

**ZONING  
BOARD  
MINUTES**

**2007**

## 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 22nd day of January, 2007, 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 WILLIAM TETRAULT, owner-applicant, dated December 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 192 Plank Road, in the Town of Brunswick, because the construction violates the front yard setback in an A-40 District in that 75 feet is required but 30 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said WILLIAM TETRAULT, 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, 2007

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**

336 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 22, 2007, at 6:00 P.M.

Present at the meeting were: James Shaughnessy, Member  
Caroline Trzcinski, Member  
James Sullivan, 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. The regular meeting was called to order at 6:00 P.M. The first item of business was approval of the minutes of the December, 2006, meeting. Member Shaughnessy made a motion to approve the minutes as submitted. Member Trzcinski seconded. The motion carried 5 - 0.

The first item of business was the appeal and petition of WILLIAM TETRAULT, owner-applicant, dated December 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 192 Plank Road, in the Town of Brunswick, because the construction violates the front yard setback in an A-40 District in that 75 feet is required but 30 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

William Tetrault stated that he wants to build a garage but due to the placement of his leach field he is unable to put it in a place on the lot that will meet the setbacks. The Chairman asked Mr. Tetrault to provide a drawing showing the exact location of the leach field. Mr. Tetrault explained that the house was not actually built on the lot where it is depicted on the blueprints and drawings. He does not have plans or a drawing which accurately depict where the house and septic system are located on the lot. The house was built on spec and he purchased it in June, 2006, after it was built. He saw the leach field go in - it is to the left of the house. Putting the garage further back on the lot, so it would meet the front setback, would put the garage right over the leach field. Mr. Kreiger noted that the plans show the house as being perpendicular to Plank Road, while the actual building is parallel to Plank Road. Mr. Kreiger said he is sure the leach field is where Mr. Tetrault claims it is - it is a raised system. Member Schmidt agreed.

Tony Onderchain, 5 Deer Path, Colonie, inquired whether the Town should have a copy of the plans for the septic system which were approved by the Rensselaer County Health Department. Mr. Kreiger said the Health Department only provides the Town with a Certificate of Compliance, not the plans. There was no further comment from the public.

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

***BE IT RESOLVED, that with respect to the appeal and petition of WILLIAM TETRAULT, owner-applicant, dated December 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 192 Plank Road, in the Town of Brunswick, because the construction violates the front yard setback in an A-40 District in that 75 feet is required but 30 feet is proposed, the Zoning Board of Appeals does hereby grant the variance as requested on the following conditions:***

- 1. The applicant shall provide the Building Department with a drawing indicating the actual position of the leach field on the lot; and***
- 2. The applicant will provide the Building Department with a copy of the septic system plan approved for the lot by the Rensselaer County Health Department.***

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

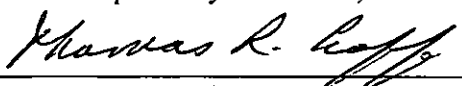
Member Sullivan	Voting Aye
Member Schmidt	Voting Aye
Member Shaughnessy	Voting Aye
Member Trzcinski	Voting Aye
Chairman Hannan	Voting Aye

The Resolution was declared duly adopted.

Attorney Cioffi advised the Board that with respect to the pending application of Brunswick Associates of Albany LP, for a Planned Development District to construct additional apartment buildings on land adjacent to the existing Sugar Hill Apartments complex located on McChesney Avenue, in the Town of Brunswick, the Town Board has requested another recommendation from this Board because the developer has now amended its application to request approval of a fifth building. The Town Board also scheduled a second public hearing for February 8, 2007, because of the change. The consensus of the Board was that it would wait until after the second public hearing was held to make further comments with respect to the application as amended. The Board will consider this matter at the February 26, 2006, meeting.

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

Dated: Brunswick, N.Y.  
February 3, 2007

Respectfully submitted,  
  
THOMAS R. CIOFFI  
Town Attorney - Zoning Board Secretary

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

336 TOWN OFFICE ROAD, TROY, NEW YORK 12180

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

**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on February 26, 2007, at 6:00 P.M.

Present at the meeting were: James Shaughnessy, Member  
Caroline Trzcinski, Member  
James Sullivan, 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. The regular meeting was called to order at 6:00 P.M. The first item of business was approval of the minutes of the January, 2007, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Sullivan seconded: The motion carried 5 - 0.

The first item of business was the appeal and petition of ITZ SYSTEMS, applicant, dated January 10, 2007, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of the 12' x 15' front office space in the building in which it currently conducts its business operations, located at 891 Hoosick Road, in the Town of Brunswick, as a payment center for Time Warner Cable, because the proposed use is a commercial use not a permitted by right in an A-40 District, and said proposed use does not fall within the existing use variance issued with respect to this property. Attorney Cioffi read the Notice of Public Hearing aloud.

Peter Gardiner, the owner of ITZ Systems, appeared. He stated that ITZ has been operating at that location under a use variance for about 3 ½ years. He reminded the Board that at the time the variance was granted, he indicated that he would not be using the office at the front of the building right away. He would like to be a payment center for Time Warner Cable. This would not replace any existing Time Warner facility. No cash payments would be accepted. The office would be staffed by ITZ employees only. He does not anticipate having to hire any new employees to staff the office. He would anticipate maybe 10 - 15 people per day would visit the office. In addition to accepting payments, he would also like to be able to distribute Time Warner Cable equipment and perhaps repair it at the site. He would not be altering the footprint of the building, He would probably want to put a Time Warner sign in one of the windows in front of the building. In essence, this would be a business location of Time Warner Cable. It would accept non-cash payments, distribute and collect cable equipment, and accept requests from customers for service.

Attorney Cioffi stated that he was a little concerned that the application, and therefore the

published Hearing Notice, mentioned only the acceptance of payments. There was no mention of equipment distribution or accepting service requests from customers. Mr. Gardiner stated that he was not seeking to hide anything; rather the term "payment center" is generally understood to include items other than the mere acceptance of payments. He also stated he had no objection to continuing the hearing and placing a revised hearing notice to include the other proposed aspects of the operation. Attorney Cioffi agreed that that would be a good idea. Attorney Cioffi also noted that the Board had not heard from the referral to the County Planning Office. Attorney Cioffi also gave Mr. Gardiner a short form EAF for completion. The Board said it would call another case while Mr. Gardiner completed the EAF.

The next item of business was the appeal and petition of THE HUDSON CAPITAL GROUP LLC, owner-applicant, dated January 8, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed subdivision of a 21,000 square foot building lot from an existing lot located at 1008 Spring Avenue, in the Town of Brunswick, because the proposed subdivision violates the minimum lot size requirement in an R-40 District in that 40,000 sq. ft. is required and 21,000 sq. ft. is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Matt McElligot, 589 River Street, appeared. He stated that they purchased the property at 1008 Spring Avenue in September, 2006, at a tax auction. They remodeled the existing house on the lot. Now they want to subdivide the lot so they can have an additional building lot. He claimed that the house he bought is older than other houses in the area and the lot is larger. He stated that the lot adjacent to his was subdivided in a fashion similar to that being proposed here. They paid \$140,000.00 for the house and lot at auction. They intend to build another house on the new lot, if the subdivision is permitted. They did not anticipate subdividing when they purchased the lot. No one represented to them at the time of purchase that they could subdivide.

Mary Miller and Bob Miller, residing at 1010 Spring Avenue, said that they object to the application. In 1996, what is now 1008 Spring and 1010 Spring were one parcel, owned by the Denali Estate. There was the original 3 unit wood structure on the lot, as well as a red brick ranch home built later. They purchased the red brick ranch home, and the lot was subdivided. The other lot, which has the 3 unit wood structure, is the one purchased by the applicant. They understood at the time they purchased 1010 Spring Avenue that the lots could not be subdivided further. When they purchased the property, they had to sign off on two easements across their property which benefit 1008 Spring Avenue - one is for electrical power lines and the other is for a city sewer pipe. An additional house on the lot which is now 1008 Spring Avenue would mean more power lines crossing their property and more sewage crossing their property. They already have problems with the sewer pipe crossing their property. It is on the small side and has to be cleaned out frequently. They feel that adding another house will result in more blockages. All of the sewage from the 3 unit structure on 1008 Spring Avenue currently dumps into a sewer manhole which is on their property. They own it. An additional home would dump its sewage there as well. They also have concerns that any new building would have multiple units. They already have problems with the existing multi-unit building at 1008 Spring Avenue because it is not owner-occupied. The tenants are noisy and they drive across their property.

Mr. McElligot said that there are a lot of houses directly across the street which are on very small lots. The consensus of the Board was that further information was required. The Board asked Mr. McElligot and the Millers to bring in any documentation of the prior subdivisions and easements

pertaining to their properties. Member Trzcinski made a motion to continue the public hearing to the March 19 meeting. Member Shaughnessy seconded. The motion carried 5 - 0.

The application of ITZ was recalled. Mr. Gardiner stated that he rents the entire building from Mr. Calhoun. Most of the business of ITZ is "out of the shop". Most of his employees are not on the premises during the day. The property looks vacant from the front now. He has no intention to add employees to run the Time Warner operations. No Time Warner employees would work there. The consensus of the Board was that a new hearing notice would issue stating that the front office is proposed to be used as a payment center, for the distribution of cable equipment, and for taking service requests, all for Time Warner Cable. Attorney Cioffi also asked that a letter from Mr. Calhoun consenting to these additional uses be provided to the Board. The matter was put over to the March 19 meeting.

The next item of business was a referral from the Town Board for a recommendation on the Sugar Hill Apartments planned development district application. Attorney Cioffi explained that the Board made its recommendation at the December 18, 2006, meeting. Since then, the applicant has formally requested to expand its application to encompass 5 new buildings as opposed to the 4 new buildings originally proposed. Consequently, the Town Board has asked this Board to review and possibly reconsider its recommendation. Attorney Cioffi noted that the Planning Board had recently voted 3 - 2 to make a positive recommendation regarding the fifth building.

Attorney Cioffi read aloud the Board's recommendation issued at the December 18, 2006, regular meeting. The consensus of the Board was that the recent developments did not warrant any change to the recommendation already issued. The Chairman made a motion to endorse without change the recommendation made on this application at the December 18, 2006, meeting. Member Schmidt seconded. A roll call vote was taken and all members voted in the affirmative. The motion was carried.

The next item of business was consideration of the referral from the Town Board for a recommendation on the Hudson Hills planned development district application. Bill Hoblock appeared for the applicant, Capital District Properties. Mr. Hoblock stated that nothing has changed since this project was first presented to this Board about a year ago. They have completed the SEQRA process. The FEIS has been accepted as complete by the Town Board. Two public hearings have been held.

This project was materially changed about 1 1/2 years ago based upon comments and concerns expressed by the public. The location and concept are the same. The project is still located on a 215 acre parcel which abuts existing apartments on the Route 7 corridor. The concept is luxury, multi-family buildings. The term "apartments" has a negative connotation. These units will be built to the level of condo units or town houses, yet it will be a rental community. He showed the Board a rendition of the "Residential Buildings" which they are proposing to build. He stated that the buildings look more like a large house rather than apartment buildings. They will have cathedral ceilings, wood floors, large closets, double vanities, and in-unit laundry facilities. They are targeting empty nesters - people who want something as nice as their former homes. They are also targeting young professionals. The original plan was to have 4 phases with each having over 300 units, with entrances to the project on Betts Road and North Lake Avenue. The modified plan eliminates almost one-half of the apartments. Now, there are 3 phases proposed, with 248 units in Phase 1, 228 units in Phase 2, and 190 units in Phase 3. Full build out would be 668 units. The North Lake Avenue entrance was

eliminated. The project area will remain the same. After Phase 1, 95% of the project area will be green space. After both Phase 1 and Phase 2 are built, the project area will still be 90% green. Even after full build out, the project area will be 84.5% green. The unused area will be forever green, encumbered by a conservation easement. No additional units can be built in the future. There will be an emergency exit on Lord Avenue. Under no circumstances will that exit be used other than in an emergency.

Member Sullivan asked about the rents. Mr. Hoblock stated that apartments will be 1 or 2 bedroom, ranging from 850 sq. ft. to 1500 sq. ft. Rents will range from \$900 - \$1500 per month. Member Trzcinski asked about traffic. Mr. Hoblock said that apartments do not generate as much traffic as private homes. There won't be a lot of children. There are usually not large families. Member Schmidt asked about the land. Mr. Hoblock stated that there are 6 or 7 parcels owned by 4 or 5 owners. Much of the land is currently used for farming. They will acquire the land only if the project is approved. The Chairman said that he is concerned about the traffic on Route 7.

Norm Fivel, 101 Wilrose Lane, said that he is concerned about the traffic. The single access point via Betts Road will cause trouble on Route 7. Mr. Fivel noted that they cannot legally market the apartments to only families without children, so they have no control as to the size of the families who rent the apartments. The traffic study projects .5 cars per unit. That is unrealistic. Two cars per unit would add 1300 cars going up and down Betts Road and Hoosick Road. One access point for 668 units is unreasonable on its face. There are fewer units at Sugar Hills, yet they have all sorts of access. And, being a highway by use, they can't widen Betts road much. School buses might have a problem. This project is right on top of his property. Mr. Hoblock stated that Betts Road will have 2 - 12 foot travel lanes, with 2 foot shoulders.

Carmen Stevenson, 8 Lord Avenue, said that he believes Lord Avenue will ultimately become a second access point. Mr. Hoblock denied that. Lord Avenue will be gated or have a lock box. Lord Avenue would not be used during construction either. The Chairman inquired whether the project could be further downsized. Mr. Hoblock said that in order to amass 200+ acres of land, a large unit count is required to make the project work. All the apartments will not be built at once. It is market-driven. If there is no market for the units, they will not be built.

There was further discussion of the traffic issue. Mr. Hoblock stated that the .5 cars per unit during peak hours cited in the traffic study is really worse case scenario. The Chairman said that he agrees there is a need for luxury apartments, but that the volume of traffic is still a concern.

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

Dated: Brunswick, N.Y.  
March 8, 2007

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary



NOTICE OF PUBLIC HEARING

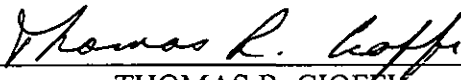
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 26th day of February, 2007, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the appeal and petition of THE HUDSON CAPITAL GROUP LLC, owner-applicant, dated January 8, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed subdivision of a 21,000 square foot building lot from an existing lot located at 1008 Spring Avenue, in the Town of Brunswick, because the proposed subdivision violates the minimum lot size requirement in an R-40 District in that 40,000 sq. ft. is required and 21,000 sq. ft. is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said THE CAPITAL GROUP LLC, 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 1, 2007

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 26th day of February, 2007, 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 ITZ SYSTEMS, applicant, dated January 10, 2007, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of the 12' x 15' front office space in the building in which it currently conducts its business operations, located at 891 Hoosick Road, in the Town of Brunswick, as a payment center for Time Warner Cable, because the proposed use is a commercial use not a permitted by right in an A-40 District, and said proposed use does not fall within the existing use variance issued with respect to this property.

FURTHER NOTICE IS HEREBY GIVEN that said ITZ SYSTEMS, 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  
February 1, 2007

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**

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

**DRAFT MINUTES**

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on March 19, 2007, at 6:00 P.M.

Present at the meeting were: James Shaughnessy, Member  
Caroline Trzcinski, Member  
James Sullivan, Member

Member Schmidt and Chairman Hannan were absent. Also present were Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and Code Enforcement Officer Ron Neissen. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M. The first item of business was selection of a temporary Chairman. Member Trzcinski made a motion to designate Member Shaughnessy temporary Chairman. Member Sullivan seconded. The motion carried 3 - 0.

The next item of business was approval of the minutes of the February, 2007, meeting. Member Sullivan made a motion to approve the minutes as submitted. Member Trzcinski seconded. The motion carried 3 - 0.

The next item of business was the appeal and petition of THE HUDSON CAPITAL GROUP LLC, owner-applicant, dated January 8, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed subdivision of a 21,000 square foot building lot from an existing lot located at 1008 Spring Avenue, in the Town of Brunswick, because the proposed subdivision violates the minimum lot size requirement in an R-40 District in that 40,000 sq. ft. is required and 21,000 sq. ft. is proposed. There was no appearance by the applicant. Bob and Mary Miller, 1010 Spring Avenue, were present. Mr. Neissen advised that the applicant had called to withdraw the application. After a brief discussion, the Board indicated that it considered the matter closed.

The next item of business was the appeal and petition of ITZ SYSTEMS, applicant, dated January 10, 2007, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of the 12' x 15' front office space in the building in which it currently conducts its business operations, located at 891 Hoosick Road, in the Town of Brunswick, as a business location for Time Warner Cable, for accepting payments for services, marketing and arranging for services, and distributing and accepting returns of equipment, because the proposed use is a commercial use not a permitted by right in an A-40 District, and said proposed use does not fall within the existing use variance issued with respect to this property. Attorney Cioffi read the Notice of Public Hearing aloud. Attorney Cioffi stated that this was a revised Notice, issued because at last month's meeting the applicant had requested relief not mentioned in the original Notice.

Peter Gardiner, the owner of ITZ Systems, appeared. He acknowledged that the original hearing notice was not complete and the Notice just read accurately reflected all of the relief he was seeking. Mr. Gardiner provided a letter from Peter Calhoun, the owner of the property, consenting to the new proposed use. Attorney Cioffi noted that what was really being requested here is an expansion of the use variance already granted with respect to these premises under which ITZ currently operates.

The Board then proceeded with its SEQRA review. Member Sullivan made a motion to classify the matter an unlisted action under SEQRA. Member Trzcinski seconded. The motion carried 3 - 0. The Board then completed Part 2 of the short-form EAF submitted by the applicant. No significant impacts on the environment as a result of the proposed action were noted. Accordingly, Member Trzcinski made a motion to issue a Negative Declaration of significance under SEQRA. Chairman Shaughnessy seconded. The motion carried 3 - 0. The Board also noted that there had been no response received from the County Planning Office to the General Municipal Law, Section 239-m referral. Since the referral had been outstanding for well in excess of 30 days, the Board decided to proceed.

Member Sullivan thereupon offered the following Resolution:

***BE IT RESOLVED, that the existing use variance on the property located at 891 Hoosick Road, in the Town of Brunswick, permitting the operations of ITZ Systems at that location, be and hereby is amended to include the use of the front office space in the said building as a Time Warner Cable business location, for accepting payments for services, marketing and arranging for services, and distributing and accepting returns of equipment, such operations to be conducted solely by ITZ Systems employees, and limited to those specifically enumerated.***

Member Trzcinski seconded the Resolution. Chairman Shaughnessy then called for a roll call vote as follows:

Member Sullivan	Voting Aye
Member Trzcinski	Voting Aye
Chairman Shaughnessy	Voting Aye

The Resolution was thereupon declared duly adopted.

There being no further business, Member Trzcinski made a motion to adjourn. Member Sullivan seconded. The motion carried 3 - 0.

Dated: Brunswick, N.Y.  
March 31, 2007

Respectfully submitted,

  
THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

## NOTICE OF PUBLIC HEARING

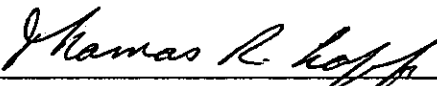
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 19th day of March, 2007, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the appeal and petition of ITZ SYSTEMS, applicant, dated January 10, 2007, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of the 12' x 15' front office space in the building in which it currently conducts its business operations, located at 891 Hoosick Road, in the Town of Brunswick, as a business location for Time Warner Cable, for accepting payments for services, marketing and arranging for services, and distributing and accepting returns of equipment, because the proposed use is a commercial use not a permitted by right in an A-40 District, and said proposed use does not fall within the existing use variance issued with respect to this property.

FURTHER NOTICE IS HEREBY GIVEN that said ITZ SYSTEMS, 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  
March 3, 2007

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THOMAS R. CIOFFI  
Town Attorney

NOTICE OF PUBLIC HEARING

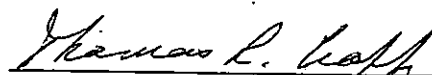
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Dated: Brunswick, New York  
March 3, 2007

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



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THOMAS R. CIOFFI  
Town Attorney

**TOWN OF BRUNSWICK**  
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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 June 18, 2007, at 6:00 P.M.

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

Also present were Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities and Inspections. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M. The first item of business was approval of the minutes of the March, 2007, meeting. Member Trzcinski made a motion to approve the minutes as submitted. The Chairman seconded. The motion carried 5 - 0.

The next item of business was a presentation regarding changes in the proposed Hudson Hills Planned Development District. William Hoblock appeared, representing the applicant, Capital District Properties, LLC. Also present were Andrew Gilchrist, Esq., Special Counsel to the Town Board regarding this application, and Mark Kestner, P.E., the Town's reviewing engineer. Mr. Hoblock explained that, due to comments from the Town Board, and the public, the applicant was scaling the project back in size and scope and providing more tangible benefits to the Town. The project first started out at 1,116 units, in 4 phases, on 215 acres of land. In February, 2007, the project was reduced to 668 units, still on 215 acres. In its present incarnation, the project is proposed to be 250 apartments on about 80 acres. The Planned Development District would encompass only the 80 acres on which the apartments would be located. The applicant would acquire two other parcels, to wit: a 25 acre parcel on which the applicant would construct two baseball fields and all associated appurtenances; and a 40 acre parcel in between the two, that would provide road access and sewer and water service access to the baseball fields. The 40 acre parcel would remain vacant at present, with the applicant reserving the right to apply to develop the same in the future, with the stipulation that it could never be used for apartments. The balance of the original 215 acres would not be acquired by the applicant.

The project location remains the same. The product remains the same. The public benefit has increased due to the proposed ball fields. The environmental impacts are greatly reduced. The traffic impacts will be much lessened because of the reduced number of apartments.

Mr. Gilchrist stated that the 25 acre parcel on which the ball fields are proposed to be built

is currently zoned A-40. Public recreation facilities are permitted uses in that District so no zoning change will be required on that parcel. The 40 acre parcel is also zoned A-40, and that will not change. The applicant will file a deed restriction stating that the property would never be used for apartments. It could be used for condominiums, town houses, carriage homes, or the like. Mr. Kestner stated that the ball fields will not significantly increase traffic. Also, he noted that the applicant acquired additional land along Betts Road, the road access for the apartment parcel, so the utilities can now be installed alongside the road rather than under it.

Member Schmidt noted that the 40 acre parcel could subsequently be used for some other type of PDD. Mr. Hoblock agreed, but said the use would have to be approved by the Town Board. Member Sullivan asked about the emergency access on Lord Avenue. Mr. Hoblock said it would remain emergency only, and would be gated and locked. The Chairman stated that this latest proposal is a big improvement. Less traffic and the addition of the ball fields make the project more attractive. The Board will act on the referral from the Town Board at the next meeting.

The next item of business was the appeal and petition of DAVID SHAW, owner-applicant, dated April 26, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an addition to a single family home, including kitchen, bathroom and garage, on a lot located at 1011 Cloverlawn 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 7 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

David Shaw appeared. He stated that he was not building the kitchen and bathroom, just the garage. The garage would be 24 feet wide and 28 feet deep. He still needs the same variance. The garage would be the same height as the existing ranch house, with the same roof line. His nearest neighbor house on the side he needs the variance is some 600 - 800 feet away. No one from the public wished to comment.

Member Shaughnessy made a motion to classify the matter a Type 2 action under SEQRA. Member Schmidt seconded. The motion carried 5 - 0. Member Trzcinski thereupon offered a Resolution approving the variance as requested. Member Shaughnessy seconded. The Chairman then called for a roll call vote as follows:

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

The Resolution was thereupon declared duly adopted.

The next item of business was the Application for Zoning Permit and Request for a Special Use Permit of CATHERINE HAPP, owner-applicant, dated April 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion to an apartment of a portion of a detached accessory garage on a lot located at 3 Clinton Place, in the Town of Brunswick, because multi-family buildings are allowed only by way of special use permit granted by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.



Catherine Happ appeared. She said she is divorced and wants to add an apartment to her existing, detached, 3 car garage so her daughter can live there. This will help her pay for the property. She will be adding a small kitchen and a small bath to the garage. The sewer and water connections would come from the main house. Ms. Happ said that she ability to add an apartment was one of the reasons she bought the property.

Jennifer Levesque, 24 Clinton Avenue, stated that she only received notice of this application on June 15. She is a realtor. This is a long-established neighborhood on a dead end street. She opposes the application. It is a separate unit, not an apartment. It is like having two residences on one lot, which is not allowed. She had no knowledge that the prior owner of the property ever considered having an apartment there. She also questioned the public benefit to be obtained by the grant of a special use permit. This would be a free-standing apartment. If Ms. Happ's daughter moved out, she would try to rent it to anyone, even students. Even if the Board restricted the rental to family members, who would monitor that? Who would enforce it? Also, Ms. Happ has already started building the apartment.

Attorney Cioffi said that the Board would re-issue the Notice and send it to all adjacent property owners well in advance of the next meeting. He also stated that one of the questions the Board would need to resolve is whether having an apartment in an accessory detached, garage constituted a multiple family dwelling under the Zoning Ordinance.

Judy Maloney, 30 Clinton Place, said that she is upset about the application. She is also concerned about who would monitor the rental of the apartment even if the Board ruled that it was restricted to family members. Jim Gardiner, 29 Clinton Avenue, said that the character of the neighborhood is already changing and this would make it worse. There is already a lot of traffic on the small street. He had no knowledge that the prior owner of the house ever considered this.

The Chairman asked Ms. Happ if she already built the apartment. She said that the work was started. The person she hired was supposed to obtain the necessary permits but didn't. Water and sewage connections were made. The heating and electric service was already provided to the garage by the prior owner. She is not trying to assault the neighborhood or downgrade it.

Member Schmidt made a motion to continue the public hearing to the July 16, 2007, meeting. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of KENNETH STONE, owner-applicant, dated April 18, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 25 Green Street, in the Town of Brunswick, because the construction violates the front yard setback in an R-9 District in that 60 feet is required but 35 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Kenneth Stone said that he needs a garage. It would be 24' wide x 26' deep. It would be the same width as his swimming pool. The garage would be built in front of the pool and deck. He already received a rear yard variance to put the pool in. The garage would be 35 feet from the road.

Paul Ruddy, 23 Green Street, stated that he opposes the application. The garage would be

directly adjacent to his pool, patio and deck. When they sat in their yard, they would be looking directly at the garage. They have lived there for 34 years and spend a lot of time in their yard. Mr. Stone said that there was already a 10' x 12' shed there. Mr. Ruddy said the shed does not effect their enjoyment of their property, but a large garage would.

Member Hannan urged the parties to see if something could be worked out. Member Shaughnessy made a motion to hold the matter over to the August 20, 2007, meeting. Member Schmidt seconded. The motion carried 5 - 0.

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

Dated: Brunswick, N.Y.  
June 30, 2007

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 June, 2007, 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 DAVID SHAW, owner-applicant, dated April 26, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an addition to a single family home, including kitchen, bathroom and garage, on a lot located at 1011 Cloverlawn 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 7 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said DAVID SHAW, 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  
June 2, 2007

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

*Thomas R. Cioffi*

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THOMAS R. CIOFFI

Town Attorney

## NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of June, 2007, 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 KENNETH STONE, owner-applicant, dated April 18, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 25 Green Street, in the Town of Brunswick, because the construction violates the front yard setback in an R-9 District in that 60 feet is required but 35 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said KENNETH STONE, 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  
June 2, 2007

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



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THOMAS R. CIOFFI  
Town Attorney

## NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of June, 2007, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for a Special Use Permit of CATHERINE HEPP, owner-applicant, dated April 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion to an apartment of a portion of a detached accessory garage on a lot located at 3 Clinton Place, in the Town of Brunswick, because multi-family buildings are allowed only by way of special use permit granted by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said CATHERINE HAPP, owner- applicant, has petitioned for said special use permit, and said application is 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 4, 2007

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

336 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 16, 2007, at 6:00 P.M.

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

Also present were Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities and Inspections. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M. The first item of business was approval of the minutes of the June, 2007, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Schmidt seconded. The motion carried 4 - 0. Member Sullivan arrived after the vote was taken.

The next item of business was the appeal and petition of BRIAN BRADLEY, owner-applicant, dated June 26, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a swimming pool deck on a lot located at 3 Plum Road, in the Town of Brunswick, because the proposed construction violates the side yard setback in an A-40 District in that 25 feet is required but 2 feet 8 inches is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Brian Bradley appeared. He said he had nothing to add to what is in the application. No one from the public wished to speak. The consensus of the Board was that the 2 feet eight inches setback requested was extremely small. The Board members noted that the existing swimming pool also violates the setback. Mr. Kreiger examined the plans and stated that the pool does violate the setbacks and that he had granted the building permit by mistake. The Chairman stated that he wanted to continue the public hearing to the next meeting so that the applicant could get a written statement from the adjoining property owner on that side stating that he had no objection to the small setback. Member Shaughnessy made that motion. Member Sullivan seconded. The motion carried 5 - 0.

The next item of business was the the appeal and petition of SANDRA LALIBERTE, owner-applicant, dated June 25, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a prefabricated shed on a lot located at 930 Hoosick Road, in the Town of Brunswick, because the construction violates the front yard setback in an R-15 District in that 60 feet is required but 50 feet is proposed. Attorney Cioffi read

the Notice of Public Hearing aloud. Sandra Laliberte appeared. She explained that this is the only place on her lot that she can realistically locate the shed. No one from the public wished to speak. Member Trzcinski stated that there was no plot plan on the application and she is not sure precisely where the shed is proposed to be constructed. The Chairman agreed and said he would call another matter while the applicant prepared a plot plan.

The next item of business was the appeal and petition of JEAN S. POWIS, owner-applicant, dated June 13, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 24 Otsego Avenue, in the Town of Brunswick, because the construction violates the side yard setback in an R-9 District in that 10 feet is required but 2 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Jean Powis appeared with her builder, Tom Rose, of Cambridge, N.Y. Mr. Rose explained that there is an existing driveway right against the fence and they want to build the garage so that the existing drive will lead into it. To move the garage away from the fence would be costly, because the land slopes downward and fill would have to be brought in to make it level. No one from the public wished to speak. Member Trzcinski observed that there is no other way they could do it, unless they attached the garage to the house. Member Schmidt said he really had no problem with it. Member Sullivan agreed, stating that things were pretty tight in that neighborhood. After some discussion, the builder indicated that they could manage if the Board reduced the setback to 4 feet.

The Chairman made a motion to classify the matter a Type 2 action under SEQRA. Member Schmidt seconded. The motion carried 5 - 0. The Chairman thereupon offered a Resolution granting the application to the extent that the side yard variance would be reduced to 4 feet, on the condition that the applicant obtain a written statement from the adjoining property owner on that side stating that he had no objection to the reduced setback. Member Shaughnessy seconded. The Resolution was duly put to a roll call vote as follows:

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

The Resolution was thereupon declared duly adopted.

The next item of business was further consideration of the appeal and petition of Sandra Laliberte for an area variance. She submitted a drawing to the Board showing the proposed location of the shed. Attorney Cioffi asked about the referral to County Planning. Mr. Kreiger reported that the County had indicated that local considerations should prevail. The Board noted that the shed would have the same setback as the house. Member Sullivan noted that it was fairly high shed.

Member Schmidt made a motion to classify the matter a Type 2 action under SEQRA. Member Sullivan seconded. The motion carried 5 - 0. Member Trzcinski then offered a Resolution granting the variance as requested. Member Schmidt seconded. The Resolution was duly put to a

roll call vote as follows:

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

The Resolution was thereupon declared duly adopted.

The next item of business was the Application for Zoning Permit and Request for a Special Use Permit of THOMAS LAJEUNESSE, owner-applicant, dated June 13, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached accessory garage with accessory apartment on a lot located at 897 Hoosick Road, in the Town of Brunswick, because two-family dwellings are allowed only by way of special use permit granted by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

Thomas Lajeunesse appeared with his builder, John Pembroke. He stated that he wants to knock down his existing garage and build a new garage with bedrooms and a bath. His grandparents would live there and use the garage. Attorney Cioffi stated that there would then be two principal structures on one lot, which is not allowed under the Zoning Ordinance. This is not a two family structure which can be allowed by special use permit. Rather, a use variance would be needed to permit two separate residential units to exist on the same lot. Member Schmidt agreed, stating that what is proposed is not an in-law apartment. He asked Mr. Lajeunesse why he could not simply put an addition on the house for his grandparents. Mr. Lajeunesse said they are considering doing that.

Attorney Cioffi explained that they could file for a use variance, but the criteria are very difficult to meet. For one thing, he explained, they would have to prove that they could not get a reasonable return on their property by leaving it as it is. Mr. Lajeunesse and his builder said that they would consider their options.

The next item of business was further consideration of the appeal and petition of Brian Bradley for an area variance which was heard earlier this evening. The Board had put the matter over to the next meeting and asked Mr. Bradley to obtain a written statement from the affected adjacent land owner stating that he had no objection to the variance. Mr. Bradley returned with the neighbor, James Zampier, 5 Plum Road. Mr. Zampier stated that he had no objection to the variance. The Chairman asked Mr. Bradley whether he could make the deck a little smaller so there could be a greater distance between the deck and the property line. Mr. Bradley said he could make do with a setback of 3 feet 8 inches.

Member Sullivan made a motion to classify the matter a Type 2 Action under SEQRA. Member Schmidt seconded. The motion carried 5 - 0. The Chairman thereupon offered a Resolution reducing the setback to 3 feet 8 inches. Member Shaughnessy seconded. The Resolution was duly put to a roll call vote as follows:

Member Sullivan	Voting Aye
Member Trzcinski	Voting Aye



Member Shaughnessy	Voting	Aye
Member Schmidt	Voting	Aye
Chairman Hannan	Voting	Aye

The Resolution was thereupon declared duly adopted

The next item of business was the Application for Zoning Permit and Request for a Special Use Permit of ROBERT ALBER, owner-applicant, dated June 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a multiple dwelling on a lot located at Tamarac Road, in the Town of Brunswick, because multiple dwellings are allowed only by way of special use permit granted by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

Robert Alber appeared. He stated that he wants to build a two family home on the lot, which is now vacant. One unit would be for him, the other for a relative. He plans to build some 1000 feet off Tamarac Road, almost to the rear line of the property. No one from the public wished to speak. Mr. Kreiger stated that the response to the referral to County Planning had not yet been received. Attorney Cioffi noted that the application was incomplete and that a short form EAF was required to do a SEQRA review. Mr. Alber was advised to attend to those matters. Member Shaughnessy made a motion to continue the matter to August 20. Member Schmidt seconded. The motion carried 5 - 0.

The Chairman stated that he had some legal questions to put to Attorney Cioffi. Member Sullivan made a motion to go into private session for that purpose. Member Shaughnessy seconded. The motion carried 5 - 0. The Board went into private session and obtained legal advice from Attorney Cioffi. No action was taken in the private session. The Chairman made a motion to return to regular session. Member Shaughnessy seconded. The motion carried 5 - 0.

The next item of business was further consideration of the Application for Zoning Permit and Request for a Special Use Permit of CATHERINE HAPP, owner-applicant, dated April 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion to an apartment of a portion of a detached accessory garage on a lot located at 3 Clinton Place, in the Town of Brunswick, because multi-family buildings are allowed only by way of special use permit granted by the Zoning Board of Appeals. The Board was advised that Ms. Happ was present but had left after hearing the discussion in the Thomas Lajeunesse matter earlier in the evening. The Board decided to let the people present who wished to speak do so, but to also keep the matter open because Ms. Happ's intentions were not entirely clear.

Jennifer Levesque, 24 Clinton Avenue, stated that she is against the application. Ms. Happ should be required to explain what work has already been done. She believes the septic was connected to the garage and that a kitchen was being built in the garage. She is also concerned that the apartment will not always remain "family only". If Ms. Happ's daughter were to vacate the apartment, who would make sure that it was not rented to non-family members.

Attorney Cioffi explained to the Board that there is a threshold issue to be decided by the Board in this case. The Board must decide whether an apartment in an accessory garage is allowable

by way of a special use permit under our Zoning Ordinance. Attorney Cioffi stated that this situation is analogous to the Lajeunesse application but not identical. In the Lajeunesse matter, the proposal was to have a second separate and distinct dwelling unit with its own garage on the one lot. In this case, the request is to add an apartment to an existing garage which is accessory to, and used solely by, the occupant of the main house. If the Board were to rule that an apartment in an accessory garage is not allowable by way of a special use permit, Ms. Happ's sole recourse would be to apply for a use variance.

Rose Anne Patton, 4 Clinton Place, stated that she lives across the street. Ms. Happ is having problems paying for the house and is now trying to sell it. If the Board permits the apartment, that would be an incentive to the sale. She does not want the neighborhood to become a rental neighborhood. It is a small, dead-end street. She is concerned about the neighborhood character. Anthony Maloney, 30 Clinton Avenue, said that this would be two principal structures on one lot - the same as in the Lajeunesse matter. Mr. Cioffi said the situations were analogous, not identical. Mr. Maloney disagreed. Judy Maloney, 30 Clinton Avenue, stated that she is concerned that this is a short, dead-end street, where there is already a lot of traffic. Rental properties will affect the integrity of the neighborhood and impact property values. Lisa Philips, Clinton Avenue, asked who ultimately decides whether this will be allowed. The Chairman stated that the Board would decide.

The matter was continued to the next meeting for further proceedings.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of OMNIPOINT COMMUNICATIONS, INC., applicant, dated June 15, 2007, 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) antennas to be affixed at the sides and back corners of the bell tower, below the top of the bell tower, of the Gilead Lutheran Church of Brunswick, located at 308 Brick Church Road, in the Town of Brunswick, at a centerline height of 79 feet, and associated cellular equipment cabinets on a 10' x 16' concrete pad to be located within a 14' x 23' fenced area on the north side of the Church, 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.

Joe Papa, Pyramid Network, appeared for the applicant. He stated that notices were sent out to property owners within 750 feet of the site as required by the local law. Some of the certified mail receipts have not yet been received. He will bring them to the next meeting. The ground equipment for the antenna will be placed on a pad in a fenced area at the side of the Church. It will be a chainlink fence, with barbed wire, and privacy slats. Shrubs will be placed around the equipment pad. The coax cable will run along the back of the church. Then antennas will be mounted below the top of the bell tower. There will be 6 panel antennas. They will be under 5 feet in height, and about 8 inches wide. There will be no antennas in the front of the church, There will be 2 on each side and 2 in the back, All coax and cable on the ground will be buried.

No one from the public wished to comment. Member Trzcinski expressed concern that the antennas would be placed on the wrought iron on the tower. Mr. Papa said that he would provide computer simulations. Mr. Papa said that they require 10 feet separation from the antennas already on the church. Tucking the antennas in the corners of the wrought iron seemed to be the best thing

to do, both for visibility and signal quality. The antennas will be 56 inches tall. George Jones, 105 Hillside Avenue, stated that he is the President of the Church Council. He stated that it was a unanimous decision by the Church Council to permit the location of the antennas on the bell tower.

The Chairman made a motion to retain the services of Laberge Engineering to undertake a technical review of the application materials, and to direct the applicant to make an initial deposit of \$1500,00 with the Town to fund an escrow account for the payment of the bills rendered by Laberge Engineering. Member Schmidt seconded. The motion carried 5 - 0. Mr. Kreiger indicated that County Planning has indicated that local considerations should prevail on the application. The matter was continued to the August 20 meeting.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of QUALCOMM INCORPORATED/MEDIAFLO USA, INC., applicant, dated June 22, 2007, 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 a 24.7' UHF broadcast antenna to be mounted on an existing 740' guyed tower owned by WNYT-TV, LLC, located at 244 Bellview Road, in the Town of Brunswick, at a height of 635' AGL, a transmitter and related equipment to be located within the existing equipment building, two (2) 1.8 meter KU satellite dishes to be ground mounted within the existing compound, two (2) small global positioning antennas to be side-mounted on the equipment building, one (1) heat exchanger measuring 6' x 2' to be ground mounted on a concrete pad, and one (1) backup propane power generator, 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.

Bill Biscone, Airosmith Development, 311 State Street, Albany, NY, appeared for the applicant. He submitted two surveys depicting what is being proposed for the property. He stated that the applicant's business here is broadcasting television content to cellular telephones. They are also seeking another site in Albany. They picked this tower to locate on because it is the largest tower in the area. They are not increasing the size of the tower. There will be no structural changes. Mr. Biscone said that they had mailed the notices to nearby property owners as required by the local law. He will bring proof of mailing to the next meeting.

Joseph Cioffi, Jr., 23 Norfolk Street, said that he works in television and radio and he sees some problems with this. He said that MediaFlo re-packages regular cable television programming, converts it to digital format, and then sends it to cell phones. It is a luxury service. It is the same content you get off cable. He is concerned that an additional 500 gallons of propane will need to be stored on the mountain for the back-up generator. This will create a fire hazard. Also, they are taking Channel 55 which is in Amsterdam. He is not sure if it will be given up voluntarily. He is also concerned that the 3 panel units, one for each leg of the tower, will cause the tower to sway. He is not sure from reading the structural report that certain upgrades to make the tower stronger were actually done. He then recounted some of the history of the Channel 13 tower. He stated that, in effect, this proposal is for another TV transmitter. He considers this experimental. There has been no showing that this venture will be profitable. Admittedly, he said, there will be little visual impact.

Mr. Biscone stated that MediaFlo is owned by Qualcomm. They purchased a license for this frequency. They have a lease agreement with the owner of the tower. They have contracts with their

customers to broadcast TV programming to their cell phones. The tower has an ASR No. With the FCC. It is an known site and tower. There is an engineering structural report which states that the tower can withstand the additional load. The propane storage tanks will meet all safety requirements, The antenna will only transmit. It will not receive signals from cell phones.

The Chairman made a motion to retain the services of Laberge Engineering to undertake a technical review of the application materials, and to direct the applicant to make an initial deposit of \$1500,00 with the Town to fund an escrow account for the payment of the bills rendered by Laberge Engineering. Member Shaughnessy seconded. The motion carried 5 - 0. The matter was continued to the August 20 meeting.

The next item of business was action upon the referral from the Town Board for comment on the pending Hudson Hills planned development district. William Hoblock appeared, representing the applicant, Capital District Properties, LLC. Member Trzcinski asked him whether anyone had done a survey to determine whether there was a need for more apartments in Brunswick. Mr. Hoblock said they did not. He stated that their product is unlike any other apartments in Brunswick. There were no other comments or questions from the Board.

Attoeny Cioffi noted that the Board had before it a written Response to Referral which had been prepared at its behest. Attorney Cioffi read the Response to Referral aloud. Attorney Cioffi further noted that there was a written Resolution before the Board, which, by its terms, adopts the Response to Referral. Chairman Hannan Offered the Resolution. Member Schmidt seconded. The Resolution was put to a roll call vote and carried 4 - 1, with Member Trzcinski voting in the negative. A copy of the Resolution and the Response to Referral are annexed to these Minutes

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

Dated: Brunswick, N.Y.  
July 30, 2007

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**July 16, 2007**

**RESOLUTION ADOPTING RESPONSE TO REFERRAL**

**WHEREAS**, the Town Board having referred the application of Capital District Properties, LLC, for the establishment of a Planned Development District to be know as "The Hudson Hills Planned Development District" to this Board; and

**WHEREAS**, the Board having duly considered the matter; and

**WHEREAS**, the Board having caused to be prepared a written Response to Referral which is annexed hereto; now, therefore, after due deliberation

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

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

<b>MEMBER SULLIVAN</b>	<b>VOTING</b> <u>Aye</u>
<b>MEMBER SCHMIDT</b>	<b>VOTING</b> <u>Aye</u>
<b>MEMBER SHAUGHNESSY</b>	<b>VOTING</b> <u>Aye</u>
<b>MEMBER TRZCINSKI</b>	<b>VOTING</b> <u>No</u>
<b>CHAIRMAN HANNAN</b>	<b>VOTING</b> <u>Aye</u>

The foregoing Resolution was thereupon declared duly adopted.

Dated: July 16, 2007

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

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In the Matter of the Application of

CAPITAL DISTRICT PROPERTIES, LLC,

Applicant

RESPONSE TO  
REFERRAL

For the Establishment of a Planned Development District known  
as The Hudson Hills Planned Development District, Under the  
Zoning Ordinance of the TOWN OF BRUNSWICK

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The Town Board of the Town of Brunswick has received an application from Capital District Properties, LLC, for the establishment of a Planned Development District to be know as "The Hudson Hills Planned Development District". In accordance with its usual practice, the Town Board has referred the project to this Board for comment.

As originally conceived, the proposal was to construct 1,116 luxury apartments on some 215 acres of land located off Betts Road, between NYS Route 7 and North Lake Avenue. There were to be four (4) phases to the project, and there was to be access to the apartment complex from Betts Road and Lord Avenue. Five (5) units per acre were proposed.

In or about February, 2007, based on what can best be described as a "lukewarm" reception to the project from the Town Board, the Planning Board, this Board, not to mention the public, the applicant significantly modified the proposal. While the project site remained the same size, the number of apartments was reduced to 668, to be constructed in three (3) phases. The Lord Avenue access was eliminated, except for emergencies. Density remained at three (3) units per acre.

This brings us to the current proposal which, again, was proposed by the applicant based upon comments from the public and the various Boards. As presently conceived, the proposal is to reduce the apartment count to 250 units. However, the total area of the Planned Development District has been reduced to some 77 acres, so density remains at three (3) units per acre. Although they will not be part of the Planned Development District, the applicant would acquire two (2) other parcels of land within the originally proposed 215 acres. There would be a twenty-five (25) acre parcel upon which the applicant proposes to construct two (2) baseball fields, together with bleachers, dugouts, and all of the other usual appurtenances, which would be dedicated to the Town. There would also be a parcel of some thirty-eight (38) acres, essentially located in between the parcel containing the apartments and the parcel containing the ball fields. The thirty-eight (38) acre parcel is needed to provide road and utility access to the ball field parcel. As previously stated, only the 77 acres containing the apartments would be re-zoned PDD. The ball field parcel and the "access" parcel would remain A-40. The applicant proposes to reserve the right to further develop the thirty-eight (38) acre parcel subject to required Town approvals, but would deed restrict the parcel to

permanently exclude its use for apartments. Also, unlike in the first two proposals, the applicant has now arranged to acquire additional property along Betts Road which would permit sewer and water utilities to be installed along-side the road, rather than beneath it.

It certainly cannot be argued that the current proposal is far preferable to the first two incarnations of the project. Not only is the number of apartments much more reasonable, there is now proposed a significant public benefit, i.e., the baseball fields.

The Town's Comprehensive Plan provides that development in the Town should consist mainly of single family residential housing. However, the Comprehensive Plan goes on to state that multi-family residential should be allowed where the infrastructure will support it. Here, the applicant is installing the necessary water and sewer infrastructure. If the Town Board requires the applicant to bring the water service to the proximity of Woodhill Lane, this can provide an opportunity for further extension of the Town's municipal water service to the North Lake Avenue area, via Woodhill Lane. Extending municipal water service to areas of the Town currently not served, especially at private expense, is a goal mentioned in the Comprehensive Plan. Opponents of the project complain that Betts Road will not be able to handle the traffic to and from the apartment complex and that the additional traffic will exacerbate the already poor traffic conditions on Hoosick Road. The applicant disagrees and has submitted much data and expert analysis in support of its conclusion that the Hoosick Road/Betts Road infrastructure is and was sufficient even under the first two incarnations of the project. Certainly, the project as currently conceived will generate substantially less traffic than the first two versions. Whether the road infrastructure is sufficient to sustain the traffic which will be generated by this project is an extremely important issue. Ultimately, of course, that is a decision for the Town Board. This Board recommends that the Town Board consider this issue carefully before proceeding.

The Comprehensive Plan also states that multi-family housing, to the extent permitted, should be confined to areas where the use already exists. In this case, of course, the proposed site is adjacent to the existing Apartments at Brunswick, situated off Hoosick Road. Clearly, apartments are not a new or novel use in this area of Town. Under the first proposal and perhaps, even under the second, it might have been difficult to argue that the relatively small existing apartment complex would provide any justification for approving the instant project. The present scope of the proposed project does not present that problem.

The Comprehensive Plan also encourages land being devoted to recreational use. Here, the applicant is proposing to construct two (2) baseball fields, fully equip them, and then dedicate the fields, indeed, the entire twenty-five (25) acre parcel to the Town. The Town is growing and our athletic fields, as good as they are, are in short supply. So, clearly, the dedication of the fields and the land is a significant public benefit. This is not to mention the fact that these twenty-five (25) acres of land will remain forever green and open, and will not be developed, even residentially.

It also appears that the visual impacts of the project will be fairly minimal. The project will not be visible from Hoosick Road, or even from the Betts Road entranceway. Nor will it be visible from the Town Beach on North Lake Avenue Extension.

We do have some concerns about the project from a zoning perspective. As stated above, the applicant is acquiring a parcel of some thirty-eight (38) acres, located between the "apartment parcel" and the "ball field parcel", ostensibly for the purpose of providing road and utility access to the ball fields. While the applicant has agreed to deed restrict this parcel to preclude any additional apartments being constructed thereon, it is reserving the right to have similar uses, such as condominiums and town houses. The Town Board might want to consider insisting upon broader deed restrictions. Also, although the area of the proposed PDD has been reduced to some 77 acres, the remaining green space shown on the plan should be protected by way of a conservation easement.

The applicant has stressed repeatedly over the past three (3) years that these are "luxury apartments", fully equivalent in quality to "owned" homes. While we have no reason to doubt the applicant's sincerity on that issue, circumstances may change over time and the applicant may be tempted to resort to less expensive construction in the event that the apartment complex is not a complete success. We recommend that the Town Board specify a minimum standard for construction in its Findings, based upon the "luxury" concept that the applicant has touted.

Finally, we note that under the latest plan, the project will be located entirely in the Brittonkill Central School District. The applicant has claimed that the school tax generated by the project will result in net gains to the district over the costs of educating the number of children anticipated to live in the apartments. At the most recent public hearing on this property, there was information provided which cast doubt upon the accuracy of applicant's calculations. We recommend that the Town Board carefully consider this issue as well before proceeding.

Dated: Brunswick, New York  
July 16, 2007



## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 16th day of July, 2007, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for Special Use Permit of QUALCOMM INCORPORATED/MEDIAFLO USA, INC., applicant, dated June 22, 2007, 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 a 24.7' UHF broadcast antenna to be mounted on an existing 740' guyed tower owned by WNYT-TV, LLC, located at 244 Bellview Road, in the Town of Brunswick, at a height of 635' AGL, a transmitter and related equipment to be located within the existing equipment building, two (2) 1.8 meter KU satellite dishes to be ground mounted within the existing compound, two (2) small global positioning antennas to be side-mounted on the equipment building, one (1) heat exchanger measuring 6' x 2' to be ground mounted on a concrete pad, and one (1) backup propane power generator, 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 QUALCOMM INCORPORATED/MEDIAFLO USA, INC., applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected by all interested persons during regular business hours.

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

Dated: Brunswick, New York  
June 30, 2007

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



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THOMAS R. CIOFFI  
Town Attorney

NOTICE OF PUBLIC HEARING

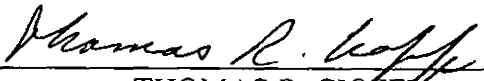
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FURTHER NOTICE IS HEREBY GIVEN that said SANDRA LALIBERTE, owner-applicant, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be 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  
June 30, 2007

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

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

## NOTICE OF PUBLIC HEARING

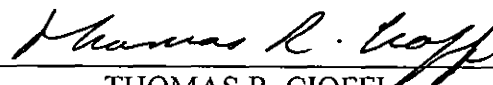
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FURTHER NOTICE IS HEREBY GIVEN that said OMNIPOINT COMMUNICATIONS, INC., applicant, has petitioned for said Special Use Permit, and said application and request are now on file in the Office of the Superintendent of Utilities and Inspections, where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

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

Dated: Brunswick, New York  
June 30, 2007

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 16th day of July, 2007, 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 JEAN S. POWIS, owner-applicant, dated June 13, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 24 Otsego Avenue, in the Town of Brunswick, because the construction violates the side yard setback in an R-9 District in that 10 feet is required but 2 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said JEAN S. POWIS, 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  
June 30, 2007

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 16th day of July, 2007, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for a Special Use Permit of ROBERT ALBER, owner-applicant, dated June 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a multiple dwelling on a lot located at Tamarac Road, in the Town of Brunswick, because multiple dwellings are allowed only by way of special use permit granted by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said ROBERT ALBER, owner- applicant, has petitioned for said special use permit, and said application is 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 30, 2007

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

  
THOMAS R. CIOFFI  
Town Attorney

NOTICE OF PUBLIC HEARING

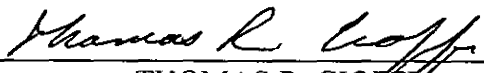
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FURTHER NOTICE IS HEREBY GIVEN that said BRIAN BRADLEY, owner- applicant, has petitioned for said area variance, and said appeal and petition are now on file in the Office of the Superintendent of Utilities and Inspections, where the same may be inspected 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  
June 30, 2007

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 16th day of July, 2007, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for a Special Use Permit of THOMAS LAJEUNESSE, owner-applicant, dated June 13, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached accessory garage with accessory apartment on a lot located at 897 Hoosick Road, in the Town of Brunswick, because two-family dwellings are allowed only by way of special use permit granted by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said THOMAS LAJEUNESSE, owner-applicant, has petitioned for said special use permit, and said application is 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 30, 2007

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**

336 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 20, 2007, at 6:00 P.M.

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

Also present were Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities and Inspections. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M.

The first item of business was the Application for Zoning Permit and Request for Special Use Permit of QUALCOMM INCORPORATED/MEDIAFLO USA, INC., applicant, dated June 22, 2007, 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 a 24.7' UHF broadcast antenna to be mounted on an existing 740' guyed tower owned by WNYT-TV, LLC, located at 244 Bellview Road, in the Town of Brunswick, at a height of 635' AGL, a transmitter and related equipment to be located within the existing equipment building, two (2) 1.8 meter KU satellite dishes to be ground mounted within the existing compound, two (2) small global positioning antennas to be side-mounted on the equipment building, one (1) heat exchanger measuring 6' x 2' to be ground mounted on a concrete pad, and one (1) backup propane power generator, 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.

Margaret Smith appeared for MediaFlo. She summarized the project, which is a co-location on the 737 foot WNYT television tower on Bald Mountain. She stated that the antenna itself will be 25 feet long, 12 inches in diameter, and cylinder shaped. It will sit on one foot brackets so it will not be flush mounted to the tower, but will be close. The transmitters will be located in buildings. There will also be two KU band dish antennas, five feet in diameter. There will also be a generator and a heat exchanger. Ms. Smith submitted proof mailing of the required notices to adjoining landowners.

No one from the public wished to speak. The Chairman called on the Board's engineering consultant, Ronald Laberge, to comment. Mr. Laberge noted that the structural report submitted with the application is based on an old standard and needs to be revised to comport with the new standards. He also mentioned that the antenna will be mounted on the existing tower at a height of well over 200 feet. The town's Telecommunications Law appears to state that no telecommunications facility can



exceed 200 feet in height. Whether that provision applies in this situation, he said, is an issue which will need to be addressed by the Board.

The Chairman asked Ms. Smith to submit photo simulations depicting the antenna on the tower. She will also need to get the structural report updated as indicated above. The matter was put over to the September meeting.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of OMNIPOINT COMMUNICATIONS, INC., applicant, dated June 15, 2007, 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) antennas to be affixed at the sides and back corners of the bell tower, below the top of the bell tower, of the Gilead Lutheran Church of Brunswick, located at 308 Brick Church Road, in the Town of Brunswick, at a centerline height of 79 feet, and associated cellular equipment cabinets on a 10' x 16' concrete pad to be located within a 14' x 23' fenced area on the north side of the Church, 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.

Joseph Papa, Pyramid Network, appeared for Omnipoint. Mr. Papa mentioned that there is already a telecommunication facility on the site. The existing utilities for that facility are in the front of the church and there is no more room. The utilities for this facility would have to be located outside. There are proposed to be six antennas on top of the bell tower, below the iron work, on three sides, excluding the front of the tower. He provided photo simulations. He stated that you will be able to see the antennas. Mr. Papa submitted proof of mailing of the required notices to adjoining landowners.

The Chairman asked the Board's consultant, Ronlad Laberge, for his comments. Mr. Laberge noted that the site plan does not show the location of the ground equipment servicing the existing facility. He also noted that the site plan calls for six foot high fencing around the equipment area, but the telecommunications law requires an eight foot fence. Finally, issues pertaining to the effect of the proposed construction on the historical and architectural aspects of the church have not been fully addressed in the EAF, nor have comments been received from the NYS Office of Parks, Recreation and Historic Preservation. This is all part of the SEQRA review.

Mr. Papa stated that the radio equipment for the exiting facility at the church is inside - that is why it is not shown on the plan. There is no more room inside. The equipment for this facility will need to go outside. Mr. Papa said that they will agree to the eight foot high fence. He will also follow up with the NYS Office of Parks, Recreation and Historic Preservation and on any National Landmark issues.

There were no comments from the public. Rensselaer County Planning returned its referral stating that the project had no county-wide impact and that local considerations should prevail. The Chairman stated that he was concerned that, unlike the existing antennas on the church, these will be visible. He is concerned about the aesthetics and architectural and historical integrity of the building. Mr. Papa said there is little they can do to hide the antennas. They can't put them behind the iron work as the iron will block the signal. Glenn Hayner, a representative of the Gilead Lutheran Church, stated that the Church has approved this and they have no concerns about the aesthetics.

The matter was put over to the next meeting for further proceedings.

The next item of business was the appeal and petition of KENNETH STONE, owner-applicant, dated April 18, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 25 Green Street, in the Town of Brunswick, because the construction violates the front yard setback in an R-9 District in that 60 feet is required but 35 feet is proposed.

Mr. Stone appeared. He stated that his neighbor, Mr. Ruddy, opposed the application at the June meeting. They have not discussed it since. Member Shaughnessy noted that the variance request is for the front yard, not the side yard which faces the Ruddy property. Members Schmidt and Sullivan stated that they did not have a problem with the application. No one from the public wished to speak. Mr. and Mrs. Ruddy were not present. Attorney Cioffi briefly explained the background of the matter and the issues. There was then some discussion over whether moving the structure even closer to the road than requested would obviate some of the concerns expressed by the Ruddys. Attorney Cioffi mentioned that reducing the proposed height of the garage might also help. Member Trzcinski stated that the houses in that neighbor hood are pretty close together and she does not think it matters if the garage is moved closer to the road or not. Member Shaughnessy stated that the applicant is not requesting a variance of the side yard setback. Member Schmidt said he did not see that the Ruddys were being impacted that much. He also questioned whether Ruddys' pool violated the setback on his side.

Member Shaughnessy made a motion to classify the matter a Type 2 action under SEQRA. Member Schmidt seconded. The motion carried 5 - 0. Member Trzcinski thereupon offered a Resolution granting the variance as requested. Member Schmidt seconded. There was further discussion over whether to require that the applicant move the garage even closer to the road and to lower the height of the building, all to try to address the concerns of the Ruddys the some extent. The Resolution offered by Member Trzcinski was duly put to a roll call vote as follows:

Member Sullivan	Voting No
Member Trzcinski	Voting Aye
Member Shaughnessy	Voting No
Member Schmidt	Voting Aye
Chairman Hannan	Voting Aye

The Resolution was thereupon declared duly adopted.

The next item of business was the appeal and petition of EDWARD GILL, owner-applicant, dated July 13, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 16 Pleasant View Avenue, in the Town of Brunswick, because the construction violates the rear yard setback in an R-25 District in that 25 feet is required but 12 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Mr. Gill appeared. He said that they want to put the garage way to the rear of the property so they can put in a turnaround. Due to the irregular shape of the property, this is the only way they can do it. Member Schmidt asked about the existing shed. Mr. Gill said that would come down.

Member Sullivan agreed that the property shape was a challenge. There is also a hill behind the house.

Member Sullivan made a motion to classify the matter a Type 2 action under SEQRA. Member Shaughnessy seconded. The motion carried 5 - 0. Member Trzcinski thereupon offered a Resolution granting the variance as requested. Member Sullivan seconded. The Resolution was duly put to a roll call vote as follows:

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

The Resolution was thereupon declared duly adopted.

The next item of business was further consideration of the Application for Zoning Permit and Request for a Special Use Permit of ROBERT ALBER, owner-applicant, dated June 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a multiple dwelling on a lot located at Tamarac Road, in the Town of Brunswick, because multiple dwellings are allowed only by way of special use permit granted by the Zoning Board of Appeals.

Robert Alber appeared. He stated that he is asking for an in-law apartment. He handed up a short form EAF and the completed special use permit application. Attorney Cioffi said he thought he was proposing a duplex. Mr. Alber said there would be one electric service and one septic system. He would call it an in-law apartment as opposed to a two-family dwelling. Mr. Alber said that the building would be some 3400 square feet. There would be 3 bedrooms on one side and one on the other, with a common area in between. This would be for family only. He and his son's family already all live together. This would just make it more convenient for everyone. The Chairman pointed out that having a single electric meter for the two units would make it a commercial building and a higher rate for electricity would be charged. Mr. Alber said no one but family would ever live there. Rensselaer County Planning returned the referral, stating that local considerations should prevail. The Chairman made a motion to close the public hearing and that a written decision would be issued. Member Sullivan seconded. The motion carried 5 - 0.

The next item of business was further consideration of the Application for Zoning Permit and Request for a Special Use Permit of CATHERINE HAPP, owner-applicant, dated April 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion to an apartment of a portion of a detached accessory garage on a lot located at 3 Clinton Place, in the Town of Brunswick, because multi-family buildings are allowed only by way of special use permit granted by the Zoning Board of Appeals. Mrs. Happ appeared. Mrs. Happ said that she does not understand her neighbors' concerns. She does not want to make trouble. She is willing to eliminate the kitchen from the proposed apartment if that will make a difference.

Attorney Cioffi stated that there is a legal issue for the Board to consider, i.e., whether

consistent with the Zoning Ordinance, can an apartment be permitted in an accessory building, such as a garage. Member Schmidt stated that the Zoning Ordinance does not mention in-law apartments by name, it only mentions two family and multi-family dwellings. His feeling is that you cannot have an in-law apartment in a detached, accessory building. Member Sullivan stated that he is concerned about creating a precedent. Member Shaughnessy agreed.

Judy Maloney, 30 Clinton Avenue, stated that she is against this for all the reasons stated at the last meeting. She is concerned about impacts on traffic and property values stemming from allowing rental property. She also noted that Mrs. Happ is trying to sell the property. If she gets this approval, that will command a higher sales price. Mrs. Happ said that she is being forced to sell because she cannot afford to keep the house unless her daughter moves in and helps here with the costs. She does not want to move.

Attorney Cioffi asked Mrs. Happ what the garage was like when she bought the property and what she has done to it since. Mrs. Happ said that the driveway holds nine cars. No cars would be parked on the street. The room next to the garage had electric service, heat, and indoor-outdoor carpeting. There was a lot of lighting. It was one large room next to the three car garage. Before she knew she needed a permit, she had two bedrooms with closets framed and sheetrocked. She also had a bathroom built. She purchased a larger septic tank and had it installed. She did not get Health Department approval. The water lines were connected. Her contractor was supposed to get all the permits. She is not sure if it says that in the contract. She is the only one who would use the garage. Her daughter would park in the driveway.

The Chairman made a motion to continue the matter to the next meeting. Member Schmidt seconded. The motion carried 5 - 0.

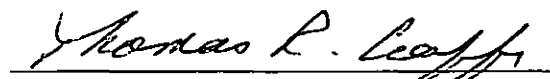
The Board noted that Mr. & Mrs. Ruddy, who were involved in the Stone matter, had arrived. It was explained to the Ruddys that the Board had approved the variance requested by Mr. Stone. Mrs. Ruddy stated that they thought the meeting started at 7:00 P.M. Mr. Ruddy stated that he could not understand how the Board could grant the variance if a neighbor was opposed to it.

The last item of business was approval of the minutes of the July, 2007, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Shaughnessy seconded. The motion carried 5 - 0.

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

Dated: Brunswick, N.Y.  
August 31, 2007

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 August, 2007, 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 EDWARD GILL, owner-applicant, dated July 13, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 16 Pleasant View Avenue, in the Town of Brunswick, because the construction violates the rear yard setback in an R-25 District in that 25 feet is required but 12 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said EDWARD GILL, 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 30, 2007

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**

336 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 17, 2007, at 6:00 P.M.

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

Also present was Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M.

The first item of business was approval of the minutes of the August, 2007, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Shaughnessy seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of KEVIN and MARY EARL, owners-applicants, dated August 16, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 84 Oneida Avenue, in the Town of Brunswick, because the construction violates the front yard setback in an R-9 District in that 60 feet is required but 46 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Kevin Earl appeared. He stated that he needs a variance to build a garage that he needs. The lot is too small otherwise. He meets the side and rear setbacks, he is only lacking on the front. He stated that he has a garage which is under the house. They have a serious water problem though, and a lot of water gets in the garage when it rains. They used to have their sump pump move the water into the storm sewer, but the town put a stop to that. Member Trzcinski asked whether he could move the garage back. Mr. Earl replied that he would then violate the rear setback. And it would cost more to build the garage and it would not look as good. Moving the garage closer to the road would also give him more backyard. Van Franhofer, 72 Oneida Avenue, stated that he thinks the garage would look better toward the front of the lot. All of the other garages in the neighborhood are in the front part of the lot. Member Shaughnessy said that the variance requested is not large and that the garage will still be a good distance from the road.

Member Shaughnessy made a motion to classify the matter a Type 2 action under SEQRA. Member Trzcinski seconded. The motion carried 5 - 0. Member Trzcinski then offered a Resolution granting the variance as requested. Member Sullivan seconded. The Resolution was duly put to a roll

call vote as follows:

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

The Resolution was thereupon declared duly adopted.

The final item of business was an update presentation on the Brunswick Meadows Planned Development District. John Mainello appeared. He stated that in 2005, 36 buildings were proposed, with 4 condo units in each building. As a result of reviews by the Department of Environmental Conservation and the Department of Parks, Recreation and Historical Preservation, there are now only 28 buildings being proposed. Ingress and egress to the condos will be from Route 142. There were no questions from the Board.

The Board noted that a decision is pending on the Alber matter. The Board is awaiting submissions on the Qualcomm/MediaFlo and Omnipoint telecommunication facility applications. There was no appearance on the Happ matter and the Board will consider the status of that application at the next meeting.

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

Dated: Brunswick, N.Y.  
October 6, 2007

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 September, 2007, 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 KEVIN and MARY EARL, owners-applicants, dated August 16, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached garage on a lot located at 84 Oneida Avenue, in the Town of Brunswick, because the construction violates the front yard setback in an R-9 District in that 60 feet is required but 46 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said KEVIN and MARY EARL, 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  
August 31, 2007

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**

336 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 15, 2007, at 6:00 P.M.

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

Also present was Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities and Inspections. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M.

The first item of business was approval of the minutes of the September, 2007, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Shaughnessy seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of THOMAS and SUE MEYER, owners-applicants, dated September 13, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a swimming pool on a lot located at 7 Northstar Drive, in the Town of Brunswick, because the construction violates the rear yard setback in an R-15 District in that 20 feet is required but 10 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Thomas Meyer appeared. He stated that the corner lots in the North 40 development present problems regarding setbacks when swimming pools are installed. A 2000 sq. ft. minimum house size requirement and the corner lot makes siting a pool very difficult due to the setbacks. He noted that a similar variance on 5 Northstar Drive had been approved. Member Sullivan arrived at 6:07 P.M.

Mr. & Mrs. William McLaughlin, 16 Lindsay Drive, wished to comment. Mr. McLaughlin stated that they are the next door neighbors. He said they could live with the variance. He noted that the drainage ditch which carries the drainage coming off the Myer property is on their property, and expects there will be landscaping along the property line. There was then a discussion of conditions to place on the variance, pertaining to drainage and landscaping.

Member Sullivan made a motion to classify the matter a Type II action under SEQRA. Member Schmidt seconded. The motion carried 5 - 0. The Chairman then offered a Resolution approving the variance as requested, on the following conditions:

1. The fence surrounding the swimming pool would be located within two (2) feet of the property line between the Meyer and McLaughlin properties, on the Meyer side, and appropriate shrubbery would be installed and maintained on the boundary line between the properties; and
2. The applicants will, at all times during the construction and maintenance of the swimming pool on their property, maintain the existing path and pattern of the drainage off the Meyer property onto the McLaughlin property, and take no action that would interfere with the same.

Member Trzcinski seconded. The Resolution was duly put to a roll call vote as follows:

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

The Resolution was thereupon declared duly adopted. Member Sullivan left at approximately 6:20 P.M.

The next item of business was further consideration of the Application for Zoning Permit and Request for Special Use Permit of QUALCOMM INCORPORATED/MEDIAFLO USA, INC., applicant, dated June 22, 2007, 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 a 24.7' UHF broadcast antenna to be mounted on an existing 740' guyed tower owned by WNYT-TV, LLC, located at 244 Bellview Road, in the Town of Brunswick, at a height of 635' AGL, a transmitter and related equipment to be located within the existing equipment building, two (2) 1.8 meter KU satellite dishes to be ground mounted within the existing compound, two (2) small global positioning antennas to be side-mounted on the equipment building, one (1) heat exchanger measuring 6' x 2' to be ground mounted on a concrete pad, and one (1) backup propane power generator, 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.

Margaret Smith appeared for the applicant. Ms. Smith stated that the Town's engineering consultant, Mr. Laberge, had requested further documentation that the existing tower could withstand the additional load. That documentation has been provided to Mr. Laberge, and the Board noted that Mr. Laberge had sent a letter stating that he is now satisfied with the engineering documentation submitted, which now includes geo-technical and x-ray analysis. Ms. Smith also handed up a photo simulation showing the proposed antenna on the existing tower, which had been requested by the Board. Ms. Smith stated that the antenna is cylindrical in shape, 24 feet long, and 12 inches in circumference. It will be mounted vertically on the tower, on brackets extending one foot from the tower, at a height of 635 feet. She stated that the antenna would not be readily visible..

No one from the public wished to speak. Attorney Cioffi asked that Ms. Smith supply a complete copy of all of the engineering data and analysis to Mr. Kreiger. She agreed to do so. Member Shaughnessy then made a motion to close the public hearing. Member Trzcinski seconded.

The motion carried 5 - 0. A written decision will follow.

The next item of business was final action on the Application for Zoning Permit and Request for a Special Use Permit of ROBERT ALBER, owner-applicant, dated June 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a two family dwelling on a lot located at Tamarac Road, in the Town of Brunswick, because two family dwellings are allowed only by way of special use permit granted by the Zoning Board of Appeals. Attorney Cioffi stated for the record that the Board Members had before them a draft Determination in the matter which had been previously sent to them for review and comment. Essentially, the draft Determination grants the special use permit on the conditions that the structure be owner occupied at all times and that the party occupying the other unit be related to the owner by blood or marriage. Attorney Cioffi also stated that there was also a written Resolution before the Board adopting the draft Determination.

Member Trzinski offered the Resolution adopting the draft Determination. Member Shaughnessy seconded. The Resolution was duly put to a roll call vote as follows:

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

The Resolution was thereupon declared duly adopted.

The Board noted that it is still awaiting submissions on the Omnipoint telecommunication facility applications.

The next item of business was further consideration of the the Application for Zoning Permit and Request for a Special Use Permit of CATHERINE HEPP, owner-applicant, dated April 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion to an apartment of a portion of a detached accessory garage on a lot located at 3 Clinton Place, in the Town of Brunswick, because multi-family buildings are allowed only by way of special use permit granted by the Zoning Board of Appeals. The Board noted that there has been no appearance by the applicant or any of the neighbors for the past two months. The Board acknowledged receipt of a letter from Ms. Happ providing some information requested by the Board and, essentially, stating that she was waiting for a decision from the Board. The Board went on the discuss the merits of the application and as well as the various legal issues presented. Member Schmidt made a motion to close the public hearing. Member Trzcinski seconded . The motion carried 5 - 0. A written decision will be prepared.

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

Dated: Brunswick, N.Y.  
October 27, 2007

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**October 15, 2007**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, the Application for Zoning Permit and Request for a Special Use Permit of ROBERT ALBER, owner-applicant, dated June 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a two-family dwelling on a lot located at Tamarac Road, in the Town of Brunswick 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 Trzcinski and seconded by Member Shaughnessy, was duly put to a roll call vote as follows:

<b>MEMBER SULLIVAN</b>	<b>VOTING <u>Absent</u></b>
<b>MEMBER SCHMIDT</b>	<b>VOTING <u>Aye</u></b>
<b>MEMBER SHAUGHNESSY</b>	<b>VOTING <u>Aye</u></b>
<b>MEMBER TRZCINSKI</b>	<b>VOTING <u>Aye</u></b>
<b>CHAIRMAN HANNAN</b>	<b>VOTING <u>Aye</u></b>

The foregoing Resolution was thereupon declared duly adopted.

Dated: October 15, 2007

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

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In the Matter of the Application of

ROBERT ALBER,

Applicant

DETERMINATION

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

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This matter involves the Application for Zoning Permit and Request for a Special Use Permit of ROBERT ALBER, owner-applicant, dated June 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a two family dwelling on a lot located at Tamarac Road, in the Town of Brunswick.

Essentially, the applicant owns a vacant lot located off Tamarac Road, approximately 3.2 miles past the intersection with Route 278. He is proposing to construct on that lot an approximately 3,400 square foot building which will essentially be a two family dwelling. His son's family currently lives with him in his present home. If this application is granted, they could all continue to live together but they would have more privacy. They plan to have one electric service and one septic system. There would be 3 bedrooms on one side of the structure and 1 on the other, with a common area in between. Mr. Alber stated that he had no intention of ever renting the apartment out commercially. It would only be used for family. He considers what he is asking for an in-law apartment, as opposed to a two family dwelling.

Under the Town Zoning Ordinance, two family dwellings and multiple dwellings are allowed in any zoning district but only by way of special use permit issued by the Zoning Board of Appeals. There is no mention the Zoning Ordinance of "in-law apartments" or anything of that nature. Accordingly, this application must be treated and reviewed as a two family dwelling.

The Board hereby classifies this matter an unlisted action under SEQRA. The Board has reviewed Part 1 of the short form EAF submitted by the applicant as well as Part 2 of the EAF prepared at the behest of this Board. No adverse environmental impacts would result from this proposed construction, if it is allowed to proceed. 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

applicant decides to sell the existing home where he and his son's family now live, that will add one more family to the neighborhood, which would add, perhaps, one or two additional cars. Tamarac Road is a rural county road. There is no traffic congestion on the road.

There are no additional standards prescribed in the Zoning Ordinance for a two family dwelling. The only other approvals that apply would be that of Rensselaer County for the well and septic system and the Town Building Department for the building permit and the certificate of occupancy.

Accordingly, the requested special use permit to construct a two family dwelling be and hereby is granted. Since the applicant has indicated that he intends to live in one of the dwelling units and has no intention of ever renting the other unit to anyone but family, the Board will take him at his word and condition approval as follows:

1. The structure shall be owner occupied; and
2. The other unit shall be occupied by a person or persons related to the owner by blood or marriage.

Dated: Brunswick, New York  
October 15, 2007

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 there will be no adverse impacts on the public health, general interest or welfare if this application is granted. We note that the proposed structure will be located some 1,000 feet from the road, toward the very rear of the lot. The structure will likely not even be visible from the road. Nor should the structure have any impact on neighboring lots.

There are no issues here relating to location in relation to necessary facilities or as to parking.

The Board finds that the neighborhood character and property values will not be impacted by the grant of this permit. As previously stated, the two family structure will be located far off the road and will not be readily visible. The fact that it is a two family home will not diminish the rural character of the area. There will be no effect on community character or property values should this construction be permitted to proceed.

Granting this application will have virtually no impact on traffic conditions. At worst, if the



14-16-4 (REV) - Tax 12

PROJECT ID. NUMBER

617.20

SEQR

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 <b>Robert H Alber Jr</b>	2. PROJECT NAME <b>Alber 670 TAMARAC Rd</b>
3. PROJECT LOCATION: Municipality <b>670 Tamarac Rd</b> County <b>Renm.S.</b>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <b>3.2 mi out TAMARAC Rd starting at the intersection of RT 278</b>	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <b>Looking to Build A one Family home with A INLAW APARTMENT</b>	
7. AMOUNT OF LAND AFFECTED: Initially <b>15 ac</b> acres Ultimately _____ 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 <b>Town will need A special use permit To build A ONE Family Home with INLAW APT.</b>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(ies) and permit/approval	
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 name and permit/approval	
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: <b>Robert Alber Jr</b>	Date: <b>7/29/07</b>
Signature: <b>RH Alber Jr</b>	

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 II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.47 If yes, coordinate the review process and use the FULL EAF.  
 Yes  No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.57 If No, a negative declaration may be superseded by another involved agency.  
 Yes  No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)  
 C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:  
 No

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

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

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

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

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly.  
 No

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly.  
 No

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CEA?  
 Yes  No

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?  
 Yes  No If Yes, explain briefly

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

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

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

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

Town of Brunswick Zoning Board of Appeals  
 Name of Lead Agency

James Hanna Chairman  
 Title or Type Name of Responsible Official in Lead Agency Title of Responsible Official

James Hanna  
 Signature of Responsible Official in Lead Agency Signature of Preparer (If different from responsible official)

10/15/07  
 Date

Historical Note

Sec. filed March 6, 1987; repealed, new filed Sept. 20, 1995 eff. Jan. 1, 1996.

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 October, 2007, 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 THOMAS and SUE MEYER, owners-applicants, dated September 13, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a swimming pool on a lot located at 7 Northstar Drive, in the Town of Brunswick, because the construction violates the rear yard setback in an R-15 District in that 20 feet is required but 10 feet is proposed.

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

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

Dated: Brunswick, New York  
September 29, 2007

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**

336 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 19, 2007, at 6:00 P.M.

Present at the meeting were: James Shaughnessy, Member  
Caroline Trzcinski, Member  
James Sullivan, Member

Member Schmidt and Chairman Hannan were absent. Also present was Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities and Inspections. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M.

The first item of business was the selection of a temporary chairman to conduct in meeting in the absence of the Chairman. Member Sullivan made a motion to select Member Shaughnessy as temporary chairman. Member Trzcinski seconded. The motion carried 3 - 0.

The next item of the proposed business was further discussion of the Brunswick Meadows planned development district. John Mainello from J.P.J. Partnership was present. Mr. Mainello stated that the Town Board has now accepted the FEIS in the matter as complete and is now looking to this Board and the Planning Board for comments and recommendations. He also stated that the Planning Board will conducting a workshop meeting to consider the matter on November 26, 2007. Mr. Mainello stated that when the project was first proposed, 3 years ago, 136 units were proposed. After reviews by various state agencies, the project is now proposed to consists of 112 units. There will be 4 units per building, with the garages for each unit included in the building. The building will be 2 stories high. Mr. Mainello answered questions from the Board. Attorney Cioffi inquired about the buildings proposed to be within some 15 feet of Route 142. Mr. Mainello said those building are still being proposed, but they are open to discussing it. He expects that issue will arise during the Planning Board workshop.

The next item of business was approval of the minutes of the October, 2007, meeting. Member Trzcinski pointed out that the votes to close the public hearing in the MediaFlo/Qualcomm application and the Catherine Happ application were decided by votes of 4 - 0, not 5 - 0, as is reflected in the draft minutes. The Board agreed that Member Sullivan had left the meeting by that time, Also Member Shaughnessy stated that Catherine Happ's name was misspelled. It should read "HAPP". Member Sullivan made a motion to approve the minutes as corrected. Member Trzcinski seconded. The motion carried 3 - 0.

The next item of business was final action of the Application for Zoning Permit and Request for Special Use Permit of QUALCOMM INCORPORATED/MEDIAFLO USA, INC., applicant,

dated June 22, 2007, 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 a 24.7' UHF broadcast antenna to be mounted on an existing 740' guyed tower owned by WNYT-TV, LLC, located at 244 Bellview Road, in the Town of Brunswick, at a height of 635' AGL, a transmitter and related equipment to be located within the existing equipment building, two (2) 1.8 meter KU satellite dishes to be ground mounted within the existing compound, two (2) small global positioning antennas to be side-mounted on the equipment building, one (1) heat exchanger measuring 6' x 2' to be ground mounted on a concrete pad, and one (1) backup propane power generator, 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 stated that the Board had before it a draft determination which, in substance, issues a negative declaration of significance under SEQRA and grants the special use permit as requested, subject to conditions. He further advised that also before the Board was a draft Resolution which had the effect of adopting the draft determination.

Member Shaughnessy offered the Resolution adopting the draft determination. Member Sullivan seconded. The Resolution was duly put to a roll call vote as follows:

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

The Resolution was thereupon duly adopted. A copy of the Resolution and Determination are incorporated into these minutes.

The next item of business was final action on the Application for Zoning Permit and Request for a Special Use Permit of CATHERINE HAPP, owner-applicant, dated April 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion to an apartment of a portion of a detached accessory garage on a lot located at 3 Clinton Place, in the Town of Brunswick. Attorney Cioffi stated that the Board had before it a draft Determination which, essentially, denies the application on the ground that there is no provision in the Zoning Ordinance permitting an apartment in a detached accessory building. He also stated that there is a Resolution before the Board adopting that determination.

Member Trzcinski offered the Resolution adopting the draft determination. Member Sullivan seconded. The Resolution was duly put to a roll call vote as follows:

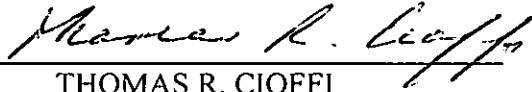
Member Sullivan	Voting Aye
Member Trzcinski	Voting Aye
Member Shaughnessy	Voting Aye
Member Schmidt	Voting Absent
Chairman Hannan	Voting Absent

The Resolution was thereupon duly adopted. A copy of the Resolution and Determination are incorporated into these minutes.

There being no further business, Member Trzcinski made a motion to adjourn. Member Shaughnessy seconded. The motion carried 3 - 0.

Dated: Brunswick, N.Y.  
November 26, 2007

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**

**November 19, 2007**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, the Application for Zoning Permit and Request for a Special Use Permit of CATHERINE HAPP, owner-applicant, dated April 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion to an apartment of a portion of a detached accessory garage on a lot located at 3 Clinton Place, in the Town of Brunswick 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 Trzcinski and seconded by Member Sullivan, was duly put to a roll call vote as follows:

<b>MEMBER SULLIVAN</b>	<b>VOTING</b>	<b>Aye</b>
<b>MEMBER SCHMIDT</b>	<b>VOTING</b>	<b>Absent</b>
<b>MEMBER SHAUGHNESSY</b>	<b>VOTING</b>	<b>Aye</b>
<b>MEMBER TRZCINSKI</b>	<b>VOTING</b>	<b>Aye</b>
<b>CHAIRMAN HANNAN</b>	<b>VOTING</b>	<b>Absent</b>

The foregoing Resolution was thereupon declared duly adopted.

Dated: November 19, 2007

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

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In the Matter of the Application of CATHERINE HAPP,  
Applicant

DETERMINATION

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

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This matter involves the Application for Zoning Permit and Request for a Special Use Permit of CATHERINE HAPP, owner-applicant, dated April 26, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion to an apartment of a portion of a detached accessory garage on a lot located at 3 Clinton Place, in the Town of Brunswick. The Superintendent of Utilities and Inspections was unable to grant a building permit for the work because it would result in there being two dwelling units on the lot, i.e., the house and the proposed apartment in the detached garage. Accordingly, the applicant has requested a special use permit to allow the two (2) separate dwelling units.

The applicant has stated that she purchased this property with the idea that she would convert part of the large, detached garage into an apartment for her adult daughter. The applicant apparently contemplated that her daughter would pay her rent for the apartment which would help defray the mortgage and other carrying costs associated with the property. Applicant claims that the former owner of the property, the former Chairman of the Town Planning Board, told her that she would have no problem getting permission to have the apartment from the Town.

In any case, it appears that applicant purchased the property and, at some point, began the work of converting a portion of the garage into an apartment. No building permit had been issued by the Town. Applicant claims that she believed that her contractor had obtained the necessary permits. In any event, the work was stopped by the Town following complaints from neighbors and the applicant was directed to this Board to seek a special use permit authorizing the two dwelling units.

It should also be noted that there has been intense opposition to this application by the applicant's neighbors. Uniformly, it seems, they feel that allowing an apartment in this neighborhood dominated by single family homes will change the character of the community. They feel that, once allowed, the apartment could be rented to students or anyone else if the property is sold or the



applicant's daughter no longer wants to live there.

Early on in this application, the Board identified a threshold issue which needed to be resolved before the merits of the application could be reached. Specifically, the Board needs to determine whether the Zoning Ordinance allows apartments in accessory structures, such as detached garages, by way of special use permit, or otherwise.

We first note that the Zoning Ordinance makes absolutely no provision for, or mention of, accessory apartments, or apartments in detached, accessory buildings. Apartments are clearly not mentioned in the Zoning Ordinance as permitted accessory uses in any Zoning District. Accordingly, if this use is to be allowed, it must qualify as a "two-family dwelling, which is permitted special use in any district by virtue of the Second Amendment to the Zoning Ordinance.

The Zoning Ordinance defines a "two-family dwelling" as "A detached building containing two dwelling units only". It appears clear, then, that in order to qualify as a "two-family dwelling", both dwelling units must be in the same, detached building. Here, of course, the applicant is proposing that the "second" dwelling unit be in a separate, accessory building, i.e., the detached garage. The definition of "two-family dwelling" is clear and unambiguous. There is no room for interpretation. If the Town Board had intended that there could be accessory apartments, or apartments in accessory structures, it could have made provision for the same in the Zoning Ordinance, or defined the term "two-family dwelling" to include the same. It did not.

Having determined that what is being proposed by the applicant does not meet the definition of a "two-family dwelling" contained in the Zoning Ordinance, the request for a special use permit must be, and hereby is, DENIED. The Board need not, and does not, reach the issue as to whether, on the merits, the evidence submitted by the applicant would have met the standards for the issuance of a special use permit for a two-family dwelling.

Dated: Brunswick, New York

November 19, 2007

**TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS**

**REGULAR MEETING**

**November 19, 2007**

**RESOLUTION ADOPTING DETERMINATION**

**WHEREAS**, the Application for Zoning Permit and Request for Special Use Permit of QUALCOMM INCORPORATED/MEDIAFLO USA, INC., applicant, dated June 22, 2007, 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 a 24.7' UHF broadcast antenna to be mounted on an existing 740' guyed tower owned by WNYT-TV, LLC, located at 244 Bellview Road, in the Town of Brunswick, at a height of 635' AGL, a transmitter and related equipment to be located within the existing equipment building, two (2) 1.8 meter KU satellite dishes to be ground mounted within the existing compound, two (2) small global positioning antennas to be side-mounted on the equipment building, one (1) heat exchanger measuring 6' x 2' to be ground mounted on a concrete pad, and one (1) backup propane power generator, 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 Shaughnessy and seconded by Member Sullivan, was duly put to a roll call vote as follows:

**MEMBER SULLIVAN**  
**MEMBER SCHMIDT**  
**MEMBER SHAUGHNESSY**  
**MEMBER TRZCINSKI**  
**CHAIRMAN HANNAN**

**VOTING** Aye  
**VOTING** Absent  
**VOTING** Aye  
**VOTING** Aye  
**VOTING** Absent

The foregoing Resolution was thereupon declared duly adopted.

Dated: November 19, 2007

TOWN OF BRUNSWICK  
ZONING BOARD OF APPEALS

---

In the Matter of the Application of

QUALCOMM INCORPORATED/MEDIAFLO USA, INC.,

Applicant

DETERMINATION

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

---

This matter involves the Application for Zoning Permit and Request for Special Use Permit of QUALCOMM INCORPORATED/MEDIAFLO USA, INC., applicant, dated June 22, 2007, 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 a 24.7' UHF broadcast antenna to be mounted on an existing 740' guyed tower owned by WNYT-TV, LLC, located at 244 Bellview Road, in the Town of Brunswick, at a height of 635' AGL, a transmitter and related equipment to be located within the existing equipment building, two (2) 1.8 meter KU satellite dishes to be ground mounted within the existing compound, two (2) small global positioning antennas to be side-mounted on the equipment building, one (1) heat exchanger measuring 6' x 2' to be ground mounted on a concrete pad, and one (1) backup propane power generator.

This application is brought pursuant to Article VIII of the Zoning Ordinance, which was enacted pursuant to Local Law No. 1 for the Year 1999, and 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 a single, cylinder-shaped UHF broadcast antenna, 24.7 feet in height, and 12 inches in diameter, to the existing 740 foot high WNYT-TV tower on Bald Mountain, at a height of 635 feet, and related ground and other equipment. The antenna would be mounted vertically to the tower on brackets which extend from the tower a distance of one foot. The purpose of the antenna is to broadcast television programming content to subscribers' cell phones.

The applicant has submitted all of the application materials required for a minor personal wireless telecommunications service facility by the Zoning Ordinance. The application has been deemed complete by the Board. 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.

At the various sessions of the public hearing, for which all adjoining property owners were notified, and notice of which was duly published in the Town's official newspaper, there was very limited public comment and no real opposition to the proposed facility. In the course of the technical review of the application materials, the Board's engineering consultant, Ronald J. Laberge, P.E., raised two major issues. First, he expressed concern that the structural analysis submitted with the application materials should be supplemented by a geotechnical engineering review to ensure that the soil bearing capacity of the existing tower complies with current engineering standards. The applicant submitted the additional documentation as requested by Mr. Laberge, and Mr. Laberge subsequently advised the Board that his concerns regarding the tower's ability to support the new antenna array was alleviated.

The second issue raised by Mr. Laberge was really a matter of interpretation for the Board. Mr. Laberge noted that the new antenna was proposed to be installed on the existing tower at a height of 635 feet. His concern was whether that violated Local Law No. 5 for the Year 1998 which limited the maximum height of all Personal Wireless Telecommunications Service Facilities to 200 feet. The provision in question reads as follows:

**(3) Maximum Height. No Personal Wireless Telecommunications Service Facility shall exceed two hundred (200) feet in height. Notwithstanding the foregoing, all Personal Wireless Telecommunications Facilities shall be designed at the minimum height necessary to achieve the communication need and function they are intended to fulfill.**

Although it is likely that the Town Board, in enacting that provision, was primarily concerned about the height of telecommunications towers, it is clear from the wording of the provision that it applies to all Personal Wireless Telecommunications Service Facilities, both Major and Minor, and not just those involving a new tower. It is the obligation of this Board to interpret the Zoning Ordinance in a way that makes sense. Here, the new antenna proposed to be added is approximately 25 feet in height. It is only the fact that it is being affixed to an existing 740 foot tower at a height of 635 feet that raises the question. The tower on which the proposed new antenna is to be installed is pre-existing, and far exceeds the 200 foot height limit. Affixing the new antenna will not increase the overall height of the "combined facility". It is the Board's view that where a Personal Wireless Telecommunications Service Facility involves the construction of a new antenna, as opposed to a new tower, the 200 foot height limitation quoted above will only apply where:

1. The proposed new antenna, itself, as opposed to the tower to which it is being affixed, exceeds 200 feet in height, measured vertically, or
2. The proposed new antenna, when affixed to an existing tower which is less than 200 feet in height, will extend to a height in excess of 200 feet above ground level; or
3. The proposed new antenna, when affixed to an existing tower which exceeds 200 feet in height, will result in any increase in the overall height of the "combined facility".

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 antenna than it is now. The proposed antennas are to be all but flush mounted and will extend out from the tower about one foot. The antenna will also be installed at a height at which it will be much less visible. 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 this one. 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. We note that this application makes even newer technology available, as it involves the broadcasting of television programming to cell phones. It is also significant that a minor facility is being sought, which is clearly preferred and in the public interest, due to the lesser environmental impacts.

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

The Board finds that the neighborhood character and property values will not be impacted by the grant of this permit. As previously stated, this tower has been in existence for many years and is located in an area of Town in which numerous telecommunications towers have been sited over the years. The addition of the new antenna, 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 minor personal wireless telecommunications service facility, consisting of a 24.7' UHF broadcast antenna to be mounted on an existing 740' guyed tower owned by WNYT-TV, LLC, located at 244 Bellview Road, in the Town of Brunswick, at a height of 635' AGL, a transmitter and related equipment to be located within the existing equipment building, two (2) 1.8 meter KU satellite dishes to be ground mounted within the existing compound, two (2) small global positioning antennas to be side-mounted on the equipment building, one (1) heat exchanger measuring 6' x 2' to be ground mounted on a concrete pad, and one (1) backup propane power generator, as more fully and particularly set forth in the plans, drawings and application, 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 19, 2007

**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

QUALCOMM Co - LOCATION, 244 BELLVIEW RD  
 Name of Action

TOWN OF BRUNSWICK ZONING BOARD  
 Name of Lead Agency

James D. Shaughnessy  
 Print or Type Name of Responsible Officer in Lead Agency

\_\_\_\_\_  
 Title of Responsible Officer

James D. Shaughnessy  
 Signature of Responsible Officer in Lead Agency

\_\_\_\_\_  
 Signature of Preparer (if different from responsible officer)  
 RONALD J. CARROLL PE  
 CASPER GROUP

11/19/07  
 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 Wireless facility co-location

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

244 Bellview Road, Brunswick, NY 12180, Rensselaer County

Name of Applicant/Sponsor QUALCOMM Incorporated/MediaFLO USA, Inc.

Address c/o Margaret Smith, Airosmith Development, 2 Larkspur Ct.

City / PO Greenfield

State NY

Zip Code 12833

Business Telephone (518) 893-6098

Name of Owner (if different) WNYT-TV, LLC

Address 244 Bellview Road

City / PO Brunswick

State NY

Zip Code 12180

Business Telephone \_\_\_\_\_

#### Description of Action:

MediaFLO is applying for a Special Permit and Site Plan Review to co-locate wireless communication equipment at an existing wireless telecommunications facility in the Town of Brunswick. The installation will include the following:

- (1) A 24.7' UHF broadcast antenna (Dielectric Communications model TLP-16A-1E) to be mounted on the 740-foot guyed tower (the easternmost tower, which is painted red and white). MediaFLO's antenna will broadcast in the 716 - 722 MHz frequency band, with an azimuth of 210°. The top of the antenna will be at 635' AGL and will not increase tower height. Coaxial cabling will run from the antenna to an "ice bridge," which will run from the tower base to the existing equipment building.
- (2) MediaFLO will be allocated space within the existing building to install MediaFLO's transmitter (5.0KW Rohde & Schwarz model CV90-T0512) and related interior equipment.
- (3) Two 1.8-meter KU band satellite dishes (Patriot Antenna Systems model CV90-T0757) to be ground-mounted within the existing compound. Cables will be run from the dish into the equipment building.
- (4) Two small global positioning antennas (Rohde & Schwarz models GPS-TMG-40NMS or GPS-TMG-50NMS) to be side-mounted on the equipment building.
- (5) One heat exchanger measuring 6' (length) 2' (width) by 3'10" (height) to be ground mounted on a concrete pad.
- (6) One backup propane power generator measuring 7'3" (length) x 3'6" (width) x 7' (height) mounted on a concrete pad, connected to an aboveground propane storage tank.

**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: Telecommunications facility

2. Total acreage of project area: 0.029 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>.001</u> acres
Other (Indicate type) <u>grass lawn</u>	<u>.029</u> acres	<u>.028</u> acres

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

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

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

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

a. What is depth to bedrock \_\_\_\_\_ (in feet)

5. Approximate percentage of proposed project site with slopes:

- 0-10% \_\_\_\_\_ %  10- 15% \_\_\_\_\_ %  15% or greater \_\_\_\_\_ %

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or 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? ~15 (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:

Identify each species:

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

Yes  No

Describe:

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

Yes  No

If yes, explain:

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

15. Streams within or contiguous to project area:

none

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

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

A pond is located approximately 75 feet east of the project area.

b. Size (in acres):

0.5

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 6177?  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: 42.3 acres.
- b. Project acreage to be developed: .001 acres initially; .001 acres ultimately.
- c. Project acreage to remain undeveloped: .028 acres.
- d. Length of project, in miles: n/a (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. 5 %
- f. Number of off-street parking spaces existing n/a; proposed n/a
- 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  | _____      | _____      | _____           | _____       |
| Ultimately | _____      | _____      | _____           | _____       |
- i. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width; \_\_\_\_\_ length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? \_\_\_\_\_ ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? 0.0 tons/cubic yards.
3. Will disturbed areas be reclaimed  Yes  No  N/A
- a. If yes, for what intended purpose is the site being reclaimed?
- 
- b. Will topsoil be stockpiled for reclamation?  Yes  No
- c. Will upper subsoil be stockpiled for reclamation?  Yes  No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? 0.0 acres.

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

Yes  No

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

7. If multi-phased:

a. Total number of phases anticipated \_\_\_\_\_ (number)

b. Anticipated date of commencement phase 1: \_\_\_\_\_ month \_\_\_\_\_ year, (including demolition)

c. Approximate completion date of final phase: \_\_\_\_\_ month \_\_\_\_\_ year.

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

8. Will blasting occur during construction?  Yes  No

9. Number of jobs generated: during construction 20; 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

If yes, 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)

The project will employ a 208V to 400V KVA step up transformer for the purposes of providing increased electric power to the transmitting equipment.

22. If water supply is from wells, indicate pumping capacity n/a gallons/minute.
23. Total anticipated water usage per day 0 gallons/day.
24. Does project involve Local, State or Federal funding?  Yes  No

If yes, explain:

**25. Approvals Required:**

			Type	Submittal Date
City, Town, Village Board	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		
City, Town, Village Planning Board	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Site Plan Review	
City, Town Zoning Board	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Special Permit	
City, County Health Department	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No		
Other Local Agencies	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Building/Electrical Permit	
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?

B-15 Commercial

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

Communications facility and other commercial uses.

4. What is the proposed zoning of the site?

n/a

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

.028

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?

Forest and open space.

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? \_\_\_\_\_



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 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 MediaFLO USA, Inc. Date 8/17/07

Signature 

Title Zoning-Permitting Specialist

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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

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

NO  YES

• Specific land forms:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
------------------------	--------------------------	--------------------------	--

**Impact on Water**

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)

NO  YES

Examples that would apply to column 2

• Developable area of site contains a protected water body.	<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  
Small to  
Moderate  
Impact

2  
Potential  
Large  
Impact

3  
Can Impact Be  
Mitigated by  
Project Change

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.    Yes  No
- Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action.    Yes  No
- Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity.    Yes  No
- Construction or operation causing any contamination of a water supply system.    Yes  No
- Proposed Action will adversely affect groundwater.    Yes  No
- Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.    Yes  No
- Proposed Action would use water in excess of 20,000 gallons per day.    Yes  No
- 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.    Yes  No
- Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons.    Yes  No
- Proposed Action will allow residential uses in areas without water and/or sewer services.    Yes  No
- Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.    Yes  No
- Other impacts:    Yes  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<br>Small to<br>Moderate<br>Impact | 2<br>Potential<br>Large<br>Impact | 3<br>Can Impact Be<br>Mitigated by<br>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	2	3	
	Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

• 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. | <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	2	3
Small to Moderate Impact	Potential Large Impact	Can Impact Be Mitigated by Project Change

**IMPACT ON PUBLIC HEALTH**

18. Will Proposed Action affect public health and safety?

NO       YES

- |  |                          |                          |  |
|--|--------------------------|--------------------------|--|
| <ul style="list-style-type: none"> <li>• 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.</li> </ul> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <ul style="list-style-type: none"> <li>• Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)</li> </ul>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <ul style="list-style-type: none"> <li>• Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids.</li> </ul>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <ul style="list-style-type: none"> <li>• Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.</li> </ul>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <ul style="list-style-type: none"> <li>• Other impacts:</li> </ul>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

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

19. Will Proposed Action affect the character of the existing community?

NO       YES

Examples that would apply to column 2

- |   |                          |                          |  |
|---|--------------------------|--------------------------|--|
| <ul style="list-style-type: none"> <li>• The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.</li> </ul>                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <ul style="list-style-type: none"> <li>• The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.</li> </ul> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <ul style="list-style-type: none"> <li>• Proposed Action will conflict with officially adopted plans or goals.</li> </ul>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <ul style="list-style-type: none"> <li>• Proposed Action will cause a change in the density of land use.</li> </ul>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <ul style="list-style-type: none"> <li>• Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community.</li> </ul>             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <ul style="list-style-type: none"> <li>• Development will create a demand for additional community services (e.g. schools, police and fire, etc.)</li> </ul>                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes <input type="checkbox"/> No |

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

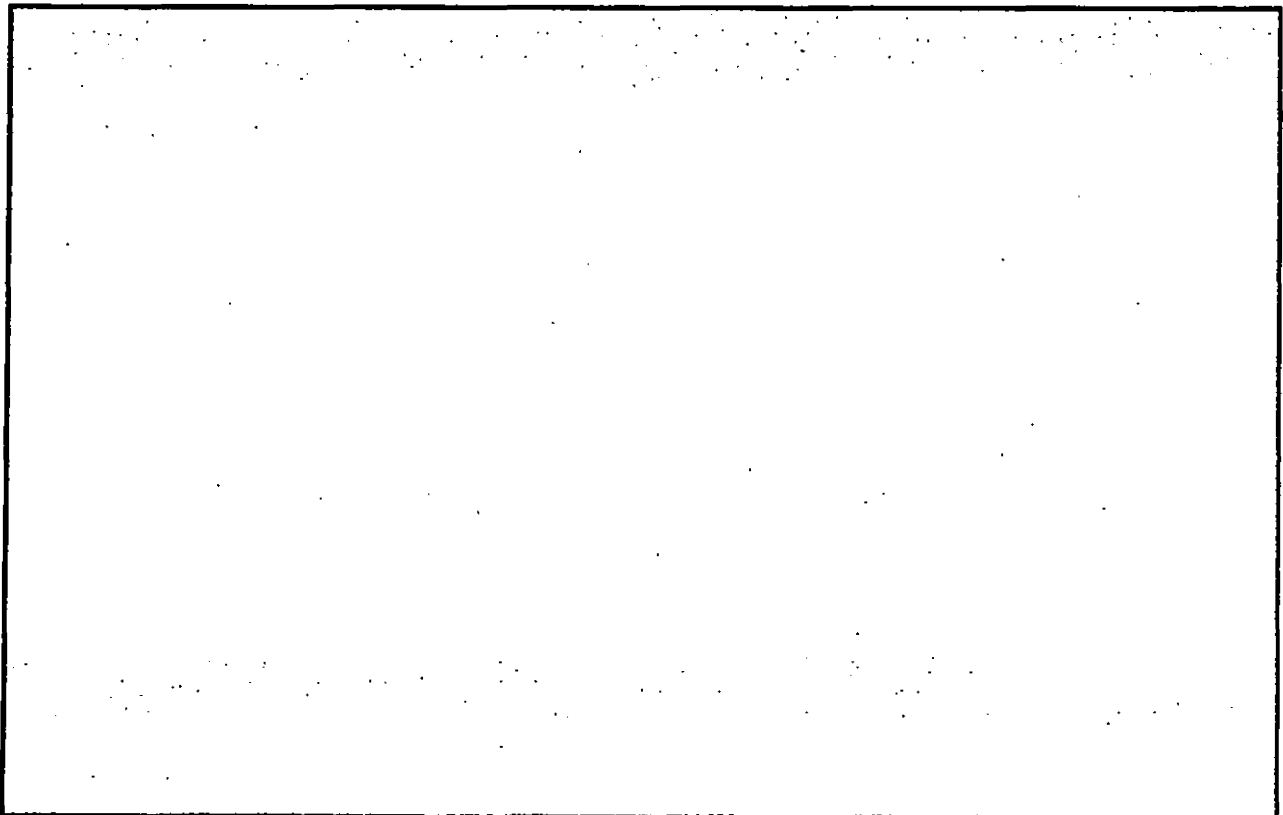
**Instructions** (If you need more space, attach additional sheets)

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.



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

336 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 17, 2007, at 6:00 P.M.

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

Also present was Thomas R. Cioffi, Town Attorney and Zoning Board of Appeals Secretary, and John Kreiger, Superintendent of Utilities and Inspections. At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M.

The first item of business was approval of the minutes of the November, 2007, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Shaughnessy seconded. The motion carried 5 - 0.

The next item of business was the Application for Zoning Permit and Request for a Special Use Permit of ROBERT and LINDA HANER, owners-applicants, dated October 24, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion of a single family dwelling located at 104 Deepkill Road, in the Town of Brunswick, to a two-family dwelling, because two-family dwellings are allowed only by way of special use permit granted by the Zoning Board of Appeals. Attorney Cioffi read the Notice of Public Hearing aloud.

Robert Haner appeared. He stated that he is suffering from various medical conditions, including cancer. They have a large house and they want to convert part of it into an apartment so that they can rent it out to defray his medical expenses. They also might want to use the apartment as housing for a live-in care giver for him. Member Trzcinski stated that a drawing to show the proposed layout would be helpful. Mr. Haner stated that there are already two kitchens, two bathrooms and two living rooms, as well as five bedrooms, in the house. There is already what amounts to a two bedroom apartment on the first floor. Their son was living in the apartment before he moved out. They never applied for a special use permit because it was used only for family. Member Sullivan said that the Board should still have house plans.

Attorney Cioffi read the criteria for a special use permit aloud. Mr. Haner stated that there are no other two family homes in the area. He said that most of the houses in the area are built on 1 or 2 acre lots. The nearest neighbor is about 150 feet away. On the other side, the nearest home is 300 - 400 feet away. There is plenty of space for parking off road. Mr. Kreiger stated that an

adjoining owner, Sue Sherman, had advised him that she had no objection to the relief requested. The matter was adjourned to January 28, 2008, for further proceedings. The applicants were reminded to bring a floor plan and a plot plan to the next meeting.

The next item of business was further consideration of the Application for Zoning Permit and Request for Special Use Permit of OMNIPOINT COMMUNICATIONS, INC., applicant, dated June 15, 2007, 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) antennas to be affixed at the sides and back corners of the bell tower, below the top of the bell tower, of the Gilead Lutheran Church of Brunswick, located at 308 Brick Church Road, in the Town of Brunswick, at a centerline height of 79 feet, and associated cellular equipment cabinets on a 10' x 16' concrete pad to be located within a 14' x 23' fenced area on the north side of the Church, 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. Jeff Davis, Esq., of Harris Beach, appeared for the applicant.

Attorney Davis stated that a complete EAF has now been submitted. He also provided documentation establishing that they sent the project materials to the State Historic Preservation Office (SHPO) for review well over 40 days ago and that SHPO had not voiced any concerns. He provided documentation that it is now SHPO's policy that it will only respond to cell tower project inquiries when additional information is required or where it has specific concerns, and that its failure to respond within 40 days can be interpreted as an indication that the project will have no effect on historic properties.

Attorney Davis also reviewed the various changes made to the project. While there were originally 6 antennas proposed, all near the top of the bell tower on the wrought iron fencing, now there are only 3 proposed, two on the top of the bell tower on the wrought iron fencing and one on the brick facade on the side of the bell tower. The ones on the top will be painted black, the one on the side will be painted to match the color of the brick. Also, the type of antennas have been changed to quad pole antennas. They are 53 inches in height, 12 inches wide, and 6 inches deep. The antennas originally proposed were 58 inches in height, 8 inches wide and 6 inches deep. The quad pole antennas have the capacity to carry a larger volume of calls. Even so, the change will result in slightly less call capacity than originally proposed, although coverage will be about the same. He also submitted a propagation study to the Board. The Board advised Attorney Davis to forward all of the revised plans to the Board's engineering consultant for comment. Chairman Hannan stated that he was pleased with the proposed changes.

There being no further comments, the Chairman made a motion to close the public hearing. Member Shaughnessy seconded. The motion carried 5 - 0. A written decision will follow.

The next item of business was the appeal and petition of JOSEPH and SYLVIA ROONEY, owners-applicants, dated November 29, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached two-car garage on a lot located at 3 Hickory Lane, in the Town of Brunswick, because the construction violates the side yard setback for accessory structures in an R-15 District in that 15 feet is required but 5 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Joseph and Sylvia Rooney appeared. Mr. Rooney stated that they need a 5 foot setback instead of 15 feet. He knows of no neighbors who object to the proposal. The garage is proposed to be 26' x 26'. There will be a full 8" poured foundation. It would be cedar sided to match the siding of the house, and the shingles and overhang would match the roof of the house. The garage will have a 9 foot ceiling. There will be a simple lift in the garage. They have five cars and no room. The garage will be 125 feet from the closest structure.

Mr. Rooney explained that the lot has 125 feet of frontage which narrows down to about 100 feet. Moving the garage to the left would put it right behind the house. It is a matter of room on the lot and aesthetics. Member Schmidt noted that the driveway is steep and that if the garage were situated to meet the setbacks, you would have to make a rather sharp turn to get to the garage.

No one from the public wished to comment. Member Shaughnessy made a motion to classify the 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 JOSEPH and SYLVIA ROONEY, owners-applicants, dated November 29, 2007, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a detached two-car garage on a lot located at 3 Hickory Lane, in the Town of Brunswick, because the construction violates the side yard setback for accessory structures in an R-15 District in that 15 feet is required but 5 feet is proposed, the Zoning Board of Appeals does hereby grant the variance as requested.***

Member Trzcinski seconded. The Resolution was duly put to a roll call vote as follows:

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

The Resolution was thereupon duly adopted.

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

Dated: Brunswick, N.Y.  
January 16, 2008

Respectfully submitted,

  
THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING (CORRECTED)

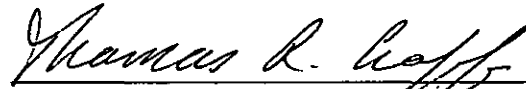
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17th day of December, 2007, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the Application for Zoning Permit and Request for a Special Use Permit of ROBERT and LINDA HANER, owners-applicants, dated October 24, 2007, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed conversion of a single family dwelling located at 104 Deepkill Road, in the Town of Brunswick, to a two-family dwelling, because two-family dwellings are allowed only by way of special use permit granted by the Zoning Board of Appeals.

FURTHER NOTICE IS HEREBY GIVEN that said ROBERT and LINDA HANER, owners-applicants, have petitioned for said special use permit, and said application is 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 2, 2007

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

  
THOMAS R. CIOFFI  
Town Attorney