once considered buying the parcel himself, but decided not to do so when he was told by the Town, as was the applicant, that he could not demolish and rebuild the structure because it was nonconforming. Understandably, he does not want to see the applicant benefit by violating the law, when he was disadvantaged by complying with the law. The Board notes that this adjoining owner sold his adjoining property during the pendency of this proceeding but still continued to attend the public hearing sessions and voice his opposition.

Turning to the Board’s obligations under SEQRA, the Board hereby classifies this matter a Type 2 action under SEQRA. No further proceedings under SEQRA are therefore required.

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. Applicant is proposing that the rear yard setback be reduced from 35 feet to 30 feet and the front yard setback reduced from 35 feet to 23 feet. As to the rear yard variance, since the rear of the property abuts the Quackenkill Creek, it appears that reducing the setback will not affect anyone. As to the front yard variance, the applicant submitted a very telling piece of evidence. The applicant identified thirteen (13) structures located along Route 2 in close proximity to the subject parcel, which were easily set back less than 35 feet from the road. The applicant photographed each such structure and noted its location on a map, showing its proximity to the subject parcel. From the evidence submitted, it is clear to the Board that it is far from uncommon in this locale to have existing structures quite close to the road, plainly violating front yard setbacks.

(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 his goal of rebuilding this structure. Without the variances, the structure will be nonconforming and cannot be rebuilt.

(3) WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL.

The Board finds that the requested variances are not substantial. The rear yard variance is only a matter of five (5) feet and, as previously stated, it really affects no one. As to the front yard variance, the variance is substantially greater, twelve (12) feet. However, as previously stated, from the evidence submitted by applicant, it does not appear to be uncommon in this locale to have

structures with front setbacks on this State turnpike road of 23 feet or less.

(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 rebuilding the structure will have minimal effects on the physical and environmental conditions of the neighborhood. It is true that the structure has been unoccupied for several years and that its being occupied once again may result in some inconvenience to the adjoining landowner in regard to site distance on the road. However, this effect was pre-existing, and would result even if the applicant had simply repaired the structure. Also, in one respect, granting the variances, thereby permitting the structure to be rebuilt, will have a beneficial effect on the neighborhood. The existing building was an eyesore, as is the barren lot as it now exists. If the structure is rebuilt, and used for its intended purpose as a single family residence, it will improve the appearance of the lot and increase the assessment on the property, adding to the tax base.

(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 occasioned the need for these variances by taking down the existing, nonconforming structure. It is equally clear that he knew he was not authorized to demolish and rebuild, only to repair the existing structure. Moreover, the applicant purchased the lot at a tax sale, taking it subject to all existing limitations. In those respects, the need for the variance is certainly self-created. However, the Board is not required to deny the variance on this basis and, in light of the other criteria, is not inclined to do so.

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.

Clearly, there will be a substantial benefit to the applicant if these variances are granted and he is allowed to rebuild the structure. Given the rising value of residential properties generally, and in Brunswick, particularly, he will likely realize an excellent return on his investment in the property, whether he lives there himself as he claims he will do, or sells it. On the other hand, the Board sees no real detriment to the health, safety or welfare of the community if the variances are granted.

Rebuilding this structure will improve the appearance of the lot and the neighborhood. It will add to the tax base and keep the structure from again being abandoned and let go for taxes. The issue of the site distance on the road when the property is occupied, and vehicles parked there, does not seem a sufficient reason to require that this property be vacant, unproductive, and non-contributing to the tax base.

To be sure, the Board is fully cognizant that, by granting the variances, it is essentially rewarding the applicant for his wrongdoing. Surely, the Board could deny these variances. That would mean that the land could not be improved. The house could not be rebuilt. The lot would essentially have no value. It is likely that the applicant would, under those circumstances, abandon it and let it go for taxes. That essentially is what happened some 10 years ago when the previous owner abandoned the property after the septic system failed and the County Health Department initiated enforcement proceedings. The property was subsequently sold to the applicant at a tax sale. One positive result from the rebuilding of the house is that the septic system will be rebuilt as well, at substantial expense to the applicant. The applicant has already obtained a Permit to Construct from the Health Department. No Certificate of Occupancy will be granted to the rebuilt structure until the Health Department has certified that the well and septic system have been properly constructed and installed to standards. If, on the other hand, the applicant had followed instructions and just did repairs to the house, it is likely he would have tried to use the existing failed septic system, or repair it himself, rather than have a system professionally designed as he now has done. Surely, a failed septic system would be a health and safety hazard.

For the reasons set forth above, the Board hereby grants the variances as requested. The Board does not wish the premises to remain in their current state for long. Accordingly, unless a building permit is obtained, the premises rebuilt, and a final Certificate of Occupancy issued all within eighteen (18) months from the date of this decision, the variances shall be deemed null, void and without effect.

Finally, as regards the Justice Court matter, the Board wishes the Court to know that its granting of these variances should not be construed as a condonation of the applicants' behavior. To the contrary, the Board is convinced that the applicant knowingly and intentionally violated the Zoning Ordinance and the instructions of the Superintendent of Utilities & Inspections when he tore the house down to the foundation and started to rebuild it. Further, the Board finds incredible the applicant's claim that he did not know that a "stop work" order had been issued. Any sanctions which can be imposed by the Court consistent with law would, in the opinion of this Board, be appropriate in all respects.

Dated: Brunswick, New York
November 21, 2005

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 December, 2005, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the appeal and petition of PATRICK R. OPEL, owner-applicant, dated November 15, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a single family home on a lot located at 7 Riccardi Lane, in the Town of Brunswick, because the construction violates the side yard setback in an A-40 District in that 25 feet is required and 22 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said PATRICK R. OPEL, owner- applicant, has petitioned for said area variance, and said appeal and petition 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.

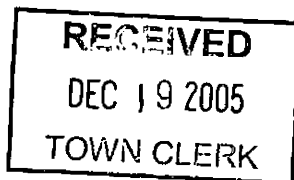
All persons interested in said application will be heard at the above time and place.

Dated: Brunswick, New York
December 5, 2005

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 December 19, 2005, at 6:00 P.M.

Present at the meeting were: Joseph Jabour, Member
James Sullivan, Member (arrived late)
E. John Schmidt, Member
Caroline Trzcinski, 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 5:45 P.M., Member Jabour made a motion to go into private session to discuss a legal issue with Attorney Cioffi. Member Trzcinski seconded. The motion carried 4 - 0. Member Sullivan arrived during the private session and participated. At approximately 6:05 P.M., Member Jabour made a motion to adjourn the private session. Member Trzcinski seconded. The motion carried 5 - 0. The regular meeting was then called to order. The matter of approval of the minutes of the November, 2005, meeting was put over to the next meeting.

The next item of business was the appeal and petition of PATRICK R. OPEL, owner-applicant, dated November 15, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a single family home on a lot located at 7 Riccardi Lane, in the Town of Brunswick, because the construction violates the side yard setback in an A-40 District in that 25 feet is required and 22 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Patrick Opel stated that when they were putting in the foundation for the house, they encountered a large rock on the left. The rock extended down into the ground at an angle. He decided to "cock" the foundation a little bit to avoid the rock. He didn't think he moved it that much but it was enough to cause the side yard setback to be violated.

Des Maly, Jr., 5 Riccardi Lane, stated that he saw the house go up. The rock is really large. His lot is right next door and is about the same size as Mr. Opel's lot. The side setback on his lot is 20 feet, not 25 feet. He asked why his side yard setback is different. Mr. Kreiger explained that although adjacent, the houses are in different Zoning Districts, and the rules are different.

Member Trzcinski asked Mr. Opel why he did not move the rock. Mr. Opel said he would

have had to blast it out. He just cocked the foundation a little. He could not break up the rock, so he avoided it. Mr. Opel stated that his surveyor told him about the setback problem after the foundation was in. Des Maly stated that his builder told him that he didn't think anyone could build on that lot because of the rock.

The Board reviewed the survey which shows that Mr. Opel moved the house about 2 ½ feet from where it was supposed to be to avoid the rock. This caused the location of the other end of the house to shift considerably. Mr. Maly stated that the property line between his property and Mr. Opel's is at a drastic slant. He was hampered by that and the rock.

Mr. Opel stated that he built this house to sell, not to live in. He was aware of the setbacks but he did not think he moved the foundation enough to matter. The house is already built. He continued to build after the surveyor pointed out the issue. Mr. Opel did not think it was a big problem. Member Trzcinski asked Mr. Opel if he considered asking the owner of Lot 5 to sell him a sliver of land sufficient to meet the setback requirement. He said that never occurred to him. Member Sullivan noted that the survey states that the approval of the Building Department was required prior to framing. Mr. Kreiger stated that the house was fully framed before Mr. Opel contacted him. He did not issue a stop work order because Mr. Opel agreed to seek a variance.

The Board was concerned that Mr. Opel continued building after he became aware of the problem especially in light of the survey note. The Board advised Mr. Opel to work with Mr. Kreiger to see if Lot 5 could be reduced in size and still meet zoning. If so, he is to contact the owner about buying a portion of the lot to resolve the setback issue.

The next item of business was further consideration of the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, applicant, dated September 13, 2005, 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) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and a 11'6" x 30' pre-fabricated equipment shelter within the existing facility, 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. Scott Olson, Esq., and Sara Mayberry Stevens appeared in support of the application

Attorney Olson stated that the application is complete under the Town's own law. They have addressed all of the technical concerns of the Town's consultant. They have provided the requested photo simulations from the Coons Road perspective. While he understands the concerns of the neighbors about the original approval of the tower, the tower is there, and under the Town's own law his client should be allowed co-locate on that tower. They feel adding these antennas to the existing tower is simply not a significant impact.

Ronald Laberge, P.E., stated that he had certain technical concerns with the application, all of which have now been resolved to his satisfaction. The tower was designed to hold 6 carriers.

Joe Ecker, 65 Coons Road, stated that the photo simulations do not truly depict the tower as

it exists and appears. When you look at it from the road, you can see it very clearly - much more clearly than it appears in the photo simulations. Also, he did not get notified when the tower was approved. He thinks the tower should be moved further to the South by Nextel. Attorney Olson replied that Nextel does not own the tower any longer. It sold the tower. Certainly, Verizon has no right or authority to move the tower. Moving the tower to the South would lower the elevation and affect coverage. Also, the cost would be very high. The tower is a legal use as it exists. Margaret McCarthy, Lockrow Road, stated that the tower is huge. It is ugly and devastating. The pictures don't really show the extent of it. She knows a lot of people don't see it and that it does not affect everyone. She is opposed to further antennas. Attorney Olson stated that the photo simulations had not been "doctored" in any way. They were produced by a reputable firm

Ron Ishkanian, 69 Coons Road, presented a petition from 38 Town residents opposed to this application. The tower is illegal. Nothing more should need to be said. No one knows the health effects of these towers. He and Mr. Ecker are within 1200 feet of the tower. The tower is not safe to have in a residential area. Nothing more should be added to the tower. Attorney Olson replied that he is sympathetic. He is sure some people do not like the tower. However, it has been approved and legally exists. His client has an obligation to co-locate on the existing tower if it meets their coverage needs, rather than build a new tower. General community opposition to the application is insufficient. Finally, under Federal law, this Board cannot consider the health effects of tower emissions in determining these applications. Ms. Stevens noted that fewer people in opposition were here this month than there were last month. Chairman Hanna asked how many people present had cell phones. He noted that about 90% indicated they did.

Diane DeCurtis, 6 Moonlawn Road, stated that we should try to preserve Brunswick. The applicants should make the tower look like a tree so it will blend in with the environment. Ronald Ishkanian stated that people don't have to come every month to say they are opposed to this. He is concerned that Chairman Hannan is biased in favor of the application. Chairman Hannan denied that and stated that he has an open mind. Margaret McCarthy said she was here last month. She understands some people could not be here tonight. She would like to submit some pictures of the tower. Joe Ecker stated that he was not implying that the photo simulations were "doctored". Bob Reynolds, 141 Carrolls Grove Road, stated that he can see 1/2 of the tower from his house. He can also see power lines and cable television lines. He would like to see everything kept pristine, but some of these things need to be tolerated because they have become necessities. He does not see the tower or the antennas as having a significant visual impact.

Member Sullivan observed that the "pine look" had been contemplated when the tower was approved, but that the Board decided that the plain steel pole would blend in better. Sara Stevens stated that Verizon does stealth installations. But here the tower is existing, and it is not their structure to modify. The Chairman stated that he wants to contact Nextel again to see if anything could be done to reduce the visual impacts complained of. Mr. Ishkanian stated that the Board needs to listen to the residents.

There was a lengthy discussion about whether the hearing should be held open or closed. Attorney Olson strongly urged that the public hearing be closed. Some members of the public opposed this. The Chairman suggested that the Board go into private session to discuss legal issues with Attorney Cioffi. Member Jabour so moved. The Chairman seconded. The motion carried 5 -

0. Following the discussion, Member Jabour made a motion to return to the regular session. The Chairman seconded. The motion carried 5 - 0. Member Jabour made a motion to continue the public hearing to the January 17, 2006, meeting. The Chairman seconded. The motion carried 5 - 0.

The next item of business was further consideration of the appeal and petition of DAWN HETTRICK, owner-applicant, dated October 4, 2005, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a shed on a lot located at 611 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but the shed was constructed 5 feet from the side property line.

Dawn Hettrick stated that she obtained an estimate for moving the shed. It will cost her a minimum of \$600.00, including the cost of moving the contents. Some additional site work might be required at additional cost. She submitted the estimate. She also submitted a letter from Joyce Hettrick detailing her conversation with the Town regarding whether a permit was required for the shed. She did not look into the issue of whether the shed could be moved on top of her leach field. Some of the debris next to the shed has been moved.

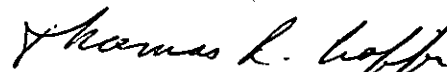
Member Jabour said the shed should be moved. Dawn Hettrick said it would be costly. The shed contains things like a riding mower, a lawn mower, and a grill. Alda Riley submitted a letter from an expert stating that the shed was affecting the health of her trees. Member Schmidt stated that the estimate to move the shed was very high.

Member Jabour made a motion to deny the variance on the ground that the applicant could simply move the shed to another location on her property, obviating the need for a variance. Chairman Hannan seconded. The motion carried 5 - 0. The Board noted that Ms. Hettrick is in violation of the Zoning Ordinance. They will leave it up to Mr. Kreiger to decide what amount of time he will give her to move the shed before he resorts to an enforcement action.

There being no further business, Member Jabour made a motion to adjourn. The Chairman seconded. The motion carried 5 - 0.

Dated: Brunswick, N.Y.
January 9, 2006

Respectfully submitted,



THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary