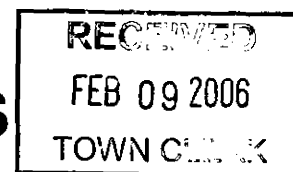


ZONING MINUTES

2006

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

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



DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on January 17, 2006, at 6:00 P.M.

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

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

At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M.. Mr. Kreiger advised the Board that the appeal and petition of PATRICK R. OPEL, dated November 15, 2005, for an area variance, had been withdrawn.

The matter next item of business was approval of the minutes of the November, 2005, and December, 2005, meetings. There were no changes to the November, 2005, minutes. As to the December, 2005, minutes, on page 3, 2nd paragraph, 3rd line, "Hanna" should read "Hannan". Member Jabour made a motion to approve the November minutes as submitted and the December minutes as corrected. Member Trzcinski seconded. The motion carried 4 - 0.

The next item of business was final action on the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated November 28, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space because the said use is not a permitted principal use in an A-40 District and can only be allowed by way of a use variance issued by the Zoning Board of Appeals. Attorney Cioffi stated that the Board had before it a proposed written Determination. Essentially, the Determination provides that a use variance would issue on certain conditions permitting the use of the premises as office space for a financial planner, an attorney, and a real estate broker. Also before the Board was a proposed Resolution adopting the Determination. Member Trzcinski offered the Resolution adopting the Determination. Member Jabour seconded. All present voted in the affirmative in a roll call vote and the Resolution was duly adopted. The original Resolution and Determination are filed in the Office of the Town Clerk.

The next item of business was further consideration of the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS,

applicant, dated September 13, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of twelve (12) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and a 11'6" x 30' pre-fabricated equipment shelter within the existing facility, because a minor personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Scott Olson, Esq., and Sara Mayberry Stevens appeared in support of the application

Attorney Olson read into the record a letter from Crown Castle International, the current owner of the tower, dated January 16, 2006. The Board had inquired of Crown Castle as to whether the tower could be moved as requested by some residents or whether it could be "disguised" as suggested by others. Essentially, Crown Castle advised that the precise location and height of the tower were vital and critical to its ability to provide reliable service to the market. The location was carefully chosen because of its ability to meet coverage needs. As to disguising the tower, Crown Castle stated it was not feasible to retrofit the tower into a "monopine" or other stealth facility. Sara Mayberry Stevens read a letter from Paul J. Ford and Company, Structural Engineers, dated January 17, 2006, which confirmed that the existing tower could not be retrofitted with "pine" branches to help disguise it and still hold the six carriers antennas it was designed for, without substantial modifications to the tower and foundation. Ms. Stevens stated that the cost of a new tower to hold a stealth installation would be at least \$70,000.00 plus the cost of the foundation. There would also be substantial costs associated with temporarily providing service during the construction period. Finally, Attorney Olson read into the record a letter he sent to the Board dated January 17, 2006. In that letter, he set forth reasons why it was not feasible to move the tower or to retrofit a stealth installation. He stated that the tower was located by agreement with the owner of the quarry so as to minimize interference with quarry equipment and operations, and due to the steep grades on the property.

Margaret McCarthy, 93 Lockrow Road, stated that there was confusion about the date of this meeting and that is why no one but her was present. Attorney Cioffi disagreed, stating that all of those people were present at the December meeting when the Board scheduled this meeting. There was no confusion about the date. Ms. McCarthy submitted pictures depicting the appearance of the tower from the Coons Road and Lockrow Road perspectives. She also stated that disguising the tower was never really on their minds. Their real point is that this tower is huge and very close to private homes. It sticks out like a sore thumb. She lives 2 miles away and for a while she thought it was a crane at the quarry. She asked why we need towers these days. Can't we use satellites? She stated that it is pretty clear what the Board intends to do. She feels outnumbered. Chairman Hannan stated this is a public meeting. He cannot control attendance. Ms. Carthy said she is opposed to this atrocity.

Member Jabour stated that the tower was approved after a full review. Member Trzcinski said that the tower was built in an industrial zone. People who built homes near the quarry must have known of the zoning. Greg Brenenstuhl, 27 Dusenberry Lane, stated he agrees that we should have satellite phones. Sara Stevens said that 2 companies tried satellite technology and both went bankrupt. Today's cell phones rely on line of sight technology. Ms. McCarthy said this is a done deal. Next month another carrier will want to locate on the tower.

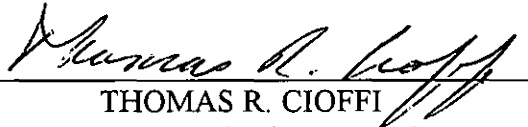
Member Jabour made a motion to close the public hearing. The Chairman seconded. The motion carried 4 - 0. The Chairman announced that the Board would render a decision within 62 days.

Due to the holiday on the next scheduled meeting date, the Board scheduled the next meeting for February 27, 2005.

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

Dated: Brunswick, N.Y.
February 4, 2006

Respectfully submitted,



THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

January 17, 2006

RESOLUTION ADOPTING DETERMINATION

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

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

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

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

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

MEMBER SULLIVAN
MEMBER SCHMIDT
MEMBER JABOUR
MEMBER TRZCINSKI
CHAIRMAN HANNAN

VOTING Absent
VOTING Aye
VOTING Aye
VOTING Aye
VOTING Aye

The foregoing Resolution was thereupon declared duly adopted.

Dated: January 17, 2006

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Appeal and Petition of

DETERMINATION

WILLIAM ZIMMERMAN,

Applicant,

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

This matter involves the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated December 2, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space because the said use is not a permitted principal use in an A-40 District.

The applicant is William Zimmerman, a veterinarian. He owns the property located at 4118 NYS Route 2. The property consists of a lot approximately 1.39 acres in area, and is improved by a large, frame building. The property is located in an A-40 (agricultural) zone. Although having been vacant for several years, the building was most recently used, and is presently configured as, a veterinary clinic. Dr. Zimmerman purchased the property from Dr. Herbert Dietrich, a veterinarian, in 1996, intending to have his practice there. Dr. Zimmerman is married to Dr. Dietrich's daughter, who is also a veterinarian. While Dr. Zimmerman was working at Dr. Dietrich's clinic, building a practice, the building burned down. For insurance reasons, Dr. Dietrich decided to rebuild the clinic, but it took several years to resolve all of the issues with the insurance company. During that time, Dr. Zimmerman was forced to move his practice elsewhere. He subsequently decided to make that relocation permanent. Before he made that decision, however, he purchased the property from Dr. Dietrich. He paid \$265,000.00, \$40,000.00 for the land and \$225,000.00 for the building.

Dr. Zimmerman claims that he was under the impression that the property could be used for other commercial activities. He claims it was used as a restaurant in the past. He stated that he believes that prior variances were granted with respect to this property. Dr. Zimmerman presented no proof in that regard and the Town could find no record of any prior use variances on this property.

Since deciding that he would not use the building for his practice, he has attempted to sell it. According to his real estate agent, his efforts in that regard have been hampered by the fact that the property is zoned A-40 and limited uses are therefore allowed. Since the property is too small for any agricultural use, the only other relevant uses allowed as of right are a single family residence or a veterinary clinic. Dr. Zimmerman and his realtor have tried to market the property as a veterinary clinic, but they have had no serious offers to date. They had several inquiries from businesses seeking commercial office space, but that is not an allowed use in an A-40 District. They also have had inquiries from persons interested in the property as a residence. However, the property is configured as a vet clinic and the cost of renovations to convert it into a home are prohibitive. Dr. Dietrich produced an estimate indicating that it would cost between \$75,000.00 and \$100,000.00 to do the necessary renovations.

Dr. Dietrich filed the instant appeal and petition for a use variance allowing the property to be used as commercial office space. During the pendency of this matter, Dr. Zimmerman entered into a contract to sell this property to Prime Rate and Return LLC, 13 First Street, Troy, New York. The sales price is \$215,000.00, and the sale is contingent on the use variance being granted. Prime Rate proposes to use the property as offices for a combined law office, CPA/Financial Planner, and real estate broker operation. It is anticipated that the Financial Planner/CPA will have will have two (2) employees in addition to himself. The real estate office will have a licensed broker, two (2) sales associates and one (1) other employee. The attorney's office will have two (2) staff members in addition to the attorney. They anticipate, then, a total of ten (10) employees working at the premises, but not necessarily all at one time. They also anticipate a total of twenty-one (21) outside client visits each week. No real changes to the outside of the building are anticipated. The inside will have to be substantially remodeled. Thirteen (13) parking spaces are proposed. Most activity at the premises will take place during the day, but limited evening hours may be made available if needed.

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

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

4. that the alleged hardship with the property has not been self-created.

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

LACK OF REASONABLE RETURN

The Board is satisfied that Dr. Zimmerman cannot realize a reasonable return on his investment in the property if it is used for any use permitted by right in the district. This property is zoned A-40. The only permitted uses relevant to this discussion are veterinary clinics and single family homes. Dr. Zimmerman has established that he has unsuccessfully attempted to market the property as a vet clinic. He has also established that the cost of renovating the structure make it unmarketable as a single family home. Finally Dr. Zimmerman has established that he has invested some \$270,000.00 in this property. It is unlikely, in the judgment of this Board, that Dr. Zimmerman will be able to realize anything approaching that unless some other use is allowed.

UNIQUENESS OF THE HARDSHIP

The Board finds that this property is, indeed, unique in several respects. First, it is a rather small lot to be located in an A-40 Zone. Its size, about 1.39 acres, makes it unusable for the usual agricultural pursuits. Second, it is improved by a structure which is configured as a professional office, which makes it unsuitable for use as a private residence. Third, it is a property located in an A-40 Zone, which is immediately adjacent to a property having several commercial uses, including an electrician's office, a restaurant, a bar, and a hairdresser. These hardships do not apply to other properties in the district.

CHARACTER OF THE NEIGHBORHOOD

It is hard to imagine that granting this use variance will have any effect on the character of the neighborhood. The use proposed is that of mixed professional offices. As previously stated, immediately adjacent to the east is a small "plaza" with mixed commercial uses, all of which would generate more noise, traffic and activity than is being proposed here. Even the veterinary clinic, which is a permitted use, might generate more noise and after-hours emergency type activity than is contemplated here. Moreover, there is a medical arts building located on the same side of the road, a short distance to the west. Across Route 2 from this property, and a short distance to the west, is one of the Town's sports complexes, containing several heavily used athletic fields, concession stands, etc. Given all this, it is unlikely that the use proposed will have any effect

on community character. This is truly an area of Town having mixed light commercial and residential uses.

SELF-CREATED HARDSHIP

If the Board finds that the owner of the property created the alleged hardship with the property, the variance request must be denied. The Board finds that Dr. Zimmerman did not create the hardships affecting his property. The Board is satisfied that when he agreed to purchase the property from his father-in-law, it was his intention to have his practice there. The fire and the insurance complications caused him to relocate his practice. Once everything was resolved, and the clinic rebuilt, he was already established elsewhere.

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

Based upon all of the foregoing, it is the determination of this Board that the applicants have established all of the statutory criteria for the granting of a use variance. Accordingly, the appeal and petition of WILLIAM ZIMMERMAN, owner-applicant, dated December 2, 2004, for a use variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed use of an existing building located at 4118 NYS Route 2, in the Town of Brunswick, as commercial office space because the said use is not a permitted principal use in an A-40 District, be and hereby is GRANTED to the following extent, and upon the following terms and conditions:

1. This variance is strictly limited to the use of the property as professional offices consisting solely of a financial planner/CPA office, a real estate office, and an attorneys office, or any combination thereof, not to exceed three (3) separate businesses. No other commercial activities of any kind may be conducted on the property.
2. Any change of use, or any additional use, not permitted as of right in the A-40 District, shall require a new use variance.
3. The uses permitted by this variance may not be undertaken unless and until site plan approval has been granted by the Planning Board. Any subsequent expansion of the uses now being allowed beyond that described in this Determination shall require

further site plan review by the Planning Board.

Dated: Brunswick, New York
January 17, 2006

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 <i>William Zimmerman</i>	2. PROJECT NAME <i>Brunswick Animal Hospital</i>
3. PROJECT LOCATION: Municipality <i>Town of Brunswick</i> County <i>REN</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>4118 NY 2</i>	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration <i>CHANGE OF USE</i>	
6. DESCRIBE PROJECT BRIEFLY: <i>Change of use from veterinary clinic to office use. No new construction is proposed.</i>	
7. AMOUNT OF LAND AFFECTED: Initially <i>1.39</i> acres Ultimately <i>1.39</i> 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 <i>Property zoned A-40 Use Variance Required</i>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: <i>contiguous properties are residential, commercial, and agricultural</i>	
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(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <i>William Zimmerman</i>	Date: <i>3/15/05</i>
Signature: <i>William Zimmerman</i>	

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 - IMPACT ASSESSMENT (To be completed by Lead 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 617.67 If No, a negative declaration may be superseded by another involved agency.
 Yes No

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

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

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

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

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

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

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

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: *MINOR IMPACTS associated with renewed use of a vacant building*

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

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 of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

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

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

zoning Board of Appeals 1/17/06
 Name of Lead Agency Date

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

James Hannan _____
 Signature of Responsible Officer in Lead Agency Signature of Preparer (if different from responsible officer)

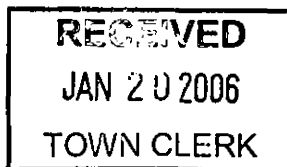


Mr. Hamner

Here are the additional 20
names I spoke to you about.

For Safety and Neighborhood
Characteristics I ask that you
deny Venijons Request.

Ronald J. Hamner



Please let the Town of Brunswick Zoning Board of Appeals know that you do NOT want any further expansion of the existing cell tower at the Callanan quarry.

	NAME	ADDRESS	SIGNATURE
1.	Kathy Town	11 Prout Ave,	Katherine Town
2.	Kelly Ogden Kelly Ogden	12 Colehamer Ave	Kelly Ogden
3.	Sheila Ogden	12 Colehamer Ave	Sheila Ogden
4.	Mary Town	11 Prout Ave	Mary Town
	CHARLES H. TOWN		
5.	Charles H. Town	11 PROUT AVE	Charles H. Town
6.	Tom Ogden	12 Colehamer Ave	Tom Ogden
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existing City Council and the existing
Town of Northampton Board of Select
men for the Town of Northampton
to expand their jurisdiction.

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Please let the Town of Brunswick Zoning Board of Appeals know that you do NOT want any further expansion of the existing cell tower at the Callanan quarry.

NAME	ADDRESS	SIGNATURE
1. <u>Rebecca J. Kaiser</u>	<u>398 Moonlawn Road</u>	<u>Rebecca J. Kaiser</u>
2. _____	_____	_____
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11. _____	_____	_____
12. _____	_____	_____
13. _____	_____	_____
14. _____	_____	_____
15. _____	_____	_____

Please let the Town of Brunswick Zoning Board of Appeals know that you do NOT want any further expansion of the existing cell tower at the Callanan quarry.

PRINT NAME	ADDRESS	SIGNATURE
1. Stephen Petti	70 Coons Rd.	Stephen Petti
2. ALAN TATE	289-BULSON Rd	Alan Tate
3. Margaret C. Papp	212 Bulson Rd	Margaret C. Papp
4. Peter H. STASIAK	205 Bulson Rd	Peter H. Stasiak
5. Virginia Hyra	150 Bulson Rd	Virginia Hyra
6. Andrew Hyra Sr	180 Bulson Rd	Andrew Hyra Sr
7. Sharon Kemprowski	156 Bulson Rd.	Sharon Kemprowski
8. Gary Gosselin	10 Windfield	Gary Gosselin
9. Janet LeBeau	4 WINDFIELD Lane	Janet Le Beau
10. William LeBeau	4 WINDFIELD LANE	William Le Beau
11. ALICE BULSON	123 BULSON Rd	Alice Bulson
12. Winifred Bulson	123 Bulson Rd.	Winifred Bulson
13. John W Cook	11 Rifenbury Rd	John W Cook
14.		
15.		

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

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

DRAFT MINUTES

A Meeting of the Zoning Board of Appeals of the Town of Brunswick, County of Rensselaer, State of New York, was held on February 27, 2006, at 6:00 P.M.

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

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

At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. At approximately 5:50 P.M., Member Hannan made a motion to go into private session to ask the Town Attorney some legal questions. Member Jabour seconded. The motion carried 5 - 0. At the conclusion of the private session, the Chairman made a motion to return to regular session. Member Jabour seconded. The motion carried 5 - 0. No action was taken in the private session.

The regular meeting was called to order at 6:20 P.M. The first item of business was approval of the minutes of the January, 2006, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was further consideration of the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, applicant, dated September 13, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of twelve (12) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and a 11'6" x 30' pre-fabricated equipment shelter within the existing facility, because a minor personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Scott Olson, Esq., appeared in support of the application.

The Chairman questioned Mr. Olson regarding the stealth installation in Saddle River, N.J. The Chairman went on to state that he had recently seen it and that simulated pine boughs were attached to the tower. He thought it looked pretty good. The pine branches were only attached in the area of the antennas. The Chairman also stated that the Board was considering how some landscaping

on the quarry property might improve the appearance of the tower. Mr. Olson responded that, as to the pine branches being attached to this tower, it was a structural issue. Since this tower was not designed with this in mind, they would have to drill into the steel to attach the branches. At worst, it could compromise the structural integrity of the tower, at best it would void the tower warranty.

The Chairman stated that the Board would render a decision at the March 20, 2006, meeting.

The next item of business was a presentation to the Board by the applicants on the Highland Creek project. Lee Rosen and Bob Marini appeared. Mr. Rosen stated that they made an initial presentation to the Board in August, 2005. Since then, the matter has been before the Town Board. There has been a positive declaration under SEQRA, and a DEIS was prepared. There has been a public hearing and the Town Board received many comments. This project involves all single family homes. There will also be active and passive recreation areas and open space. Three types of homes are proposed: 130 carriage homes for "empty nesters"; 39 traditional homes for first time and move-up buyers; and 21 manor homes for luxury home buyers. Two-thirds of the site would be open space owned by the Homeowner's Association.

Bob Marini added that these homes will be like those he and his family have built elsewhere. They have been building houses since the 1940's. He showed the Board pictures of the various types of homes. As to the carriage homes, they are designed to fit on the proposed lots. The land is cut up to accommodate the product. There will be 15 feet between each carriage home. In today's dollars, the carriage homes will be priced from \$230,000.00 to \$280,000.00; the traditional homes from \$270,000.00 to over \$300,000.00; and the manor homes from \$335,000.00 to \$375,000.00.

Member Jabour asked how much space would be added between the carriage homes by reducing the number of carriage homes by 10. Mr. Marini said that it might add another 5 - 7 feet, but you wouldn't notice it. What is more important is the landscaping and how the houses are situated on the lots. Mr. Rosen added that if you don't want to have your home close to another, you wouldn't want to live there. Some people prefer having sidewalks, a lot of landscaping, snow plowing service, etc.

Member Sullivan asked about swimming pools. Mr. Marini said that there is room even on the carriage home lots for a pool in the rear. There would not be a community swimming pool. They have found that this does not work financially unless there are at least 400 units. There could be some tennis courts. They are low maintenance.

The Chairman said that he likes the idea of clustering homes. It preserves open space that everyone can enjoy. Mr. Rosen said that there would be 70 - 75 acres of open space out of 210 acres total. The open space would include tennis courts and walking trails through the open space.

Member Trzcinski asked about the lot sizes. Mr. Rosen said that the traditional homes would be on lots 90' wide x 150' deep. They back onto the open space. The manor homes will be on one-half acre or better. Member Jabour asked what guarantees there are that the carriage homes would be occupied by empty nesters. Mr. Rosen stated that there will be no deed restrictions, but that the price point and the design will not appeal to families with children. Member Sullivan inquired about sidewalks. Mr. Rosen said there will be sidewalks where the carriage homes are situated. They

would be maintained by the Homeowner's Association. Member Jabour inquired about the Homeowner's Association. Mr. Marini said that a Homeowner's Association would be established. Eventually, the developer would hand the open space and all of the operations over to the Association. The open space is restricted against its use for things like ATV's, snowmobiles, etc. If an owner violates these restrictions, the Homeowner's Association can levy fines.

The next item of business was a presentation to the Board on the Hudson Hills project. Paul Fleming and Jennifer Brady appeared for Capital District Properties. Mr. Fleming stated that they are 2 years into this process. There have been 2 public hearing sessions. They are going through the SEQRA process. The plan has been drastically modified based on the public comment. The project comprises 215 acres. Access is from Hoosick Road, through Betts Road. The proposal is for luxury apartments appealing to empty nesters and young professionals. The buildings will have 12 or 16 units. The exterior of the buildings will have premium siding, 30 year architectural shingles, and attached garages for most units. Interiors will be 1 bedroom, 2 bedroom or 2 bedroom with a den. They will have spacious, open floor plans, but the size will not appeal to large families. There will be a club house. Originally, 1,116 units were proposed, in four phases. Two access points were proposed - Betts Road and North Lake Avenue. Now, 668 units in two phases are proposed. The North Lake Avenue access has been eliminated. The cherry orchard, clubhouse, walking trails, and courtyards as proposed will remain. There will be 84% green space.

Rents will range from \$800 - \$900 for a 850 sq. ft. one bedroom to \$1300 - \$1400 for a 1400 sq. ft. two bedroom with den. A traffic study has been done. The Capital District Regional Planning Commission did a report for the Brittonkill School District which concluded that the school had the capacity to accommodate any additional students that might be added as a result of the project. This project will fit in along the Route 7 corridor.

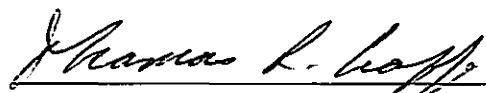
Mr. Fleming added that they used the Planned Development District procedure but they could have just come to this Board and asked for a special use permit. Attorney Cioffi disagreed, stating that, under the Zoning Ordinance, each apartment building would require a separate permit, have to be on its own lot, and comply with all setbacks and other bulk requirements.

Member Jabour asked about Betts Road. Mr. Fleming stated that both this project and the proposed Wal-Mart would require improvements to Betts Road. Attorney Cioffi stated that Betts Road is a user road and that it was unlikely that the Town would pay for improvements to the road.

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

Dated: Brunswick, N.Y.
March 13, 2006

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 March, 2006, 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 MATTHEW and PAMELA WELCH, owners-applicants, dated February 17, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above-ground swimming pool and deck on a lot located at 152 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 6 feet is proposed, and also violates the rear yard setback in an R-15 District in that 20 feet is required but 6 feet is proposed.

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

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

Dated: Brunswick, New York
March 4, 2006

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 March 20, 2006, at 6:00 P.M.

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

Member Sullivan was 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. Matthew Welch approached the Board regarding his appeal and petition for area variances in connection with the construction of an above-ground swimming pool and deck on a lot located at 152 Brunswick Road, because the construction violates the side and rear yard setbacks. Mr. Welch advised that the hearing notice that was posted and published was incorrect. He stated that he was actually seeking a variance from 15 feet to 6 inches on the side and from 20 feet to 3 feet in the rear. Attorney Cioffi stated that the hearing notice would need to be redone and published. The matter will be scheduled for the April 17, 2006, meeting .

The regular meeting was called to order at 6:02 P.M. The first item of business was approval of the minutes of the February, 2006, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Jabour seconded. The motion carried 4 - 0.

At approximately 6:05 P.M., Member Jabour made a motion to go into private session to ask the Town Attorney some legal questions. Member Trzcinski seconded. The motion carried 4 - 0. At the conclusion of the private session, Member Jabour made a motion to return to regular session. Member Schmidt seconded. The motion carried 4 - 0. No action was taken in the private session

The next item of business was acting on the referral from the Town Board on the proposed Highland Creek project on McChesney Avenue Extension. Attorney Cioffi stated that the Board had been provided with a written Response to Referral which had been prepared at its behest. The Response to Referral notes that the proposed development is 100% single family residential, which is the type of development favored under the Comprehensive Plan. It further notes that the clustering of homes on smaller lots, as is proposed here, is fully consistent with the Comprehensive Plan in that it results in comparatively small land disturbance, preserves open space, reduces the need for infrastructure, and preserves woodlands and resources. The Response to Referral also finds that the proposed development will not change the character of the community and it not inconsistent with

other development in the neighborhood.

Attorney Cioffi stated that there was also a Resolution before the Board adopting the written Response to Referral. Chairman Hannan offered the Resolution. Member Schmidt seconded. A vote on the Resolution was taken by roll call. The Resolution carried by a vote of 4 - 0. The original Resolution and the Response to Referral have been filed in the Office of the Town Clerk.

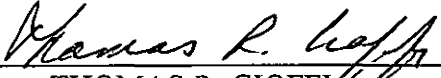
The next item of business was final action on the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, applicant, dated September 13, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of twelve (12) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and a 11'6" x 30' pre-fabricated equipment shelter within the existing facility, because a minor personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals. Scott Olson, Esq., appeared in support of the application.

Attorney Cioffi noted that the Board had previously been provided with a written Determination which had been prepared at its behest. The Determination essentially provides that the special use permit would be granted as requested on the condition that the applicant make reasonable efforts to have suitable plantings installed at strategic locations along the ridge on the Callanan Quarry property on the Camel Hill Road side to help shield the tower and antennas from view on Coons Road. Attorney Cioffi stated that the Board had before it a Resolution adopting that Determination. Member Jabour offered the Resolution. Chairman Hannan seconded. A vote on the Resolution was taken by roll call. The resolution carried by a vote of 4 - 0. The original Resolution Adopting Determination and Determination have been filed in the Office of the Town Clerk.

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

Dated: Brunswick, N.Y.
March 31, 2006

Respectfully submitted,



THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

March 20, 2006

RESOLUTION ADOPTING RESPONSE TO REFERRAL

WHEREAS, the Town Board having referred the application of Landmark Development Group LLC. for the establishment of a Planned Development District to be known as Highland Creek, located on the Northeast side of McChesney Avenue Extension, south of its intersection with McChesney Avenue;

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:

MEMBER SULLIVAN
MEMBER SCHMIDT
MEMBER JABOUR
MEMBER TRZCINSKI
CHAIRMAN HANNAN

VOTING Absent
VOTING Aye
VOTING Aye
VOTING Aye
VOTING Aye

The foregoing Resolution was thereupon declared duly adopted.

Dated: March 20, 2006

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of

LANDMARK DEVELOPMENT GROUP, LLC,

Applicant

RESPONSE TO
REFERRAL

For the Establishment of a Planned Development District known
as Highland Creek, Under the Zoning Ordinance of the TOWN
OF BRUNSWICK

The Town Board of the Town of Brunswick has received an application for the establishment of a Planned Development District to be know as "Highland Creek". The land in question comprises some 210.5 acres and is situated on the Northeast side of McChesney Avenue Extension, south of its intersection with McChesney Avenue. The proposal consists of 190 single family residential units; more specifically, 39 traditional homes, 21 manor homes and 130 carriage homes. The lot sizes would be about 1/6th acre in the case of the carriage homes, just under 1/2 acre for the traditional homes, and just over 1/2 acre for the more upscale manor homes. The carriage homes are intended for "empty nesters". All exterior maintenance on the carriage homes is performed by the Homeowner's Association.

All of the land involved is currently zoned A-40, which allows for the construction of single family homes as of right on lots of 40,000 sq. ft. or more. This proposal would have all of the homes constructed on 75 acres of the site, leaving the remaining 135.5 acres as protected Open Space.

The Town Board declared itself lead agency for the project under SEQRA. Thereafter, it issued a positive declaration under SEQRA requiring the preparation of an Environmental Impact Statement. The applicant prepared and submitted a Draft Environmental Impact Statement (DEIS) which the Town Board accepted as complete. A public hearing on the application was conducted by the Town Board over two sessions, November 28, 2005, and December 29, 2005. The applicant is now in the process of preparing its Final Environmental Impact Statement (FEIS) which is intended to respond to all of the oral and written comments received from the public. As part of its review of this matter, the Town Board has referred the application to this Board for its review and comment. The review and comment being provided is "conceptual" in nature. It is not meant to be an exhaustive review of the project as that task is currently being undertaken by the Town Board.

We first note that this proposal is 100% single family residential. No multi-family units are proposed. Nor are any commercial uses proposed. This is fully consistent with the Comprehensive Plan which provides that development in the Town should consist mainly of single family residential housing. The Comprehensive Plan goes on to state that multi-family residential should be allowed

where the infrastructure will support it. Here, we note that although the applicant is going to provide the municipal sewer and water infrastructure, it is not proposing any multi-family units. We find this to be a positive thing. There are already two (2) apartment complexes on McChesney Avenue Extension in relatively close proximity to this project site. There are The Apartments at Brunswick, which has traditional apartments, and the ROUSE complex, which consists of income-controlled senior citizen apartments. This Board would well prefer to see the single family homes as proposed by this applicant as opposed to more apartments or the like.

Next, we note that what is being proposed is a cluster development. As previously stated, the project site is over 210 acres but all of the homes will be situated on 75 acres, leaving the rest as perpetual Open Space. The concept of cluster development is fully supported by the Comprehensive Plan. Throughout the Comprehensive Plan, it is acknowledged that cluster development is desirable because it results in small land disturbance, maintains Open Space, conserves woodlands and natural resources, and reduces the need for roads and infrastructure. All of those desirable results will be realized if this project goes forward. Of course, it has been pointed out that much of the land which will be dedicated as perpetual Open Space in this project is not otherwise "developable" due to steep slopes, wetland issues, etc. This is true to an extent. However, using the "cluster" concept, as opposed to simply subdividing the land into fewer, much larger lots, still makes sense from an Open Space standpoint. If the largely "unusable" land was simply made part of larger lots, the open areas would be in private hands. Under the proposal at hand, the Open Space will be owned by a Homeowner's Association and it will be available for use in common by all of those purchasing lots.

It has also been claimed by some that the project is too dense, i.e. there are too many homes proposed. It has also been stated that, especially in the case of the carriage homes, the lots are quite small, some 1/6th of an acre, and the proposed carriage homes are only 15 feet apart. On the other hand, the plan appears to be to "tailor" the homes to the land through landscaping and carefully planning how the homes will be situated, rather than simply randomly dividing the property into lots. It also appears that even the smallest lots will be configured so as to have room on them for amenities such as a swimming pool.

Clearly, this project is dense as compared to other residential developments in Town, save, of course, for the various apartment complexes. The lots are small and the homes close together, especially in the case of the carriage homes. This, of course, is by design. A development like this, if allowed, would provide, in essence, another choice to persons looking to live in the Town of Brunswick. If it is important to a person, a couple, or a family, to have a large lot, and not to have neighbors close by, this, surely, is not the place to live. This type of living will, of course, appeal to others. Whether the development is too dense, is a judgment call and, frankly, more the province of the Town Board and the Planning Board.

This Board finds that what is being proposed is not inconsistent with the character of the community. Indeed, within 1/4 mile of this site, there are a variety of uses, including farming, commercial uses on Hoosick Road, apartments, and single family homes. It is difficult to conclude that this 100% single-family residential development will have any negative effect on community character. Any concerns regarding the density of this project must pale in comparison to the density

of the The Apartments at Brunswick and the ROUSE senior citizens complex. Clearly, this is not a situation where a high-density development is being "shoe horned" into a community consisting solely of traditional lots and homes.

This Board also finds positive the fact that the development will be served by municipal sewer and water. While most areas of the Town are not served by water and/or sewer districts, and many of the finest homes in the Town are located in those areas, it is clear that municipal water and sewer are far superior to on-site well and septic from a public health standpoint. Also, the developer will have to extend the water and sewer infrastructure to the project area which will make it available to other homes and lots in the area.

In sum, this Board finds that the proposed project is consistent with other uses in the neighborhood and will not have an adverse impact on the character of the community. The Board also finds the cluster development proposed here is fully consistent with the Comprehensive Plan. Issues pertaining to density and the actual number of houses should be carefully considered by the Town Board and/or the Planning Board.

Dated: Brunswick, New York
March 20, 2006

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

March 20, 2006

RESOLUTION ADOPTING DETERMINATION

WHEREAS, the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, applicant, dated September 13, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of twelve (12) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and a 11'6" x 30' pre-fabricated equipment shelter within the existing facility, because a minor personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals, having been duly filed; and

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

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

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

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

MEMBER SULLIVAN
MEMBER SCHMIDT
MEMBER JABOUR
MEMBER TRZCINSKI
CHAIRMAN HANNAN

VOTING Absent
VOTING Aye
VOTING Aye
VOTING Aye
VOTING Aye

The foregoing Resolution was thereupon declared duly adopted.

Dated: March 20, 2006

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of

CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS,

Applicant

DETERMINATION

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

This matter involves the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, dated September 13, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of twelve (12) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and an 11'6" x 30' pre-fabricated equipment shelter within the existing facility.

This application is brought pursuant to Local Law No. 1 for the Year 1999 which provides for the regulation of personal wireless telecommunications facilities in the Town of Brunswick. Basically, the application is for a special use permit to authorize the placement and attachment of twelve (12) additional panel antennas in three (3) sectors on an existing monopole tower located at 90 Palitsch Road. . The existing tower is 150 feet high. There is currently one (1) antenna array on the tower. If approved, this will be the second. The antennas are proposed to be placed at a centerline height of 130 feet. This was a change from the original application which indicated that the antennas would be placed at 120 feet. The 11'6" x 30' pre-fabricated equipment shelter is proposed to be installed near the base of the tower within the existing facility. No additional access road or parking is proposed or required.

Pursuant to the provisions of Town of Brunswick Local Law No. 2 For the Year 2002, this Board retained the services of Laberge Engineering to act as its consultant as regards this application. Laberge Engineering reviewed the application and determined that additional documentation and explanation was required from the applicant and its structural engineer.

The applicant has now submitted all of the application materials required for a minor

personal wireless telecommunications service facility by the local law. The Board's engineering consultant has advised that, from a technical standpoint, the application is complete and the plans and drawings submitted by the applicant meet the requirements of the Town's telecommunications law.

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. The telecommunications law also strongly encourages co-location, i.e., locating new telecommunication facilities on existing towers or structures whenever possible. The law requires that an applicant wishing to construct a new telecommunications tower must "prove" to this Board that it could not meet its coverage needs by co-locating on an existing tower or structure. Moreover, the telecommunications law requires applicants who demonstrate the need for a new telecommunications tower to design and build the tower so that it will accommodate future shared use, and to commit to negotiate in good faith with entities wishing to co-locate facilities on the tower in the future. Obviously, the Town Board's intent in enacting these provisions was to minimize visual and environmental impacts which would be caused by multiple telecommunications towers.

As previously stated, the telecommunications law essentially provides for a lesser standard of review where a minor facility, i.e., a co-location on an existing tower, is proposed. The law sets forth a list of requirements for co-location and provides that once those items are submitted, if the proposed modifications to the existing tower or structure occasioned by the co-location are insignificant, the application must be granted without additional review.

The public hearing in this matter was conducted over several sessions. There was considerable opposition to the application expressed mainly, but not exclusively, by individuals who own or reside in homes located near the existing tower. Although these individuals do oppose this specific co-location, their main objection is to the tower itself. They contend that the tower was unlawfully approved by this Board, and therefore unlawfully constructed. The Board does not intend to enter into a detailed analysis of the claims of these individuals. This Board did approve this tower in or about October, 2004, after a thorough examination and analysis of the application, and granted a special use permit. The tower underwent review by the Planning Board and a site plan was approved. Subsequently, a building permit was issued for the tower and it was constructed. In early 2005, after the tower was built, Robert Ishkanian, a Coons Road resident, complained that he had not received notice of the application pertaining to the tower and objected to it. Mr. Ishkanian filed a Notice of Claim against the Town alleging that the tower diminished his use and enjoyment of his property and its value. However, as of this date, no lawsuit has been commenced by Mr.

Ishkanian, or anyone else for that matter, challenging the Board's issuance of a special use permit to construct the tower. The special use permit pertaining to the tower remains in full force and effect. The tower exists and is being used for its intended purpose. If Mr. Ishkanian, or any of the other individual who feel aggrieved wish to challenge the tower itself, and its underlying permit, he or they must do so directly. They cannot collaterally attack the tower, or its underlying permit, in this proceeding, which is for co-location on an existing, approved tower. The Board finds and determines that it must review and consider the instant application under the criteria set forth in the telecommunications law for co-locations. It would be improper and unlawful to penalize this applicant, which had nothing to do with the application pertaining to the tower, by refusing to consider any additional co-locations on the tower because of the claim that the tower was illegally permitted. Such action, if undertaken by this Board, would violate the telecommunications law in several respects and open the Town to a potential lawsuit by this applicant.

In the course of the public hearing, these individuals also urged that the Board require that the tower be moved to another location to the South, where it would have a lesser visual impact on them. Even if it were inclined to do so, the Board has no such power. This tower location was chosen to meet specific coverage needs of the original applicant, and was arrived upon with the mutual consent of that applicant and the landowner. This Board could not even allow, much less order, that the tower be moved without a special permit application for the proposed new location and a new, thorough review. As previously stated, this tower exists by virtue of a special use permit which has not been legally challenged and which remains in force and effect. Given this, and the cost of removing the existing tower and its foundation to another location, and re-installing it, and making a new application for a special use permit for the new location, it is understandable that the owner of the existing tower would decline, as it has, to voluntarily relocate the tower.

Other individuals asserted in the course of the hearing that the tower should have been "disguised" to look like a tree, so it would blend into the landscape. The Board finds this would be neither feasible nor desirable. The Board has received proof that the tower could not readily be modified into such a "stealth" installation. Rather, a whole new tower of that nature would have to be constructed, at considerable cost. Moreover, this Board considered a stealth installation when reviewing the original tower application. The Board felt that a 150 foot tall tree would "stand out" more, and have a greater visual impact, than the slender, grey monopole that was approved. Clearly, stealth installations have their places, but this is not one of them.

The Board will now turn to a review and consideration of the instant application.

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 submitted photo simulations depicting the "appearance" of

the tower after the proposed array is added. The Board notes that the tower exists at present and is really not being added to in any significant way, at least from a visual standpoint. The height of the tower will not be increased. There is one (1) antenna array on the tower at present and one (1) is proposed to be added. It does not appear that the visual impact of the tower will be significantly greater with the addition of the proposed new antenna array than it is now. It is also noted that this tower is located in an industrial zone in a working stone quarry. This Board has previously ruled, in connection with the application pertaining to the tower, that constructing the tower would not have a significant adverse impact on the on the environment. That determination has not been legally challenged and remains in full force and effect. Clearly, the addition of this additional array cannot result in a significant environmental impact. 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. The applicant has demonstrated a need for a telecommunications facility in this vicinity to meet its coverage needs. The applicant has established that no other existing tower or structure can serve as a location for this new facility. The only alternative would be construction of a second tower near this location, which would certainly result in a greater impact on the view shed and the environment.

Based upon a careful review of the EAF, and the record before us, we conclude that this action will not have an adverse effect on the environment and, accordingly, a negative declaration shall issue. Copies of Part 1 and 2 of the EAF, and the Negative Declaration, are annexed hereto.

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

1. The granting of the Special Use Permit is reasonably necessary for the public health or general interest or welfare; and
2. The special use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities; and
3. The off street parking spaces required for the special use under the Zoning Ordinance are adequate to handle expected public attendance; and
4. Neighborhood character and surrounding property values are reasonably safeguarded; and
5. The special use will not cause undue traffic congestion or create a traffic hazard; and
6. All conditions or standards contained in the Zoning Ordinance for the special use are

satisfied; and

7. All governmental authorities having jurisdiction have given necessary approval.

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

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

The Board finds that the neighborhood character and property values will not be impacted by the grant of this permit. This Board previously determined, in connection with the application pertaining to this tower, that its construction would not unduly impact neighborhood character and property values. Once again, simply adding an additional array to the existing tower cannot change that determination. The addition of the antenna panels, which will add nothing to the height of the tower, and the ground equipment, will have no effect on community character or property values that does not already exist as a consequence of the tower itself. The Board also notes that this facility is being located in an industrial zone, in a working stone quarry, that has all manner of large, earth moving equipment, and which bears the scars of many years of mining. It is also noted that the opposition to this facility made general claims such as "monstrosity", "blight on the landscape", and the like. No proof of any existing or anticipated impact on property values was offered. There were also claims that the tower and its antennas were a health danger to those residing close to it. The Board has determined that the emissions from these new, proposed antennas are within the guidelines established by the FCC. The Board also notes that it would be a violation of federal law for it to refuse to permit a telecommunications facility based upon claimed adverse health effects from such emissions.

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

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

With all of that said, this Board is not unmindful of, or unsympathetic to, the concerns of the individuals who opposed this application and the existence of the tower itself. It is a matter of serious concern to this Board whenever residents feel that their interests have been ignored or unprotected. While this Board stands by its finding that the visual impacts of this new antenna array, and the existing tower, were and are insignificant, given the nature of these types of installations, we deem it appropriate that reasonable efforts be made to shield the new array, and the tower, from the view of the residents situated on Coons Road. Specifically, the Board believes it would be helpful if plantings could be installed on quarry property at strategic locations along the ridge line on the Camel Hill Road side to help shield a portion of the tower and the antennas from view on Coons Road. This would require, of course, the cooperation of the applicant, the quarry owner, and possibly the tower owner. Since the applicant is the only party currently before the Board, we will not make installations of the plantings an absolute condition of the permit. Rather, the condition will be that the applicant make reasonable efforts, at reasonable expense, to make arrangements with the quarry owner and, if necessary, the tower owner, to see that the plantings are installed.

Accordingly, the requested special use permit to construct and operate a minor personal wireless telecommunications service facility, consisting of twelve (12) cellular panel antennas, in three (3) sectors, to be affixed to an existing 150 foot monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 130 feet, and a 11'6" x 30' pre-fabricated equipment shelter within the existing facility, all as shown on the latest plans submitted to the Board, is granted upon the following conditions:

1. All site requirements set forth in the Town's telecommunications law, to the extent deemed applicable by the Planning Board in its site plan review, shall be fully complied with.
2. The applicant shall make reasonable efforts to have plantings installed at strategic locations along the ridge line on the quarry property on the Camel Hill Road side to help shield the tower and then antennas from view on Coons Road. The plantings should be fast-growing, preferably evergreens, which can achieve a height of at least 75 feet. The plantings should be of a minimum height of 15 feet when installed. The actual number and precise location of the plantings is left to the Planning Board. In the event that the applicant is unable to make suitable, reasonable arrangements with the quarry owner, and the tower owner, to have the plantings installed, this condition may be satisfied by the applicant's providing the Chairman an affidavit detailing its efforts to do so and the reasons why such efforts were unsuccessful.

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
March 20, 2006

FULL ENVIRONMENTAL ASSESSMENT FORM

PURPOSE: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance. The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

FULL EAF COMPONENTS: The full EAF is comprised of three parts:

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

DETERMINATION OF SIGNIFICANCE – Type 1 and Unlisted Actions

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

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

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

*A Conditioned Negative Declaration is only valid for Unlisted actions.

Cropseyville Communications Facility

Zoning Board of Appeals

NAME OF ACTION
NAME OF LEAD AGENCY

James Hanna
PRINT OR TYPE NAME OF RESPONSIBLE OFFICER IN LEAD AGENCY

Chairman
TITLE OF RESPONSIBLE OFFICER

James Hanna
SIGNATURE OF RESPONSIBLE OFFICER IN LEAD AGENCY

SIGNATURE OF PREPARED (IF DIFFERENT FROM RESPONSIBLE OFFICER)

3/20/06
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: Cropseyville Communications Facility			
LOCATION OF ACTION: 90 Palitsch Rd, Town of Brunswick, Rensselaer County, New York (include street address, municipality and County)			
NAME OF APPLICANT/SPONSOR: Cellco Partnership d/b/a Verizon Wireless		BUSINESS TELEPHONE: 585-321-5463	
175 Calkins Road	Rochester	NY	14623
STREET ADDRESS	CITY/PO	STATE	ZIP
NAME OF OWNER: Nextel Partners, Inc. (IF DIFFERENT)		BUSINESS TELEPHONE: 518-862-6900	
8 Airline Drive, Suite 108	Albany	NY	12205
STREET ADDRESS	CITY/PO	STATE	ZIP
DESCRIPTION OF ACTION: Install an 11'-6"x30'-0" Pre-fabricated equipment shelter within the existing communications facility and install 12 panel antennas at a height of 130' AGL on the existing 150' monopole.			

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 Quarry, Existing Communications Facility

2. Total acreage of project area: ~~0.008~~ ^{0.08} acres.

APPROXIMATE ACREAGE

	<u>PRESENTLY</u>	<u>AFTER COMPLETION</u>
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	24 acres	24 acres
Agricultural (includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	0.23 57.2 acres	0.23 57.2 acres
Roads, buildings and other paved surfaces	1 acres	1 acres
Other (Indicate type) Communications Compound	0.057 acres	0.057 acres

3. What is predominant soil type(s) on project site? Glover very stony loam, very rocky, mod. steep

a. Soil drainage:

- well drained 100% of site
 Moderately well drained _____% of site

Poorly drained _____% of site

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

4. Are there bedrock outcroppings on project site? Yes No.
a. What is depth to bedrock? 1-2 (in feet):
5. Approximate percentage of proposed project site with slopes?
 0-10% 10-15% 15% or greater
6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or the National Registers of Historic Places? Yes No
7. Is project substantially contiguous to, to a site listed on the Register of National Natural Landmarks?
 Yes No
8. What is the depth of the water table: 2 (in feet)
9. Is the site located over a primary, principal, or sole source aquifer? Yes No.
10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? Yes No.
11. Does project site contain any species of plant or animal life that is identified as threatened or endangered?
 Yes No. According to: NYSDEC Letter 6/28/2001; UDFWS Letter 12/21/2001.
Identify each species: Please see attached letters.

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

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?
 Yes No.
If yes, explain:

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

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

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

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

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

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

B. PROJECT DESCRIPTION

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

- a. Total contiguous acreage owned or controlled by project sponsor 0.008 acres.
- b. Project acreage to be developed: 0.008 acres initially; 0.008 acres ultimately.
- c. Project acreage to remain undeveloped N/A acres.
- d. Length of project, in miles: N/A (if appropriate).
- e. If the project is an expansion, indicate percent of expansion proposed 0 (Zero) %
- f. Number of off-street parking spaces existing ≥ 10 ; proposed 0 (Zero).
- g. Maximum vehicular trips generated per hour One Per Month (upon completion of project).
- h. If residential, number and type of housing units:

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

- i. Dimensions (in feet) of largest proposed structure 11' height; 11'-6" width; 30' length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? N/A Ft.

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

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

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

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

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

7. If multi-phased:

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

8. Will blasting occur during construction? Yes No

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

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

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

12. Is surface liquid waste disposal involved? Yes No

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

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

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

Explain: _____

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

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

C. ZONING and PLANNING INFORMATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. INFORMATIONAL DETAILS

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

E. VERIFICATION

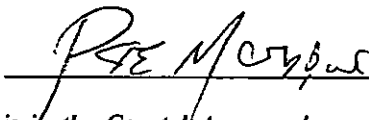
I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name: Peter McTygue, as agent for Verizon Wireless

Date: November 4, 2005

Signature: _____

Title: Associate
Clough Harbour & Assoc.
LLP



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, 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.

	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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
■ Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction on land where the depth to the water tables is less than 3 feet.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction of paved parking area for 1,000 or more vehicles.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction of land where the depth to the water table is less than 3 feet.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction that will continue for more than 1 year or involve more than one phase or stage.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction or expansion of a sanitary landfill.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Construction in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

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

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact be Mitigated by Project Change
■ 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. Proposed action affect any threatened or endangered species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
■ Reduction of one or more species listed on the New York or Federal list, using the site, over or near site, or found on the site.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
9. Will Proposed action substantially affect non-threatened or non-endangered species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 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
IMPACT ON AGRICULTURAL LAND RESOURCES			
10. Will the Proposed action affect agricultural land resources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
■ 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
■ 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
■ 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.) Examples that would apply to column 2:			
■ Proposed land uses, or project components obviously different from, or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	<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
■ Proposed 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, pre-historic or paleontological importance? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 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

	Small to Moderate Impact	Potential Large Impact	Can Impact be Mitigated by Project Change?
<input type="checkbox"/> Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
IMPACT ON OPEN SPACE AND RECREATION			
13. Will proposed action affect the quantity or quality of existing or future open spaces or recreational opportunities? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Examples that would apply to column 2:			
<input type="checkbox"/> The permanent foreclosure of a future recreational opportunity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> A major reduction of an open space important to the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
IMPACT ON CRITICAL ENVIRONMENTAL AREAS			
14. Will proposed action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6 NYCRR 617.14(g)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. List the environmental characteristics that caused the designation of the CEA.:			
Examples that would apply to column 2:			
<input type="checkbox"/> Proposed action to locate within the CEA.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will result in a reduction in the quantity of the resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will result in a reduction in the quality of the resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will impact the use, function or enjoyment of the resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:			
IMPACT ON TRANSPORTATION			
15. Will there be an affect to existing transportation systems? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Examples that would apply to column 2:			
<input type="checkbox"/> Alteration of present patterns of movement of people and/or goods.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will result in major traffic problems.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:			
IMPACT ON ENERGY			
16. Will proposed action affect the community's sources of fuel or energy supply? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Examples that would apply to column 2:			
<input type="checkbox"/> Proposed action will cause a greater than 5% increase in the use of any form of energy in the municipality.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:			
NOISE AND ODOR IMPACTS			
17. Will there be objectionable odors, noise, or vibrations as a result of the Proposed Action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Examples that would apply to column 2:			
<input type="checkbox"/> Blasting within 1,500 feet of a hospital, school or other sensitive facility.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Odors will occur routinely (more than one hour per day).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will produce operating noise exceeding the local ambient noise levels for noise outside of structures..	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Proposed action will remove natural barriers that would act as a noise screen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
IMPACT ON PUBLIC HEALTH			
18. Will Proposed action affect public health and safety? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Examples that would apply to column 2:			

	Small to Moderate Impact	Potential Large Impact	Can Impact be Mitigated by Project Change
■ Proposed action may cause a risk of explosion or release of hazardous substances (i.e., oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Storage facilities for one million or more gallons of liquified natural gas or other flammable liquids.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD			
19. Will Proposed action affect the character of the existing community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No. Examples that would apply to column 2:			
■ The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ The Proposed action will conflict with officially adopted plans or goals.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ The Proposed action will cause a change in the density of land use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ The Proposed action will replace or eliminate existing facilities, structures or areas of historic importance to the community.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Development will create a demand for additional community services (e.g., schools, police, fire, etc.).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will set an important precedent for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Proposed action will create or eliminate employment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
■ Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
20. Is there, or is there likely to be, public controversy related to potential adverse environmental impacts? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
If any action in Part 2 is identified as a potential large impact, or if you cannot determine the magnitude of impact, proceed to Part 3.			

**PART 3 – EVALUATION OF THE IMPORTANCE OF IMPACTS
RESPONSIBILITY OF LEAD AGENCY**

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

Instructions:

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

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

To answer the question of importance, consider:

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

(Continue on attachments)

**New York State Department of Environmental Conservation
Division of Fish, Wildlife & Marine Resources**

**New York Natural Heritage Program
625 Broadway, Albany, New York 12233-4757
Phone: (518) 402-8935 • FAX: (518) 402-9027
Website: www.dec.state.ny.us**



**Erin M. Crotty
Commissioner**

June 28, 2001

**Mr. Dan Abeyta
Federal Communications Commission
445 12th Street Southeast, Suite 4A-236
Washington, DC 20554**

Dear Mr. Abeyta:

This letter is in reference to the impacts of certain existing and proposed communications towers, antennae, and associated equipment, facilities and access roads, located in the State of New York, on occurrences of rare plants and animals, including those listed by New York State as endangered or threatened, and on significant ecological communities.

This letter specifically addresses the following types of projects involving communications facilities:

- 1) New antennae or panels on existing towers, or new communications equipment installed within existing fenced equipment areas, provided that all new work is confined within existing equipment areas, no previously undisturbed land is disturbed, and no new access roads or expansion of existing access roads is involved.**
- 2) New or existing towers, antennae, and associated equipment installed at a location currently wholly occupied by lawn, pavement and/or gravel.**
- 3) New or existing towers, antennae, and associated equipment installed on or in existing buildings, rooftops, billboards, basements or bridges, in any area of New York State outside of New York City, Town of Hempstead (Nassau County), Albany, Binghamton, Buffalo, Rochester, Syracuse and bridges on the Hudson River from New York Harbor up to Albany.**

No rare or State-listed animal or plant actively inventoried in the New York Natural Heritage Program's databases is known to exist in the areas impacted by the types of projects described in 1), 2) and 3) above. Therefore, in these cases only, no separate consultation with the New York Natural Heritage Program is necessary for a project sponsor to complete the environmental assessment required by the FCC; this letter may serve as a finding of no impacts on rare and endangered species. This determination may be reconsidered at any time should additional information on communication facility projects or on rare species become available.

In New York City, Town of Hempstead (Nassau County), Albany, Binghamton, Buffalo, Rochester, and bridges on the Hudson River from New York Harbor up to Albany, for projects on or in existing buildings, rooftops, billboards, basements or bridges, be advised that the peregrine falcon (*Falco peregrinus*), listed as endangered by New York State, occurs in these areas, and may be impacted by such projects. These projects should be coordinated with the State; contact Mr. Peter Nye, Endangered Species Unit, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY, 12233-

4754. As the peregrine falcon is the only species in the New York Natural Heritage Program's data which could be impacted by this type of project in these locations, this letter may be used as notification of the peregrine falcon at these locations, and no additional consultation with the New York Natural Heritage Program is necessary for a project sponsor to complete the environmental assessment required by the FCC.

By copy of this letter we are also advising consultants and project sponsors that they do not have to contact this office for information on the presence of rare species for the types of projects described above. Consultants and project sponsors are also advised that the types of projects described in this letter are not necessarily the same projects covered by a similar letter from the U.S. Fish and Wildlife Service dated April 18, 2001, and that some projects which do not require a consultation with the Service may still require a consultation with this office. Note also that this letter does not apply to projects involving water towers; consultation with this office is still necessary when water towers are involved.

For communication facility projects in general, in order to reduce the potential for migratory bird mortality, it is recommended that:

- The height of any individual tower be less than 200 feet.
- Individual towers be co-located on an existing structure or within an antenna farm.
- Lighting be avoided. If lighting is required, only white strobe lights should be used.
- Guy wires be avoided.

If you have any questions regarding these determinations, please contact me.

Sincerely,



Nicholas Conrad
Information Manager
New York Natural Heritage Program

cc: Consultants' List
P. Nye, Endangered Species Unit

RECEIVED

JUL 12 2001

Clough, Harbour & Associates LLP



United States Department of the Interior

FISH AND WILDLIFE SERVICE

3817 LIKER ROAD

CORILAND, NY 13045

December 21, 2001

Mr. Dan Abeyta
Federal Communications Commission
445 12th Street Southeast, Suite 4A-236
Washington, DC 20554

Dear Mr. Abeyta:

This letter is in reference to requests for information on the presence of Federally listed endangered or threatened species in the vicinity of certain existing or proposed communications towers, antennas, and associated equipment in New York State. It updates our similar letter of April 18, 2001, to reflect a change in the contact information for the New York State Department of Environmental Conservation, and adds a fifth recommendation regarding measures to reduce migratory bird mortality.

This correspondence is intended to address the following types of communications facilities:

1. New antennas on existing towers with any new associated equipment installed only within the existing previously disturbed equipment areas.
2. New or existing towers, antennas, and associated equipment installed on or in existing buildings, rooftops, billboards, basements, or bridges, or located in previously disturbed areas (manicured lawns, paved, graveled, or otherwise unvegetated areas).

Except for occasional transient individuals, no Federally listed or proposed endangered or threatened species under our jurisdiction are known to exist in the project impact areas for the types of projects described above. In addition, no habitat in the project impact areas is currently designated or proposed "critical habitat" in accordance with provisions of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.). Therefore, no Biological Assessment or further Section 7 consultation under the Endangered Species Act is required with the U.S. Fish and Wildlife Service (Service). Should project plans change, or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered.

The above comments pertaining to endangered species under our jurisdiction are provided pursuant to the Endangered Species Act. This response does not preclude additional Service comments under other legislation.

Chung...

By copy of this letter we are also advising consultants and project sponsors that they do not have to contact this office for information on the presence of Federally listed endangered or threatened species for the types of projects described above.

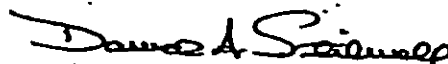
For projects on buildings, rooftops, or bridges as described above, the New York State Department of Environmental Conservation (State) requests that you be advised that the peregrine falcon (*Falco peregrinus*), listed as endangered by the State of New York, may occur in the vicinity of such projects located in the following areas: the New York City Area (including Nassau County), Albany, Binghamton, Buffalo, Rochester, and the Hudson River up to Albany. These projects should, therefore, be coordinated with the State. The State contact for the peregrine falcon is Mr. Peter Nye, Endangered Species Unit, 625 Broadway, Albany, NY 12233 (telephone: [518] 402-8859).

To reduce the potential for migratory bird mortality, it is recommended that:

1. The height of any individual tower be reduced to less than 200 feet.
2. Individual towers be co-located on an existing structure or within an antenna farm.
3. Lighting should be avoided, but if required, only white strobe lights are used.
4. Guy wires should be avoided.
5. If the proposed tower does require guy wires, daytime visual markers should be placed on the guy wires to prevent avian collisions.

Should you have any questions regarding these comments, please contact Mark Clough or Michael Stoll at (607) 753-9334.

Sincerely,



David A. Stilwell
Field Supervisor

cc: Consultants List
NYSDEC, Albany, NY (Endangered Species Unit, Attn: P. Nye)

Appendix B State Environmental Quality Review Visual EAF Addendum

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

Visibility	Distance Between Project and Resource (in Miles)				
1. Would the project be visible from:	0-1/4	1/4-1/2	1/2-3	3-5	5+
<ul style="list-style-type: none"> • A parcel of land which is dedicated to and available to the public for the use, enjoyment and appreciation of natural or man-made scenic qualities? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • An overlook or parcel of land dedicated to public observation, enjoyment and appreciation of natural or man-made scenic qualities? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • A site or structure listed on the National or State Registers of Historic Places? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • State Park? 	Y*	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • The State Forest Preserve? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • National Wildlife Refuges and State game refuges? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • National Natural Landmarks and other outstanding natural features? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • National Park Service lands? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Rivers designated as National or State Wild, Scenic or Recreational? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Any transportation corridor of high exposure, such as part of the Interstate System, or Amtrak? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • A governmentally established or designated interstate or inter-county foot trail, or one formally proposed for establishment or designation? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • A site, area, lake, reservoir or highway designated as scenic? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Municipal park, or designated open space? 	No	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • County road? Tamarac Rd-CR 129 	Yes	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • State? SR 2 	Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Local road? Camel Hill Road 	Yes	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the visibility of the project seasonal ? (i.e., screened by summer foliage, but visible during other seasons)		Yes <input type="checkbox"/>		No <input checked="" type="checkbox"/>	
3. Are any of the resources checked in question 1 used by the public during the time of year during which the project will be visible?		Yes <input checked="" type="checkbox"/>		No <input type="checkbox"/>	

DESCRIPTION OF EXISTING VISUAL ENVIRONMENT

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

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

NOTE: add attachments as needed

5. Are there visually similar projects within:

*1/2 mile	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	} *Distance from project site are provided for assistance. Substitute other distances as appropriate.
*1 mile	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
*2 mile	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
*3 mile	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	

EXPOSURE

6. The annual number of viewers likely to observe the proposed project 1.6 million**
 NOTE: When user data is unavailable or unknown, use best estimate.

CONTEXT

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

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

NOTES: * The site (monopole) may possibly be visible from Grafton Lakes State Park or State Park Beach, which are less than 5 miles away and are approx. 650' higher in elevation. However, the addition of antennas to the existing monopole will not increase the visibility of the facility.
 **AADT (Annual Average of Daily Traffic)= 4,325, NEW YORK STATE DEPARTMENT OF TRANSPORTATION 2002 Traffic Volume Report for RENSSELAER COUNTY- Route 2 from JCT Route 351 to entrance of Grafton Lakes Park (6.49 miles), Year recorded 2000.

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

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

The Board has determined that permitting Cellco Partnership d/b/a Verizon Wireless to collocate antennas and install related equipment at the existing monopole tower located at 90 Palitsch Road, Town of Brunswick, will not have a significant adverse impact upon the environment and that a negative declaration pursuant to SEQR may be issued. Reasons supporting this determination are fully explained below.

Project Name: Collocation of Cellular Panel Antennas on Existing Lattice Tower

SEQR Status: Type I _____ Unlisted: XX

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

Location: 90 Palitsch Road, Brunswick, State of New York ("the Project Site").

Reasons Supporting This Determination:


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

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

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

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

Dated: Brunswick, New York
March 20, 2006


Authorized Signature

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17th day of April, 2006, 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 NEW CINGULAR WIRELESS PCS, LLC., applicant, dated March 3, 2006, 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) panel antennas to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 140 feet, and a 12' x 20' equipment shelter within the existing facility, and other related equipment, because a minor personal wireless telecommunications service facility is only allowed by way of a Special Use Permit issued by the Zoning Board of Appeals.

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

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

Dated: Brunswick, New York
April 1, 2006

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


THOMAS R. CIOFFI
Town Attorney

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 17th day of April, 2006, 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 MATTHEW and PAMELA WELCH, owners-applicants, dated February 17, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above-ground swimming pool and deck on a lot located at 152 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 6 inches is proposed, and also violates the rear yard setback in an R-15 District in that 20 feet is required but 3 feet is proposed.

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

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

Dated: Brunswick, New York
April 1, 2006

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 April 17, 2006, at 6:00 P.M.

Present at the meeting were: Joseph Jabour, Member
E. John Schmidt, Member
Caroline Trzcinski, Member
James Sullivan, 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 March, 2006, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of MATTHEW and PAMELA WELCH, owners-applicants, dated February 17, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above-ground swimming pool and deck on a lot located at 152 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 6 inches is proposed, and also violates the rear yard setback in an R-15 District in that 20 feet is required but 3 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Matthew Welch appeared. He stated that he has ½ acre of land. There are power lines running over his land. He does not want to put his pool under the power lines, although it is apparently allowed. He cannot fit the pool on his land and meet the setbacks, and still stay out from under the power lines. No one from the public wished to speak. Member Jabour stated that he agrees it would be best to keep the pool from under the wires. He thinks a 6" setback on the side is extreme. Member Trzcinski suggested a smaller pool. Member Sullivan noted that the pool is not a permanent structure. Member Schmidt agreed that 6" was very close on the side. The Chairman agreed. If there were a problem with the pool on that side, they could not even fix it without going on to someone else's property. Member Jabour suggested a 21' pool instead of a 25' pool. Mr. Welch said that would be acceptable. The consensus of the Board was that the setbacks on the side and rear should both be reduced to 3'.

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

BE IT RESOLVED, that with respect to the appeal and petition of MATTHEW and PAMELA WELCH, owners-applicants, dated February 17, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above-ground swimming pool and deck on a lot located at 152 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 6 inches is proposed, and also violates the rear yard setback in an R-15 District in that 20 feet is required but 3 feet is proposed, such variance is granted to the extent that the side yard setback is reduced to 3 feet and the rear yard setback is reduced to 3 feet.

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

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

The Resolution was declared duly adopted.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of NEW CINGULAR WIRELESS PCS, LLC., applicant, dated March 3, 2006, 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) panel antennas to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 140 feet, and a 12" x 20' equipment shelter within the existing facility, and other related equipment, 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.

Adam Walters, Esq., of Philips, Lytle, appeared for the applicant along with Chris Bevins of Velocitel, applicant's site consultant. Attorney Walters stated that they were looking for a negative declaration under SEQRA and a special use permit as requested. He stated that this is an isolated site on the quarry property. The road is closed after hours. They are looking for 6 panel antennas to be placed on the existing tower at 140 feet. A 12' x 20' equipment shelter would be put within the existing compound at the base of the tower. He stated that they submitted RF maps to show the existing holes in Cingular's coverage. Co-locating here will improve their coverage. Placing the antennas elsewhere would be even better but a new tower would be required.

Attorney Cioffi asked whether applicant made the certified mail notification to surrounding landowners. Mr. Walters said he did not think that applied. Attorney Cioffi reviewed the Town's Telecommunications Law and stated that the notifications were required and that applicant should do so before the next meeting. Attorney Cioffi stated that the Board would likely appoint an engineer

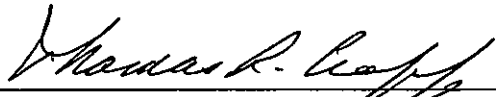
to review the technical aspects of the application. Finally, Attorney Cioffi stated that he was concerned that the RF emissions certification required under the Town's Telecommunications Law was not provided.

There were no comments from the public. Member Jabour made a motion to engage the services of the Laberge Group as the Board's engineering consultant. Member Sullivan seconded. The motion carried 5 - 0. The matter was continued to the May 15, 2006, meeting for further proceedings.

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

Dated: Brunswick, N.Y.
May 6, 2006

Respectfully submitted,



THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 15th day of May, 2006, 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 SCOTT MESSEMER, owner-applicant, dated April 24, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an attached garage with living space on a lot located at 46 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 6.1 feet is proposed, and also violates the front yard setback in an R-9 District in that 30 feet is required but 10 feet is proposed.

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

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

Dated: Brunswick, New York
April 29, 2006

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


THOMAS R. CIOFFI
Town Attorney

NOTICE OF PUBLIC HEARING

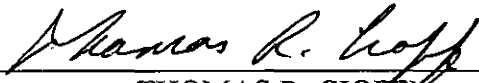
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 15th day of May, 2006, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the appeal and petition of CLARA M. PREGENT, owner-applicant, dated April 17, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above-ground swimming pool on a lot located at 4 Merrill Avenue, 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 12 feet is proposed, and also violates the rear yard setback in an R-15 District in that 20 feet is required but 19 feet is proposed.

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

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

Dated: Brunswick, New York
April 29, 2006

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



THOMAS R. CIOFFI
Town Attorney

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 15th day of May, 2006, 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 FRANK HUNZIKER, owner-applicant, dated March 28, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 111 Hickory Court, 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 5 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said FRANK HUNZIKER, 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
April 29, 2006

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


THOMAS R. CIOFFI
Town Attorney

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 15th day of May, 2006, 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 JOHN A. MAINELLO, owner-applicant, dated April 26, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a Walgreen's Store at 553 and 555 Hoosick Street, in the Town of Brunswick, because the proposed construction violates the front yard setback in a B-15 District in that 30 feet is required but 22 feet is proposed, and also violates the minimum lot size in a B-15 District of 15,000 square feet in that the combined parcels located in the Town of Brunswick comprise a total of only 13,070 square feet.

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

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

Dated: Brunswick, New York
April 29, 2006

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 May 15, 2006, at 6:00 P.M.

Present at the meeting were: Joseph Jabour, Member
E. John Schmidt, Member
Caroline Trzcinski, Member
James Sullivan, 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 April, 2006, meeting. Member Jabour made a motion to approve the minutes as submitted. Member Trzcinski seconded. The motion carried 5 - 0.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of NEW CINGULAR WIRELESS PCS, LLC., applicant, dated March 3, 2006, 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) panel antennas to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 140 feet, and a 12" x 20' equipment shelter within the existing facility, and other related equipment, 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. Adam Walters, Esq., of Philips, Lytle, appeared for the applicant.

The Chairman asked the Board's engineering consultant, Ronald Laberge, for his report. Mr. Laberge stated that he has reviewed all of the documentation. His comments are contained in two letters he submitted to the Board. All of his concerns have been addressed by the applicant and he has no further engineering comments. Mr. Walters summarized the status of the application. He stated that Cingular has a coverage gap which co-locating the proposed antenna array on the 150 foot tower in the Callanan Quarry will address. He stressed that Cingular has an obligation to provide effective service in the area and is also obligated under the Town's own law to co-locate on existing towers whenever possible.

Ronald Ishkian, 69 Coons Road, stated that he has addressed the Board before about this

tower. He was not notified when it was originally approved. Since then, he had submitted the Board with a petition signed by over 100 persons who oppose the tower. But the Board refuses to listen. Member Trzcinski stated that some people have spoken in support of the tower at subsequent meetings. Mr. Ishkanian stated that his petition shows that many more people are against it. Attorney Cioffi advised that the Board was required to follow the law in processing and ruling on these applications. The number of people for and against is not the determining factor. The Board issues written decisions on these applications, explaining its reasoning. Member Jabour added that the Board does listen to the public. The Chairman stated that the Board tries to do what is best for the Town. Member Schmidt stated that the Board needs to follow the law, even if the decision is unpopular with some people. If the criteria for granting the permit are not met, that is another thing

Attorney Walters reiterated that Cingular is required by law to co-locate as the Callanan Quarry tower will meet its coverage needs. Also, he noted that there are no RF emission problems or structural issues. Attorney Cioffi noted that the General Municipal Law, 239-m referral had not been received back from the County. The Chairman asked whether everyone required to get notice in this case had been sent a notice. Mr. Kreiger stated that all of the required persons had received notice from both the Town and Cingular. Attorney Cioffi asked Mr. Laberge whether the propagation maps submitted by the applicant showed a coverage gap in this location. Mr. Laberge confirmed that Cingular does have a significant gap in this area and that this proposed co-location will significantly fill the gap.

Member Sullivan made a motion to close the public hearing. Member Jabour seconded. The motion carried 5 - 0. The Chairman stated that a written decision would follow. Mr. Walters asked whether the Board would consider a special meeting. The Chairman said he would take it under advisement.

The next item of business was the appeal and petition of SCOTT MESSEMER, owner-applicant, dated April 24, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an attached garage with living space on a lot located at 46 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 6.1 feet is proposed, and also violates the front yard setback in an R-9 District in that 30 feet is required but 10 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Scott Messemer appeared. He stated that the front of the garage will fall in line with all of the other houses on the street. He submitted pictures of the area in which he wants to build the addition. He wants to build as soon as possible. The garage will have living space above it but it will not be a separate apartment. The roofline of the addition will be the same as the existing house but higher. No one from the public wished to comment.

The Chairman and Member Jabour stated that they wanted to see blueprints or at least a drawing showing in detail what is being proposed. Member Sullivan asked that the Board clarify what type of drawing was being required. The Chairman stated that a sketch showing everything proposed, even if hand drawn, would be acceptable.

Member Jabour made a motion to continue the public hearing to June 19. Member Sullivan

seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of CLARA M. PREGENT, owner-applicant, dated April 17, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above-ground swimming pool on a lot located at 4 Merrill Avenue, 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 12 feet is proposed, and also violates the rear yard setback in an R-15 District in that 20 feet is required but 19 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud. Clara and Peter Pregent appeared.

Patricia Plunkett, 18 Freeman Avenue, stated that she is the neighbor at the rear. Her concern is that the bank that abuts her property not be cut into. Mr. Pregent said they have no intention of touching that bank. Member Trzcinski stated that she had been to the property and the hearing notice was not posted. Mrs. Pregent said that she did not receive notices to post. Attorney Cioffi said that notices were sent to the Pregents to post, and read the cover letter aloud.

Member Jabour stated that if they got a 15' diameter pool, no variance would be needed. Mr. Pregent said that they do not make a 15' pool in the style they want. The Chairman stated that the property had to be posted before the Board could proceed. He made a motion to continue the public hearing to June 19. Member Jabour seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of FRANK HUNZIKER, owner-applicant, dated March 28, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 111 Hickory Court, 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 5 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Frank Hunziker appeared. He stated that they are purchasing a shed and putting it on their property. They are not building it. They have no neighbors close to them. Mr. Hunziker stated that the rear line of his property is at an angle, and that is part of the problem. He wants to keep the shed in the woods at the rear of his property, and off his lawn. No one from the public wished to comment. Member Trzcinski noted that there is a valley on the right side of the property. Mr. Hunziker stated that that is a wetland and nothing can be built there. Mr. Kreiger added that it is part of a drainage easement.

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

BE IT RESOLVED, that with respect to the appeal and petition of FRANK HUNZIKER, owner-applicant, dated March 28, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 111 Hickory Court, 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 5 feet is proposed, such variance is granted as requested on the condition that the shed is installed in such a manner that

it can be moved if necessary.

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

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

The Resolution was declared duly adopted.

The next item of business was the appeal and petition of JOHN A. MAINELLO, owner-applicant, dated April 26, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a Walgreen's Store at 553 and 555 Hoosick Street, in the Town of Brunswick, because the proposed construction violates the front yard setback in a B-15 District in that 30 feet is required but 22 feet is proposed, and also violates the minimum lot size in a B-15 District of 15,000 square feet in that the combined parcels located in the Town of Brunswick comprise a total of only 13,070 square feet. Attorney Cioffi read the Notice of Public Hearing aloud.

Bruce Secor of Vollmer Associates appeared for the applicant. He stated that a new Walgreen's store is being proposed on Hoosick Street, between Wayne Street and North Lake Avenue. 75% of the building will be in Troy, the remainder in Brunswick. The City of Troy Zoning Board of Appeals assumed lead agency status and issued a negative declaration under SEQRA. The main issue for this Board is the setback of the building from Hoosick Street. The Brunswick Planning Board stated that a variance from this Board was required before it could act. The existing building is set back 5 feet from Hoosick Street. The new building will be set back 22 feet. There will be green space between the new store and Hoosick Road. The setback requirement is 30 feet. Hence, they need a variance.

Attorney Cioffi asked for verification of what variances are being requested. The appeal and petition actually asked for 4 variances, some of which are not within the province of this Board; to wit: a pavement setback variance and a variance regarding the number of parking spaces. Mr. Secor stated that they weren't sure what variances to address to this Board so they put them all in. Attorney Cioffi asked whether this Board was listed as a interested or involved agency in the SEQRA process. Mr. Secor said it was not. Attorney Cioffi asked for the paperwork from the City supporting the negative declaration.

Some of the Board members and members of the public began to ask questions concerning traffic and ingress and egress to the site. After a brief discussion, Mr. Secor reiterated that the issue here was the setback. The proposed building will be set back about 22 feet from Hoosick Street. 20 feet of the building will be in the Town of Brunswick. The actual setback of the new building actually increases from 22.1 feet to 26 feet at the City line. The requirement is 30 feet. The existing building is set back only 5 feet. Mr. Kreiger stated that other structures in the area don't meet the setback requirement. The Mobil Gas Station is set back less than 5 feet. The USA Gas canopy is set back

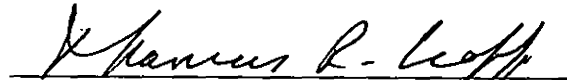
about 1 foot as per a variance. The King Fuel canopy is right on the property line.

There was a further discussion regarding traffic issues. Mr. Secor stated that the State DOT and the Planning Board were considering the traffic issues. The Chairman stated that he would like to put the matter over to the June 19 meeting to give the Board an opportunity to review the proposal and the documentation from the City. This is the first time this Board has reviewed this project. The rest of the Board concurred. The Chairman made a motion to continue the hearing to June 19. Member Jabour seconded. The motion carried 5 - 0.

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

Dated: Brunswick, N.Y.
June 7, 2006

Respectfully submitted,



THOMAS R. CLORFI
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 June 19, 2006, at 6:00 P.M.

Present at the meeting were: Joseph Jabour, Member
E. John Schmidt, Member
Caroline Trzcinski, Member
James Sullivan, Member (arrived late)
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 May, 2006, meeting. Member Jabour made a motion to approve the minutes as submitted. Member Schmidt seconded. The motion carried 4 - 0. Member Sullivan arrived after the minutes were approved.

The next item of business was the Application for Zoning Permit and Request for Special Use Permit of NEW CINGULAR WIRELESS PCS, LLC,, applicant, dated March 3, 2006, 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) panel antennas to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 140 feet, and a 12" x 20' equipment shelter within the existing facility, and other related equipment, 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. Adam Walters, Esq., of Philips, Lytle, appeared for the applicant.

Attorney Cioffi stated that the Board had before it a written Determination with respect to this matter, as well as a draft Resolution adopting that Determination. Attorney Cioffi noted that the Board had received the draft Determination well in advance of this meeting. Attorney Cioffi explained that the draft Determination essentially provided that a Negative Declaration would issue under SEQRA and that the Special Use Permit would issue as requested, subject to some routine conditions. There being no further discussion, Member Schmidt offered the Resolution adopting the Determination. Member Jabour seconded. A roll call vote was taken and all Members voted in the affirmative. A copy of the Determination and the Resolution are incorporated by reference into these Minutes.

The next item of business was further consideration of the Application for Zoning Permit and Request for Special Use Permit of CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS, applicant, dated September 13, 2005, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a minor personal wireless telecommunications service facility, consisting of twelve (12) panel antennas in three (3) sectors to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 120 feet, and an 11'6" x 30' pre-fabricated equipment shelter within the existing facility. Attorney Cioffi explained that the Board granted the Special Use Permit in that matter on March 20, 2006. The Board made a condition of approval that the applicant make reasonable efforts to have plantings installed at strategic locations along the ridge line on the quarry property on the Camel Hill Road side to help shield the tower and the antennas from view on Coons Road. The Board specified that the plantings should be fast-growing, preferably evergreens, which can achieve a height of at least 75 feet, and that the plantings should be of a minimum height of 15 feet when installed. The actual number and precise location of the plantings was left to the Planning Board. Most significantly, the Board ruled that in the event that the applicant was unable to make suitable, reasonable arrangements with the quarry owner, and the tower owner, to have the plantings installed, the condition could be satisfied by the applicant's providing the Chairman an affidavit detailing its efforts to do so and the reasons why such efforts were unsuccessful.

Attorney Cioffi went on to explain that the applicant has submitted an Affidavit as well as a detailed engineering report requesting the condition be deemed satisfied without installing the plantings on the ground that the soil in which the trees would be planted would not support them into maturity and that even if it did, it would take many years for the trees to grow to a height which would shield the tower in any significant way. Moreover, the trees planted at a height of 15 feet, as specified, would not shield the tower in any way. Attorney Cioffi explained that upon the receipt of the Affidavit and the supporting engineering report, it was forwarded to Ronald Laberge, P.E., the Board's engineering consultant, for his review and comment. Attorney Cioffi read into the record a letter from Mr. Laberge stating that he concurred with the conclusions of applicant's engineering report.

Based upon the Affidavit, the applicant's engineering report, and Mr. Laberge's letter, Member Jabour made a motion to deem the above-mentioned condition in the Applicant's approval to be satisfied. The Chairman seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of CLARA M. PREGENT, owner-applicant, dated April 17, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above-ground swimming pool on a lot located at 4 Merrill Avenue, 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 12 feet is proposed, and also violates the rear yard setback in an R-15 District in that 20 feet is required but 19 feet is proposed. Clara and Peter Pregent appeared. They submitted proof that the property had been posted with the hearing notice. They also produced pictures showing the proposed pool location. The Pregents stated that they had considered a smaller pool, which might fit without needing the variances, but they found the 15 foot pool to be flimsy and of lesser quality. Debby Hannigan, 2 Merrill Avenue, stated that she is a neighbor and has no problem with the variance.

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

BE IT RESOLVED, that with respect to the appeal and petition of the appeal and petition of CLARA M. PREGENT, owner-applicant, dated April 17, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an above-ground swimming pool on a lot located at 4 Merrill Avenue, 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 12 feet is proposed, and also violates the rear yard setback in an R-15 District in that 20 feet is required but 19 feet is proposed, such variances are granted as requested.

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

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

The Resolution was declared duly adopted.

The next item of business was the appeal and petition of SCOTT MESSEMER, owner-applicant, dated April 24, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an attached garage with living space on a lot located at 46 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 6.1 feet is proposed, and also violates the front yard setback in an R-9 District in that 30 feet is required but 10 feet is proposed. Kate Messemer appeared. She handed up to the Board a sketch showing the floorplan of the proposed addition. The sketch did not contain any measurements or even label the rooms. The Board asked Mrs. Messemer to label the rooms and provide whatever detail she could on the sketch, and the matter would be called again later.

The next item of business was the appeal and petition of JOHN A. MAINELLO, owner-applicant, dated April 26, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a Walgreen's Store at 553 and 555 Hoosick Street, in the Town of Brunswick, because the proposed construction violates the front yard setback in a B-15 District in that 30 feet is required but 22 feet is proposed, and also violates the minimum lot size in a B-15 District of 15,000 square feet in that the combined parcels located in the Town of Brunswick comprise a total of only 13,070 square feet. Bruce Secor of Vollmer Associates appeared for the applicant. He handed up a new plan for the project. The major change was in the access. Now the road would be entrance only near Wayne Street.

Mr. Secor explained that they were asking this Board for a variance from the 30 foot setback requirement from Hoosick Street. They are asking that it be reduced to 22 feet. Mr. Secor noted that the USA Gas Station has a one foot setback and King Fuels has a 0 foot setback. He noted that the Board has permitted setback variances in this area previously. They are also seeking a lot size

variance. The minimum lot size in a B-15 District is 15,000 sq. ft. The portion of the site in Brunswick is only 13,000 sq. ft. total. However, the entire site, including the portion in the City of Troy, is 1.6 acres or about 67,000 sq. ft.

There was then a discussion regarding the SEQRA determination made by the City Zoning Board of Appeals. After reviewing the documentation from the City, prior Minutes of the Brunswick Planning Board, and Mr. Secor's assertions, the Board was satisfied that the Troy Zoning Board of Appeals did, in fact, issue a Negative Declaration under SEQRA after a coordinated review. This Board was not noticed in that review process because, at that time, no one realized that variances from this Board were needed. The Chairman made a motion to accept the SEQRA finding made by the Troy ZBA. Member Jabour seconded. The motion carried 5 - 0.

The Board asked Mr. Secor for more specific information regarding the setbacks from Hoosick Street of other properties in the vicinity. Mr. Secor stated that the canopy of the Mobil gas station is set back 5 feet from the right of way of Hoosick Street. The canopy of USA Gas is set back about 1 foot. King Fuels is set back 0 feet. The Roxy Cleaners is set back about 20 feet.

Attorney Cioffi explained the variances being requested. He noted that the setbacks in the vicinity are generally very small due to the widening of Hoosick Road. He also noted that the existing buildings on the Brunswick part of the site are much closer to the road now than the new Walgreens building is proposed to be. As to the lot size variance, he noted that this is a unique situation in that the site itself is located partially in Troy and partially in Brunswick. The entire site is well in excess of the minimum lot size required in Brunswick - just the part in Brunswick is undersized.

After some further discussion, the Chairman offered the following Resolution:

BE IT RESOLVED, that with respect to the appeal and petition of JOHN A. MAINELLO, owner-applicant, dated April 26, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a Walgreen's Store at 553 and 555 Hoosick Street, in the Town of Brunswick, because the proposed construction violates the front yard setback in a B-15 District in that 30 feet is required but 22 feet is proposed, and also violates the minimum lot size in a B-15 District of 15,000 square feet in that the combined parcels located in the Town of Brunswick comprise a total of only 13,070 square feet, such variances are granted as requested.

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

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

The Resolution was declared duly adopted.

The next item of business was further consideration of the Messemer matter. John Kreiger

stated that thought the sketch produced by Mrs. Messemer was what the Board wanted. She had showed it to him prior to the meeting. Member Schmidt said he was most concern that the area over the garage not be made into a separate apartment. Mrs. Messemer stated that would not happen. She added that the proposed addition would have front setbacks in line with other properties in the area.

After some further discussion regarding the floor plan of the addition and its use, Member Jabour made a motion to classify this matter a Type 2 action under SEQRA. Member Sullivan 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 SCOTT MESSEMER, owner-applicant, dated April 24, 2006, for area variances, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an attached garage with living space on a lot located at 46 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 6.1 feet is proposed, and also violates the front yard setback in an R-9 District in that 30 feet is required but 10 feet is proposed, such variances are granted as requested on the condition that the additional living space above the proposed garage be confined to bedrooms and a bathroom intended as additional living space for the family residing in the existing building.

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

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

The Resolution was declared duly adopted.

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

Dated: Brunswick, N.Y.
July 8, 2006

Respectfully submitted,



THOMAS R. GIFFI

Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

June 19, 2006

RESOLUTION ADOPTING DETERMINATION

WHEREAS, the the Application for Zoning Permit and Request for Special Use Permit of NEW CINGULAR WIRELESS PCS, LLC,, applicant, dated March 3, 2006, 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) panel antennas to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 140 feet, and a 12" x 20' equipment shelter within the existing facility, and other related equipment 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 Schmidt and seconded by Member Jabour, was duly put to a roll call vote as follows:

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

The foregoing Resolution was thereupon declared duly adopted.

Dated: June 19, 2006

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of

NEW CINGULAR WIRELESS PCS, LLC,

Applicant

DETERMINATION

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

This matter involves the Application for Zoning Permit and Request for Special Use Permit of NEW CINGULAR WIRELESS PCS, LLC,, applicant, dated March 3, 2006, 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) panel antennas to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 140 feet, and a 12" x 20' equipment shelter within the existing facility, and other related equipment.

This application is brought pursuant to Local Law No. 1 for the Year 1999 which provides for the regulation of personal wireless telecommunications facilities in the Town of Brunswick. Basically, the application is for a special use permit to authorize the placement and attachment of six (6) additional panel antennas on an existing monopole tower located at 90 Palitsch Road. The existing tower is 150 feet high. There are currently two (2) antenna arrays approved on the tower. If approved, this will be the third. The antennas are proposed to be placed at a centerline height of 140 feet. The 12" x 20' equipment shelter is proposed to be installed near the base of the tower within the existing facility. No additional access road or parking is proposed or required.

Pursuant to the provisions of Town of Brunswick Local Law No. 2 For the Year 2002, this Board retained the services of Laberge Engineering to act as its consultant as regards this application. Laberge Engineering reviewed the application and determined that additional documentation and explanation was required from the applicant and its structural engineer.

The applicant has now submitted all of the application materials required for a minor personal wireless telecommunications service facility by the local law. The Board's engineering consultant has advised that, from a technical standpoint, the application is complete and the plans and drawings

submitted by the applicant meet the requirements of the Town's telecommunications law.

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. The telecommunications law also strongly encourages co-location, i.e., locating new telecommunication facilities on existing towers or structures whenever possible. The law requires that an applicant wishing to construct a new telecommunications tower must "prove" to this Board that it could not meet its coverage needs by co-locating on an existing tower or structure. Moreover, the telecommunications law requires applicants who demonstrate the need for a new telecommunications tower to design and build the tower so that it will accommodate future shared use, and to commit to negotiate in good faith with entities wishing to co-locate facilities on the tower in the future. Obviously, the Town Board's intent in enacting these provisions was to minimize visual and environmental impacts which would be caused by multiple telecommunications towers.

As previously stated, the telecommunications law essentially provides for a lesser standard of review where a minor facility, i.e., a co-location on an existing tower, is proposed. The law sets forth a list of requirements for co-location and provides that once those items are submitted, if the proposed modifications to the existing tower or structure occasioned by the co-location are insignificant, the application must be granted without additional review.

A public hearing in this matter was conducted over three (3) sessions. There was minimal public attendance. As is the case of a prior co-location application regarding this tower, the sole opposition was based upon a claim that the tower was unlawfully approved by this Board, and therefore unlawfully constructed and should not be added to in any way. The Board does not intend to enter into a detailed analysis of this claim. This Board did approve this tower in or about October, 2004, after a thorough examination and analysis of the application, and granted a special use permit. The tower underwent review by the Planning Board and a site plan was approved. Subsequently, a building permit was issued for the tower and it was constructed. In early 2005, after the tower was built, Robert Ishkanian, a Coons Road resident, complained that he had not received notice of the application pertaining to the tower and objected to it. Mr. Ishkanian filed a Notice of Claim against the Town alleging that the tower diminished his use and enjoyment of his property and its value. However, as of this date, no lawsuit has been commenced by Mr. Ishkanian, or anyone else for that matter, challenging the Board's issuance of a special use permit to construct the tower. The special use permit pertaining to the tower remains in full force and effect. The tower exists and is being used for its intended purpose. If anyone who feels aggrieved wishes to challenge the tower itself, and its underlying permit, he or they must do so directly. They cannot collaterally attack the tower, or its

underlying permit, in this proceeding, which is for co-location on an existing, approved tower. The Board finds and determines that it must review and consider the instant application under the criteria set forth in the telecommunications law for co-locations. It would be improper and unlawful to penalize this applicant, which had nothing to do with the application pertaining to the tower, by refusing to consider any additional co-locations on the tower because of the claim that the tower was illegally permitted. Such action, if undertaken by this Board, would violate the telecommunications law in several respects and open the Town to a potential lawsuit by this applicant.

The Board will now turn to a review and consideration of the instant application.

The Board hereby classifies this matter an unlisted action under SEQRA. The Board has reviewed Part 1 of the EAF submitted by the applicant as well as Part 2 of the EAF prepared at the behest of this Board. Obviously, the main environmental issue is the visual impact. Certainly, the antennas to be mounted on the tower at a centerline height of 140 feet will be visible. The Board notes that the tower exists at present and is really not being added to in any significant way, at least from a visual standpoint. The height of the tower will not be increased. There are two (2) antenna arrays on the tower at present and one (1) is proposed to be added. It does not appear that the visual impact of the tower will be significantly greater with the addition of the proposed new antenna array than it is now. It is also noted that this tower is located in an industrial zone in a working stone quarry, on an 82 acre parcel. This Board has previously ruled, in connection with the application pertaining to the tower, that constructing the tower would not have a significant adverse impact on the environment. That determination has not been legally challenged and remains in full force and effect. Clearly, the addition of this additional array cannot result in a significant environmental impact. It should be further noted that the instant telecommunications facility is being built without the necessity of a new telecommunications tower, which would most certainly have a much greater environmental impact. The applicant has demonstrated a need for a telecommunications facility in this vicinity to meet its coverage needs. The applicant has established that no other existing tower or structure can serve as a location for this new facility. The only alternative would be construction of a second tower near this location, which would certainly result in a greater impact on the view shed and the environment.

Based upon a careful review of the EAF, and the record before us, we conclude that this action will not have an adverse effect on the environment and, accordingly, a negative declaration shall issue. Copies of Part 1 and 2 of the EAF, and the Negative Declaration, are annexed hereto.

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

1. The granting of the Special Use Permit is reasonably necessary for the public health

or general interest or welfare; and

2. The special use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities; and
3. The off street parking spaces required for the special use under the Zoning Ordinance are adequate to handle expected public attendance; and
4. Neighborhood character and surrounding property values are reasonably safeguarded;
and
5. The special use will not cause undue traffic congestion or create a traffic hazard; and
6. All conditions or standards contained in the Zoning Ordinance for the special use are satisfied; and
7. All governmental authorities having jurisdiction have given necessary approval.

The Board finds that it is in the public interest to grant the requested special use permit. In this day and age, wireless communications are commonplace and, indeed, in many cases, a necessity. So, too, cellular providers have been recognized by the courts as "public utilities". This application is meant to increase the availability of this technology to the public. The applicant has demonstrated its lack of service in this area and the necessity that it provide such service as a requirement of its FCC license. The Board's consultant has confirmed that the proposed facility will serve to increase the applicant's cellular telephone coverage in the Cropseyville area, which is currently weak, with significant gaps. 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. This Board previously determined, in connection with the application pertaining to this tower, that its construction would not unduly impact neighborhood character and property values. Once again, simply adding an additional array to the existing tower cannot change that determination. The addition of the antenna panels, which will add nothing to the height of the

tower, and the ground equipment, will have no effect on community character or property values that does not already exist as a consequence of the tower itself and the existing antennas. The Board also notes that this facility is being located in an industrial zone, in a working stone quarry, that has all manner of large, earth moving equipment, and which bears the scars of many years of mining. No proof of any existing or anticipated impact on property values has ever been offered in any of the proceedings pertaining to this tower and the antennas located thereon. The Board has also determined that the emissions from these new, proposed antennas are within the guidelines established by the FCC, and that is the sole inquiry which the Board can make in that regard. The Board also notes that it would be a violation of federal law for it to refuse to permit a telecommunications facility based upon claimed adverse health effects from such emissions.

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

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

Accordingly, the requested special use permit to construct and operate a minor personal wireless telecommunications service facility, consisting of six (6) cellular panel antennas to be affixed to an existing 150 foot monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 140 feet, and a 12' x 20' equipment shelter within the existing facility, all as shown on the latest plans submitted to the Board, is granted upon the following conditions:

1. All site requirements set forth in the Town's telecommunications law, to the extent deemed applicable by the Planning Board in its site plan review, shall be fully complied with.
2. The applicant, or its agents, successors, etc., shall maintain liability insurance against damage to person or property during the construction and life of this minor personal wireless telecommunications facility with minimum limits of \$1,000,000.00/\$3,000,000.00, which coverage shall name the Town of Brunswick, and its agents, servants, employees and boards, as additional insureds. A certificate of insurance documenting such coverage shall be required prior to the issuance of the permit.
3. That all outstanding sums due and owing for the fees and expenses of the Board's engineering consultant pursuant to Town of Brunswick Local Law No. 2 for the Year 2002 shall be paid in full by the applicant prior to the issuance of a building permit.

Dated: Brunswick, New York
June 19, 2006

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 CROPSYVILLE - CINGULAR WIRELESS ID# A-05-002

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

90 PALITSCH ROAD, CROPSYVILLE, RENSSELAER

Name of Applicant/Sponsor VELOCITEL, INC.

Address 6075 EAST MOLLOY ROAD, BUILDING #3

City/PO SYRACUSE State NY Zip Code 13211

Business Telephone (315) 414-0510

Name of Owner (if different) CALLANAN INDUSTRIES, INC.

Address 1 QUARRY ROAD

City/PO CROPSYVILLE State NY Zip Code 12052

Business Telephone (518) 279-3401

Description of Action:

PLACEMENT OF SIX (6) PANEL ANTENNAS
AT 140' ON AN EXISTING 150' MONOPOLE.

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 _____

2. Total acreage of project area: .4 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	<u>.4</u> acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) _____	_____ acres	_____ 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 20 (in feet) [ESTIMATE]

5. Approximate percentage of proposed project site with slopes:

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

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or 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? 10 (in feet) [ESTIMATE]

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:

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

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

b. Size (in acres):

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

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

B. Project Description

1. Physical dimensions and scale of project. (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: .4 acres.
- b. Project acreage to be developed: .4 acres initially; .4 acres ultimately.
- c. Project acreage to remain undeveloped: N/A acres.
- d. Length of project, in miles: LESS THAN 1 (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. 0 %
- f. Number of off-street parking spaces existing 4; proposed 4
- g. Maximum vehicular trips generated per hour: LESS THAN 1 (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: 150' height; _____ width; _____ length.

j. Linear feet of frontage along a public thoroughfare project will occupy is? 20' ft.

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

3. Will disturbed areas be reclaimed Yes No N/A

a. If yes, for what intended purpose is the site being reclaimed?

b. Will topsoil be stockpiled for reclamation? Yes No

c. Will upper subsoil be stockpiled for reclamation? Yes No

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

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

Yes No

6. If single phase project: Anticipated period of construction: ^{LESS THAN} 4 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 4; 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):

ELECTRICAL FROM SHELTER TO MONO POLE

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

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

If yes, explain:

25. Approvals Required:

	Yes	No	Type	Submittal Date
City, Town, Village Board	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
City, Town, Village Planning Board	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SITE PLAN REVIEW	MAY 2006
City, Town Zoning Board	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPECIAL USE PERMIT	MARCH 2006
City, County Health Department	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Other Local Agencies TOWN OF BRUNSWICK BUILDING DEPARTMENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	BUILDING PERMIT	JUNE 2006
Other Regional Agencies	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
State Agencies	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Federal Agencies	<input type="checkbox"/>	<input checked="" type="checkbox"/>		

C. Zoning and Planning Information

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

If Yes, indicate decision required:

- | | | | |
|---|--|--|--------------------------------------|
| <input type="checkbox"/> Zoning amendment | <input type="checkbox"/> Zoning variance | <input 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?

INDUSTRIAL

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

WIRELESS TELECOMMUNICATIONS FACILITY

4. What is the proposed zoning of the site?

SAME AS ABOVE

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

SAME AS ABOVE

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?

INDUSTRIAL

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 VELOCITEL, INC. Date 3/2/06
CHRIS BEVANS

Signature 

Title ZONING MANAGER

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

PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

General Information (Read Carefully)

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

Instructions (Read carefully)

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

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

Impact on Land

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

NO YES

Examples that would apply to column 2

- | | | | | |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where the depth to the water table is less than 3 feet. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction of paved parking area for 1,000 or more vehicles. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Construction that will continue for more than 1 year or involve more than one phase or stage. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Construction or expansion of a sanitary landfill.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction in a designated floodway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

PLACEMENT OF SIX (6) PANEL ANTENNAS
ON AN EXISTING MONOPILE

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

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?

NO YES

Examples that would apply to column 2

- | | | | | |
|--|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action would change flood water flows | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action may cause substantial erosion. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action is incompatible with existing drainage patterns. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow development in a designated floodway. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

IMPACT ON AIR

7. Will Proposed Action affect air quality?

NO YES

Examples that would apply to column 2

- | | | | | |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Proposed Action will induce 1,000 or more vehicle trips in any given hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will result in the incineration of more than 1 ton of refuse per hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the amount of land committed to industrial use. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Proposed Action will allow an increase in the density of industrial development within existing industrial areas. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| • Other impacts: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

IMPACT ON PLANTS AND ANIMALS

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

NO YES

Examples that would apply to column 2

- | | | | | |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|
| • Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|---|--------------------------|--------------------------|------------------------------|-----------------------------|

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?

NO YES

Examples that would apply to column 2

• Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will Proposed Action affect agricultural land resources?

NO YES

Examples that would apply to column 2

• The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Construction activity would excavate or compact the soil profile of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON AESTHETIC RESOURCES

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

NO YES

Examples that would apply to column 2

• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Project components that will result in the elimination or significant screening of scenic views known to be important to the area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Other impacts:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

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

NO YES

Examples that would apply to column 2

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

1
Small to
Moderate
Impact

2
Potential
Large
Impact

3
Can Impact Be
Mitigated by
Project Change

Other impacts:

Yes

No

IMPACT ON OPEN SPACE AND RECREATION

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

NO

YES

Examples that would apply to column 2

The permanent foreclosure of a future recreational opportunity.

Yes

No

A major reduction of an open space important to the community.

Yes

No

Other impacts:

Yes

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?

Yes

No

Proposed Action will result in a reduction in the quantity of the resource?

Yes

No

Proposed Action will result in a reduction in the quality of the resource?

Yes

No

Proposed Action will impact the use, function or enjoyment of the resource?

Yes

No

Other impacts:

Yes

No

1
Small to
Moderate
Impact

2
Potential
Large
Impact

3
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. Yes No
- Proposed Action will result in major traffic problems. Yes No
- Other impacts: Yes 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. Yes 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. Yes No
- Other impacts: Yes 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. Yes No
- Odors will occur routinely (more than one hour per day). Yes No
- Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures. Yes No
- Proposed Action will remove natural barriers that would act as a noise screen. Yes No
- Other impacts: Yes No

1
Small to
Moderate
Impact

2
Potential
Large
Impact

3
Can Impact Be
Mitigated by
Project Change

IMPACT ON PUBLIC HEALTH

18. Will Proposed Action affect public health and safety?

NO YES

- 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. Yes No
- Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.) Yes No
- Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids. Yes No
- Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste. Yes No
- Other impacts: Yes No

IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

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

NO YES

Examples that would apply to column 2

- The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%. Yes No
- The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project. Yes No
- Proposed Action will conflict with officially adopted plans or goals. Yes No
- Proposed Action will cause a change in the density of land use. Yes No
- Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community. Yes No
- Development will create a demand for additional community services (e.g. schools, police and fire, etc.) Yes 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.

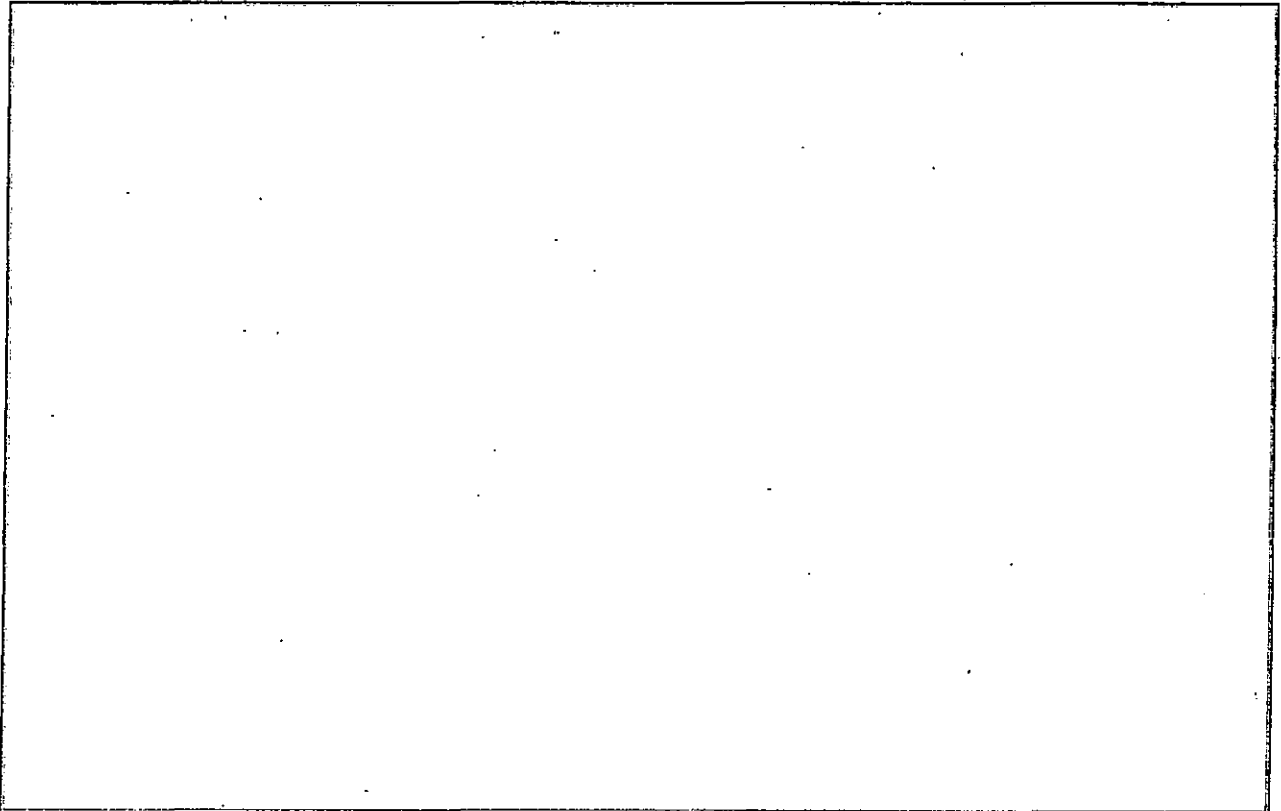
Instructions (If you need more space, attach additional sheets)

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.



617.20
Appendix B
State Environmental Quality Review
VISUAL EAF ADDENDUM

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

(To be completed by Lead Agency)

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

DESCRIPTION OF EXISTING VISUAL ENVIRONMENT

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

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

NOTE: add attachments as needed

5. Are there visually similar projects within:

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

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

EXPOSURE

6. The annual number of viewers likely to observe the proposed project is 259,000 ?

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

CONTEXT

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

FREQUENCY

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

Reset

STATE ENVIRONMENTAL QUALITY REVIEW ACT
DETERMINATION OF SIGNIFICANCE

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

The Board has determined that permitting NEW CINGULAR WIRELESS PCS, LLC., ("Cingular Wireless") to install a minor personal wireless telecommunications service facility, consisting of six (6) panel antennas, to be affixed to an existing 150 monopole tower located at 90 Palitsch Road, in the Town of Brunswick, at a centerline height of 140 feet, and a 12" x 20' equipment shelter within an existing fenced compound, and other related equipment, will not have a significant adverse impact upon the environment and that a negative declaration pursuant to SEQRA may be issued. Reasons supporting this determination are fully explained below.

Project Name: Cropseyville - Cingular Wireless ID # A-05-002

SEQR Status: Type I _____ Unlisted: XX

Project Description: The Project consists of the installation of a minor personal wireless telecommunications service facility, consisting of six (6) panel antennas, to be affixed to an existing 150 monopole tower, at a centerline height of 140 feet, and a 12" x 20' equipment shelter within an existing fenced compound and other related equipment.

Location: 90 Palitsch Road, Town of Brunswick, County of Rensselaer, New York ("the Project Site").

Reasons Supporting This Determination:

1. The Board as Lead Agency conducting an uncoordinated review has considered the full scope of the Project.
2. The Project Site is used for industrial purposes, specifically, a quarry and already has an existing telecommunications monopole tower. The proposed use is thus consistent with existing land uses and will avoid the need for Cingular Wireless to construct a new telecommunications tower to remedy an existing service gap in the Cropseyville area of the Town of Brunswick.
3. The Project Site has is not used by the community as open space or recreation areas.
4. There will be no air emissions from the Project.
5. The Project will not substantially affect water discharges from the Project Site.

6. The Project will not generate solid or hazardous waste.
7. The proposed antennas will be affixed to an existing 150 foot monopole tower within an existing working stone quarry. While the antennas will be visible from various locations, given the pre-existing visual impacts of the existing tower, the Project will not significantly alter the visual and/or aesthetic resources in the area of the Project Site and will not have a significant adverse visual impact upon the scenic quality of the landscape.
8. The Project will not result in the removal of any vegetation at the Project Site and will not affect plants and animals in and around the Project Site.
9. The Project is not substantially contiguous to, nor does it contain, a building, site or district listed on the State or National Registers of Historic Places, and thus will not have an adverse impact upon historic or archeological resources.
10. There are no anticipated changes in traffic flow to and from the Project Site as a result of the Project.
11. The Project will not generate any unpleasant noise or odors.
12. There will be no adverse environmental impacts as a result of the Project.

For Further Information Contact: Zoning Board of Appeals
Town of Brunswick
308 Town Office Road
Troy, New York 12180
Attn: John Kreiger, Superintendent of
Utilities and Inspections
518-279-3461 xt 111

Dated: Brunswick, New York
June 19, 2006

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of August, 2006, 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 BRIAN BRADLEY, owner-applicant, dated June 26, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a swimming pool deck on a lot located at 3 Plum Road, in the Town of Brunswick, because the construction violates the side yard setback in an A-40 District in that 25 feet is required but 2 feet 8 inches is proposed.

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
July 31, 2006

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


THOMAS R. CIOFFI
Town Attorney

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of August, 2006, 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 JOHN YERRY, owner-applicant, dated July 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located on South Lake Avenue, in the Town of Brunswick, designated as Rensselaer County Tax Map Parcel 101.16-1-4, because the minimum lot size for construction of a home in an R-15 District is 15,000 sq. ft. , and the lot upon which the construction is proposed is 6,000 sq. ft.

FURTHER NOTICE IS HEREBY GIVEN that said JOHN YERRY, 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 31, 2006

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



THOMAS R. CIOFFI
Town Attorney

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 21st day of August, 2006, 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 HERBERT HEADWELL/MISTY HILL FARM LLC, owner-applicant, dated May 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a wind generator and tower at Misty Hill Farm, located at 196 Town Office Road, in the Town of Brunswick, because the maximum height for an accessory structure in an A-40 District is 40 feet, and the height of the proposed tower and wind generator is 131 feet.

FURTHER NOTICE IS HEREBY GIVEN that said HERBERT HEADWELL/MISTY HILL FARM 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
July 31, 2006

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



THOMAS R. GOFFI
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 21 2006, at 6:00 P.M.

Present at the meeting were: James Shaughnessy, Member
E. John Schmidt, Member
Caroline Trzcinski, Member
James Sullivan, 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 6:05 P.M. The first item of business was approval of the minutes of the June, 2006, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Sullivan seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of JOHN YERRY, owner-applicant, dated July 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located on South Lake Avenue, in the Town of Brunswick, designated as Rensselaer County Tax Map Parcel 101.16-1-4, because the minimum lot size for construction of a home in an R-15 District is 15,000 sq. ft. , and the lot upon which the construction is proposed is 6,000 sq. ft. Attorney Cioffi read the Notice of Public Hearing aloud.

John Yerry appeared. He stated that the lot is currently wooded. Cleaning it up would benefit the neighborhood. Also, most of the lots in the neighborhood are below the 15,000 sq. ft. minimum. He has owned the lot for about a year.

Ken Durrant, 35 Shelton Avenue, stated that the back of their lot abuts the lot in question. There are water problems in the vicinity. They own 8 lots. He has had septic system problems in the past due to the drainage and water problems in the area. He is now hooked up to the City sewers. Most of his property is Brunswick and the City would not let him hook into the City sewer at first. He is concerned that the lot is too small for a house. The house would need a septic system as the City sewers do not reach it. There are 12 other lots in the subdivision that are the same size. Are all of them to be built on?

Connie Blair, 32 Oxford Road, stated that their house is at the corner of South Lake Avenue and Brunswick Road. There is a wide ditch there with standing water. They have a swamp developing on their property. There is very poor drainage. They are starting to lose their trees to root rot. They are concerned that more houses will lead to more water problems. There are several lots there. They are concerned that 8 - 10 houses could be built there.

Evan Whitfield, 223 South Lake Avenue, said that he lives adjacent to the lot. He owns 2 lots. The lot in question is unmaintained and unkept. The lot went up for auction in the past year. He tried to buy it. If a house is built there, it will be 30 feet from his house. He thinks that is very close. There is a large difference between the minimum lot size and the lot size proposed. The water level on the lot is only 2 feet below the surface.

Mr. Yerry stated that he did his own perc test. He dug down to 3 feet and did not hit water. He intends to build a very nice house, which would improve the neighborhood. He wants to build for himself, not a house to sell.

The Chairman suggested that Mr. Yerry should try to buy more land from an adjacent owner. Mr. Yerry did not think it would be feasible. Mr. Kreiger confirmed that the house proposed would meet the required setbacks - it's just that the lot is below the prescribed minimum size. Mr. Yerry agreed that the lot cannot be served by the City sewer.

The Chairman stated that he wanted to continue the public hearing so options could be looked at to increase the size of the lot. Member Shaughnessy agreed, stating the the proposed lot was way under the minimum. Attorney Cioffi stated that the size of all of the other lots that are built on in thre neighborhood needs to be considered. Member Chairman made a motion to continue the public Hearing to September 21, 2006. Member Schmidt seconded. The motion carried 5 - 0.

Member Sullivan stated that this proposal really does not seem to meet the criteria for an area variance. Mr. Yerry has not tried to buy more land, he bought the lot knowing its was undersized, and the variance requested is quite substantial. Mr. Yerry countered that only 1 or 2 lots in the neighborhood meet the 15,000 sq. ft. minimum. Betty Durrant, 35 Shelton Aveneue, stated that their house is on 3 lots. Two of the lots serve as the leechfield for her septic system. She is concerned that if Mr. Yerry builds, his septic would run onto her lots.

The next item of business was the appeal and petition of HERBERT HEADWELL/MISTY HILL FARM LLC, owner-applicant, dated May 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a wind generator and tower at Misty Hill Farm, located at 196 Town Office Road, in the Town of Brunswick, because the maximum height for an accessory structure in an A-40 District is 40 feet, and the height of the proposed tower and wind generator is 131 feet. Attorney Cioffi read the notice of Public Hearing aloud. Peter Meskoskey, Town Office Road, appeared on behalf of Mr. Headwell, who was out of Town.

Joseph Swaha, of Sustainable Energy Development, stated that the wind generator is proposed to be built on the hill behind the barns on the farm. The power generated will go into the horse arena and consumed on site to reduce the farm's energy bill. In approximate figures, the wind

generator should produce about 7,700 KW of electricity each year. The farms annual usage is some 50,000 KW. The rotor diameter of the generator is 23 feet. The height of the tower will be 120 feet to the pivot point at the center of the hub, and 131 feet to the tip of the blade. The generator could produce more power on a windier site. The output of the generator will be well below the farm's needs. Member Sullivan asked why a more powerful generator was not being considered. Mr. Swaha stated that NYSERDA will pay 60% of the cost of a wind generator rated at 10 KW or less. The total cost for the project will be \$53,150.00. The State will pay 60%.

Mr. Swaha stated that there is a light hum and a whooshing noise when the generator is operating. According to the manufacturer of the Bergey Excel-S, the sound would be inaudible 300 feet upwind and 500 feet downwind from the tower. He submitted a sound test document obtained by the manufacturer.

Jeremy Speich, Esq., Mr. Headwell's attorney, stated that they are looking to have the Board conduct a SEQRA review in this matter. He submitted a short form EAF. Because NYSERDA is providing funding, an EAF is required regardless of the fact that the construction of farm buildings is generally considered to be a Type 2 action under SEQRA. Mr. Speich said that he would work with Attorney Cioffi and the Board to provide the information needed to perform the SEQRA review. They are hoping the Board will ultimately issue a Negative Declaration under SEQRA and approve the project. Member Trzcinski stated that she was concerned that it would be a bad precedent to require a farmer to go through a SEQRA review if it was not required. Mr. Speich stated that NYSERDA required a SEQRA review and determination as a condition of its funding. He is asking that the Board consider this a unlisted action under SEQRA, resolve to declare itself lead agency, and coordinate review with NYSERDA. Mr. Swaha confirmed that NYSERDA will conduct the SEQRA review only if no other agency will do so. Mr. Swaha stated that he is not an engineer - he is a NYSERDA certified installer.

Joseph Cioffi, Norfolk Street, stated that he has reviewed the file. He saw no study of the wind or study of power usage. He stated that Brunswick is not a very windy place. These wind generators are more suitable in Western New York and on the coast, where there is more wind. He does not think the wind generator will work well here or substantially reduce the farm's power bills. Mr. Cioffi submitted a written report to the Board. Thomas Phibbs, 205 Moonlawn Road, stated that he is concerned that several years ago when a 120 foot monopole cell tower was proposed to be built on his adjacent land, certain people said it would be an eyesore and the application was denied. But apparently this taller tower is okay. This tower benefits one person. The cell tower on his land would have benefitted thousands of cell phone uses. Karen Zagursky, 162 Town Office Road, also asked why this is different than the cell tower proposal that was voted down. She is concerned that Mr. Headwell will ask for more wind generators later and that this will serve as a precedent for future applications. Joe Miller, 190 Town Office Road, stated that he lives right next to the farm. He wants the visual aspects of the wind generator to be considered. He bought the house 10 years ago to live in a rural area. He likes the horses and pasture next to him. He is not against energy conservation or NYSERDA, but he does not want the value of his property to be affected. He feels that artistic renderings should be obtained so the visual impacts can be judged. He is also concerned that if the wind generator does not work out, it will simply be abandoned and become an eyesore. Joe Baggott, 1002 Cloverlawn Road, stated that anything that can be done to help maintain Misty Hills as a farm is great. If Herb Headwell needs this, it is great. Frank Brenenstuhl, 27 Dusenberry

Lane, suggested that the Board look at wind generators installed elsewhere. Bill Niemi, 166 Tamarac Road, stated that he would like to see this project go forward as an experiment. We should give a farmer a chance. He feels the wind generator will have a minimal impact. Stu Ginsburg, 270 Town Office Road, stated that there has to be a way to keep energy costs down. The project should be approved if the generator is very quiet.

Peter Meskoskey stated that we are living in a changing world. Gas and electricity is going up. Herb Headwell has found ways to make farming profitable. The Town Supervisor has said this could be a good project. RPI has an 80 foot wind generator. Maybe the Board should take a field trip and look at it. Mr. Headwell started this process some 11 months ago.

Philip Herrington, the Town Supervisor, said that the Town has been accused by Mr. Headwell on television and in the newspapers of delaying this project. Now Mr. Headwell's attorney seems to be saying we should move a little slower and do a SEQRA review that may not be required. He believes in open government and wants the public to be involved in this process as the Board is doing right now. Sharon Zankel, 734 Pinewoods Avenue, the Town Historian, read from an article on wind generators published in the Talk of the Town magazine put out by the NYS Association of Towns. She stated that the Town should proceed cautiously in considering these wind generators.

The Chairman stated that he believes there should be computer simulations and a balloon test so the Board can assess the visual impact. Kevin Schutte, of Sustainable Energy Development, stated that it is very difficult to do the computer simulations and the balloon tests because the cost is about \$5000.00 and that destroys the cost-effectiveness of the project. NYSERDA will not subsidize those costs on a small project. The wind turbine proposed here is small. It is 30 year old technology. The RPI tower is not a good comparison as it is in an urban setting. A better comparison would be the wind generator in Ghent.

The Chairman said he is not opposed to the concept but the Board needs information to do an environmental review and address the concerns of the public. He asked Mr. Meskoskey how this was different from the cell tower on the Phibbs property, which he vehemently opposed. He noted that the cell companies are considered public utilities. Thomas Phibbs, Moonlawn Road, stated that the Board should require a balloon test. It was required for the proposed cell tower on his property. People should know what this is going to look like.

Kevin Schutte said that the wind generator is less imposing than a cell tower. It will also generate far less revenue. If a lot of project review costs are required, the project will not be cost-effective. Mr. Schutte also stated that in a project this size, there is a minimal effect on birds being struck and killed by the turbine blades. A very small piece of the sky is being impacted. He also stated that there would be minimal glare from the blades as the blades will be black. This will also reduce ice buildup and throw. There is a "flicker" from the turning blades, but it is minimal in a project this size. He felt that the flicker radius would be 400 - 500 feet. No one will be that close to the wind generator. Also, the FAA does not require lighting on the tower as it is under 200 feet high. He also noted that wind mills and wind turbines are part of rural America.

The Chairman stated that this is not a Dutch wind mill. It will do nothing for the rural

character. Member Sullivan asked why a monopole power was not being proposed instead of the more visible guyed, lattice tower. Mr. Schutte stated that it was a matter of cost - the monopole is some \$15,000.00 more.

There was then a discussion between Attorney Speich and Attorney Cioffi as to why this should not be a Type 2 action, since it is claimed to be a farm building. Mr. Cioffi pointed out that the SEQRA regulations specifically state that the construction of farm building should be considered Type 2 actions, which do not require a SEQRA review. Mr. Speich stated that if Mr. Headwell were paying for this project entirely with his own funds, it would have to be considered a Type 2 action. But because NYSERDA was providing funding, and does not recognize wind generators as Type 2 actions, it is the applicant's position that this is an unlisted action. He is asking that the Board resolve to assume lead agency status and coordinate review with NYSERDA. Attorney Cioffi stated that he did not see how the funding made any difference. Mr. Speich stated that the applicant is asking that the Board resolve this matter under the area variance standards in state law and the Zoning Ordinance. The applicant is not relying on his status as a farming operation in an Agricultural District to claim an exemption from the Zoning Ordinance height limitations. Attorney Cioffi stated that the Board would need information from the applicant to assess the environmental impacts, if it is to do a SEQRA review.

After some discussion, the Chairman made a motion that the Board seek to assume lead agency status. Member Sullivan seconded. The motion carried 5 - 0.

Kai Henderson, 77 Gurley Avenue, stated that she is interested in wind generators. There is a wind generator at RPI. The Board should try to get data from RPI.

Mr. Speich and Mr. Meskoskey, representing the applicant, stated that they had no objection to the continuation of the public hearing.

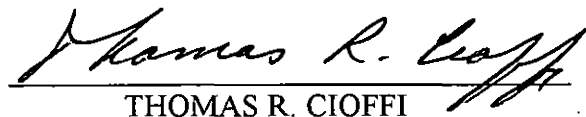
The next item of business was the appeal and petition of BRIAN BRADLEY, owner-applicant, dated June 26, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a swimming pool deck on a lot located at 3 Plum Road, in the Town of Brunswick, because the construction violates the side yard setback in an A-40 District in that 25 feet is required but 2 feet 8 inches is proposed. Mr. Bradley was not present. Member Shaughnessy made a motion to postpone the matter to the next meeting. The Chairman seconded. The motion carried 5 - 0.

The final item of business was to act on the Town Board's referral on the Carriage Hills Estates planned development district. Attorney Cioffi stated that the Board had before it written Response to Referral as well as a Resolution adopting it. The Response to Referral is incorporated by reference into these minutes. After a brief discussion, the Chairman offered the Resolution adopting the Response to Referral. Member Schmidt seconded. The matter was put to a roll call vote, with all voting in the affirmative except Member Shaughnessy, who abstained. The Resolution was therefore adopted.

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

Dated: Brunswick, N.Y.
September 12, 2006

Respectfully submitted,

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

THOMAS R. CIOFFI
Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

August 21, 2006

RESOLUTION ADOPTING RESPONSE TO REFERRAL

WHEREAS, the Town Board having referred the application of the UNITED DEVELOPMENT CORPORATION for the establishment of a Planned Development District to be know as "Carriage Hills Estates" 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:

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

The foregoing Resolution was thereupon declared duly adopted.

Dated: August 21, 2006

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Application of

UNITED DEVELOPMENT CORPORATION,

Applicant

RESPONSE TO
REFERRAL

For the Establishment of a Planned Development District known as
Carriage Hill Estates, Under the Zoning Ordinance of the TOWN
OF BRUNSWICK

The Town Board of the Town of Brunswick has received an application for the establishment of a Planned Development District to be know as "Carriage Hills Estates". The land in question comprises some 214 acres and is situated east of and adjacent to the Troy County Club, and is bounded by Pinewoods Avenue to the south, and New York State Route 2 to the north. The proposal consists of 87 carriage homes, 19 estate homes, and 178 senior citizen apartment units located in 9 two story buildings and 8 town houses. The lot sizes would be about .25 - .50 acres in the case of the carriage homes, and 2.3 - 8.2 acres for the estate homes. All exterior maintenance on the carriage homes is performed by a Homeowner's Association. The estate homes would be part of the Homeowner's Association as well, and will pay dues in common with the carriage homes for maintenance of the common area recreational amenities and the landscaped areas at the entrances. The senior citizens apartments will provide independent living for seniors age 62 and above. It will include a clubhouse with various recreational amenities.

The land involved is currently zoned R-40, R-25, R-15, or (RCC) recreational, with RCC and R-25 zoned properties comprising the majority of the site.

The Town Board declared itself lead agency for the project under SEQRA. Thereafter, it issued a positive declaration under SEQRA requiring the preparation of an Environmental Impact Statement. The applicant prepared and submitted a Draft Environmental Impact Statement (DEIS) which the Town Board accepted as complete. A joint public hearing on the application was conducted by the Town Board and the Planning Board over two sessions, December 12, 2005, and January 23, 2006. The applicant has now prepared its Final Environmental Impact Statement (FEIS) which the Town Board accepted as complete on August 10, 2006. As part of its review of this matter, the Town Board has referred the application to this Board for its review and comment. The review and comment being provided is "conceptual" in nature. It is not meant to be an exhaustive review of the project as that task is currently being undertaken by the Town Board and, subsequently, the Planning Board.

We first note that what is being proposed is a cluster development. As previously stated, the project site is some 214 acres but all of the homes and apartments will be situated on a relatively small portion of that. There will be a total of some 181 acres of "open space", which would include 36 acres of land which would be "forever wild", protected by a conservation easement, 63 acres of "protected" lands owned by the Homeowner's Association, and 82 acres consisting largely of developed and undeveloped land within the estate home and carriage home properties. The concept of cluster development is fully supported by the Comprehensive Plan. Throughout the Comprehensive Plan, it is acknowledged that cluster development is desirable because it results in small land disturbance, maintains open space, conserves woodlands and natural resources, and reduces the need for roads and infrastructure. All of those desirable results will be realized if this project goes forward. Under the proposal at hand, a large portion of the open space will be owned by a Homeowner's Association or designated "forever wild", and will be available for use in common by all of those purchasing lots. Some 60 acres of the 214 acre total will be totally undisturbed.

This Board finds that the concept of a smaller residential lot catering to the "empty nester" population, is positive, and favorably views the concept of using a clustered layout for smaller lots to meet the housing needs of the aging segment of the Town's population.

It has also been claimed by some that the project is too dense, i.e. there are too many homes proposed. Clearly, this project is dense as compared to many other residential developments in Town. In the case of the carriage homes, the lots are small and the homes fairly close together. This, of course, is by design. A development like this, if allowed, would cater to different populations. The carriage homes would appeal to "empty nesters" while the estate homes would appeal to more affluent buyers with larger families. Of course, the apartments would appeal to seniors who no longer wish to own their own homes. This project, if approved, would provide, in essence, several choices to persons looking to live in the Town of Brunswick. That is a positive thing. While more properly the province of the Town Board and the Planning Board, this Board is of the opinion that the total number of carriage homes and estate homes being proposed is acceptable and consistent with the preservation of green space and open space with the clustered residential layout.

Regarding the senior citizens apartment, the Board notes that the Comprehensive Plan states that the Town should embrace senior citizen housing at moderate levels. The Board finds that the proposed senior citizens apartments will meet a need for seniors of moderate or higher income who wish to remain in Brunswick but no longer want the excess space, cost or responsibility involved in home ownership. We note that the only other senior citizen apartment complex in Brunswick is the not-for-profit ROUSE complex. The apartment complex proposed here will offer rents at market value and will not be income-restricted in any way.

This Board also finds positive the fact that the development will be served by municipal sewer and water. While most areas of the Town are not served by water and/or sewer districts, and many of the finest homes in the Town are located in those areas, it is clear that municipal water and sewer are far superior to on-site well and septic from a public health standpoint. Also, the developer will have to extend the water and sewer infrastructure to the project area, which may make it available to other homes and lots in the area.

In sum, the Board finds that from a conceptual standpoint, the major elements of this proposed planned development district are consistent with the Comprehensive Plan.

Dated: Brunswick, New York
August 21, 2006

NOTICE OF PUBLIC HEARING

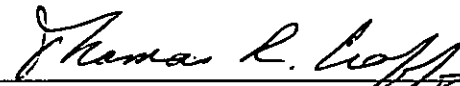
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of September, 2006, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the appeal and petition of THOMAS J. COLLINS, owner-applicant, dated August 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of deck on a lot located at 376 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 5 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said THOMAS J. COLLINS, 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
September 2, 2006

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



THOMAS R. CLUFF

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 September, 2006, 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 CHRISTOPHER HUFF, owner-applicant, dated August 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an advertising sign for his home occupation located at 950 Hoosick Road, in the Town of Brunswick, larger than the 2 square foot limit imposed by the Zoning Ordinance for home occupations..

FURTHER NOTICE IS HEREBY GIVEN that said CHRISTOPHER HUFF, 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
September 2, 2006

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



THOMAS R. CIOFFI
Town Attorney

NOTICE OF PUBLIC HEARING


NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 18th day of September, 2006, 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 JAMIE C. VEITCH, owner-applicant, dated July 27, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a garage addition on a lot located at 117 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said JAMIE C. VEITCH, 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
September 2, 2006

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 18, 2006, at 6:00 P.M.

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

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

At 5:30 P.M., a Workshop Meeting was held wherein the Board Members reviewed files and discussed pending matters informally. The regular meeting was called to order at 6:00 P.M. The Chairman announced that Member Schmidt would not be present as his mother had passed away. The first item of business was approval of the minutes of the August, 2006, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Sullivan seconded. The motion carried 4 - 0.

The next item of business was further consideration of the appeal and petition of JOHN YERRY, owner-applicant, dated July 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located on South Lake Avenue, in the Town of Brunswick, designated as Rensselaer County Tax Map Parcel 101.16-1-4, because the minimum lot size for construction of a home in an R-15 District is 15,000 sq. ft. , and the lot upon which the construction is proposed is 6,000 sq. ft.

John Yerry appeared. He stated that cleaning up the lot would not cause any problems. The drainage problems people are complaining about are caused by the pond. They have nothing to do with this property. There is a lot of junk dumped there. People use the lot as a dump. He handed up a topo map for the property. The house he is proposing to build on the lot would otherwise meet all setbacks. The only thing lacking is the lot size. Mr. Kreiger stated that he did not think clearing that lot would make the drainage problem worse. Mr. Yerry stated he did a percolation test on the lot himself and the soil is fine to support a septic system.

Ken Durrant, 35 Shelton Avenue, submitted a picture and map of the parcel in question. He owns the 8 lots behind that lot. Lots in the vicinity keep changing hands. They are sold at auction by the County for unpaid taxes. That's how Mr. Yerry came to purchase this lot. There is a pumping station across the street from his house put there by the City. It frequently overflows due to drainage

problems in the area. People at the end of Carlyle Street have sewers. They are in the City. They have cellars in their homes, but they also have sump pumps that run 24 hours a day due to water problems. For his house, they installed a grinder pump and convinced the City to let him connect into the sewer. Although he owns 8 additional lots, he understands that he can only put 2 houses on that land. He doesn't understand how a leachfield can work on this lot. It didn't work on his lot. His lot has always had water problems. It has nothing to do with the pond. Zoning requires 15,000 square feet to build. This lot is only 6,000 square feet. It's not even close. He was previously approached about selling some of his lots to add to this one so it would be buildable. Sewage is his concern. His septic system frequently did not work. The water table is so high. No one dumps on that lot. All that is there is leaves and willow tree branches.

Evan Whitfield, 223 South Lave Avenue, stated that he agrees with Mr. Durrant. He, too, is concerned about the septic. The water on his lot has caused serious upheaval in the fill which was put on his lot. He moved to Brunswick because of the setting. He is concerned about building a house on such a small lot, so close to his house. If all these small lots are built on, the neighborhood will be just like the City. The only two houses in the neighborhood which are as close together as his would be to a house built on this lot were built many years ago.

Mr. Yerry stated that he had dug test holes on the property and did not hit any water. His house would be compliant with setbacks. The variance is only for lot size. It is the Health Department, not the Town, that has jurisdiction over septic systems. Two houses built as recently as the 1980's are very close together. Mr. Kreiger added that some houses in the neighborhood are built on more than one lot and they still do not meet the minimum lot size. He cannot add land to his lot to make it bigger. No one wants to sell their lots. He does not want to involve the Health Department unless he gets the variance. It will cost him between \$3,000.00 and \$5,000.00 to have the County do a perc test. Rich Kempter at the Health Department told him that there is a 50 - 50 chance that his lot would support a leachfield. He paid a total of \$2200.00 at County auction for the lot, including expenses and back taxes. He knew the lot was undersize when he purchased it.

No one else wished to speak on this matter. The Chairman made a motion to close the public hearing. Member Sullivan seconded. The motion carried 4 - 0. A written decision will be issued within 62 days.

The next item of business was the appeal and petition of BRIAN BRADLEY, owner-applicant, dated June 26, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a swimming pool deck on a lot located at 3 Plum Road, in the Town of Brunswick, because the construction violates the side yard setback in an A-40 District in that 25 feet is required but 2 feet 8 inches is proposed. Mr. Bradley was not present. The matter was put over to the next meeting.

The next item of business was the appeal and petition of JAMIE C. VEITCH, owner-applicant, dated July 27, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a garage addition on a lot located at 117 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed. Attorney Cioffi read the Notice of Public aloud.

Jamie Veitch appeared. He submitted a letter from his neighbors to the east, the Plowmans, indicating that they had no problem with the variance. He said that it is an old house. It was constructed off center on the lot, to the eastern side. He has no garage. There are no drainage problems on the lot. He would like to remove 10 feet off the existing porch and add the 24' x 28" detached garage. He would continue to use the existing driveway.

No one from the public wished to comment. The Chairman read the letter from the Plowmans into the record. Mr. Veitch agreed with the Chairman that he could move the garage farther back on the lot - but it wouldn't look as good. To move it to the rear would take away from the road appeal and cut into his back yard. The distance between the modified porch and the garage would be 25 feet. The Chairman asked Mr. Veitch if he had considered a smaller garage. Mr. Veitch stated that he would not want to go smaller than two car. The Chairman stated that he could move the garage some, in order to need less of a variance. There was then a discussion of other options. Attorney Cioffi stated that the Board need to inquire into these issues because it can grant variances only when there is no other alternative and even then, only the minimum variance which will work can be granted.

The Board then discussed the criteria for granting an area variance. The Board did not feel that granting the variance would adversely affect the neighborhood. The Board did feel that the issue of whether the applicant could achieve his objection without a variance needed further examination. The Chairman and Member Sullivan stated that they felt the variance requested was substantial. The Board did not feel that granting the variance would affect the physical or environmental conditions in the neighborhood. The Chairman said that he thinks the need for the variance is self-created. The Chairman made a motion to continue the public hearing so these issues could be considered further. Member Shaughnessy seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of THOMAS J. COLLINS, owner-applicant, dated August 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of deck on a lot located at 376 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 5 feet is proposed. Attorney Cioffi read the notice of Public Hearing aloud.

Thomas Collins appeared. He stated that when he built the deck he did not know he needed a variance. Mr. Kreiger stated that he was notified that Mr. Collins was building a deck without a building permit. A stop work order was issued. Mr. Collins explained that there was a concrete pad with a little awning on it there previously. It was getting a little shabby so he decided to replace it with a deck. The concrete is still there. He had the footings for the deck put in along the edge of the concrete. He only went about 12 inches beyond the existing concrete patio. The concrete patio was there when he bought the property. There is to be no roof or awning over the new deck. He thought because he was just replacing something he would not need a variance.

The Board decided that it needed a report from Ron Neissen, the Code Enforcement Officer, to detail his findings. No one from the public wished to speak. The Chairman made a motion to continue the public hearing. Member Shaughnessy seconded. The motion carried 4 - 0.

The next item of business was the appeal and petition of CHRISTOPHER HUFF, owner-applicant, dated August 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of an advertising sign for his home occupation located at 950 Hoosick Road, in the Town of Brunswick, larger than the 2 square foot limit imposed by the Zoning Ordinance for home occupations. Attorney Cioffi read the Notice of Public Hearing aloud.

Christopher Huff appeared. He resides and has his home business at 950 Hoosick Road. He makes prosthetic devices. The problem is that people cannot see his sign, which is only 2 sq. ft. He would like to have a larger sign. He does not have a size in mind. Attorney Cioffi explained that Mr. Huff is operating a business in a residential zone under an exception in the Zoning Ordinance known as "Home Occupation". One of the criteria set forth in the Zoning Ordinance to have a Home Occupation is that the sign be no larger than 2 sq. ft. The Board would need to waive that requirement in order for Mr. Huff to have a larger sign.

No one from the public wished to speak. The Chairman made a motion to continue the public hearing so they could consider the issue and so that Mr. Huff could come in with a specific proposal regarding what size sign he is looking for. Member Trzcinski seconded. The motion carried 4 - 0.

The next item of business was further consideration of the appeal and petition of HERBERT HEADWELL/MISTY HILL FARM LLC, owner-applicant, dated May 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a wind generator and tower at Misty Hill Farm, located at 196 Town Office Road, in the Town of Brunswick, because the maximum height for an accessory structure in an A-40 District is 40 feet, and the height of the proposed tower and wind generator is 131 feet.

Herbert Headwell appeared. He stated that he appreciated Pete Meskoskey's representing him at the last meeting. He has floated a balloon at the location where he wants to put the wind generator so people can get an idea of its visibility. He understands that Chairman Hannan went to Ghent to look at the wind generator there. That generator is the same model he is proposing to build here. The Chairman stated that he did go to Ghent to see the wind generator there. He stated that he did not find the noise offensive, although there was noise coming from the generator. There was also a lot of background noise there from pond aerators which helped mask the noise.

Mr. Headwell stated that he submitted stamped plans today for the tower and wind generator he wants to construct. His project has gotten through NYSERDA's technical review. He stated that the balloon being flown is larger than the actual generator. Also, the balloon is a very visible yellow. The wind generator will not stand out like that. He stated that he had submitted photographs showing the balloon taken from numerous perspectives. The Chairman noted that none seemed to have been taken from Oak Tree Lane.

Attorney Cioffi summarized the materials and documents which had been thus far placed in the record. He also summarized conversations he had had with NYSERDA's counsel. He also read the report received from the County Planning Department into the record.

Karen Zagursky, 162 Town Office Road, stated that Mr. Headwell and Pete Meskoskey came to her home when she was not there and took pictures of the balloon test from her property. The pictures don't do it justice. She is opposed to this. She opposed the cell tower several years ago. To support this would be discriminatory. She loves this Town. She has lived here for 20 years, She is heartbroken about this. The balloon is fully visible, even with the leaves on the trees. The noise will always be there. Joseph Cioffi, who spoke at the last meeting made some good points. How many towers will be needed at Misty Hill Farm to meet all its power needs? Will cell towers in the neighborhood be next? What type of noise will be generated? Will the neighborhood be the same? Can Mr. Headwell promise that no one will suffer health problems from this? Have the issues of ice glare, shadow flicker and blade throw been looked into? Why are public funds being expended for this? How many people are aware of the balloon test? Of the variance request? A 130 foot tower in a residential neighborhood does not make sense.

Joe Miller, 190 Town Office Road, stated that he opposes the tower. The balloon speaks for itself. The wind generator will be extremely visible. It does not fit in with the character of Brunswick or of a farming community. He is opposed based on aesthetics and community character. Thomas Phibbs, Moonlawn Road, stated that he wanted to put a cell tower on his adjacent property. That was a single pole, 120 feet high. People said it would be an eyesore. Now we have a 132 foot tall tower, with something 20 - 30 feet across on top of it. The cell tower would have benefitted everyone. This only helps one person. There are no pictures taken from Moonlawn Road. There are none from Farm-to-Market Road. Becky Kaiser, 398 Moonlawn Road, said she doesn't know much about it, but it appeals to her because it will help a farmer to keep his land being used for farming. Mr. Headwell played a movie showing the Ghent wind generator in operation. Ms. Kaiser stated that she would not mind having one in her back yard. She would like the Town to look into alternative energy sources. Chairman Hannan said that he is under the impression that Brunswick Smartgrowth was really in favor of this. Ms. Kaiser agreed, stating that they want to help farmers stay in business.

There was then a discussion between Mr. Phibbs and Joseph Swaha, Mr. Headwell's contractor, regarding the difference in size between the balloon being floated and the actual size of the generator. Mr. Headwell said that the balloon was 10 feet long. Mr. Swaha said the wind generator is 23 feet wide, from tip to tip, at its widest point. However, the blades are much thinner than the balloon. Mr. Phibbs said that the balloon test only shows the height, He did a balloon test on his property for the cell tower and he was turned down.

The Chairman stated that Mr. Meskoskey said that the wind generator would not be seen by anyone. He disagrees. He can see it from his driveway. He understands why Mr. Headwell wants it, though. This project requires further review.

Mr. Headwell denies that he was in Zagursky's driveway. Anyway, Mr. Zagursky was there when they were taking pictures. Tim Bollinger, 446 McChesney Avenue Extension, said that he has seen the balloon test. We should have a dozen of these things in town. They are the coming thing. Oil is killing us. Carlissa Centenni, 27 South Road, encouraged everyone to visit the Ghent wind generator so they could draw their own conclusions. Kevin Bailey, 17 Mellon Avenue, stated that he installs wind generators in Vermont. They are not noisy. People several hundred feet away probably would not notice it. Clean energy is more important than aesthetics. Mike Stangel, from

Renewable Power Systems in Averill Park, stated that his firm is not in the wind power business because of the government planning and approval process. Wind power is more cost-effective than solar power, but getting approvals is a slow, difficult process. NYSERDA is trying to get wind power out there. This is new and leading edge. The Board should give this careful consideration. Joe Miller, Town Office Road, said that there is another side to energy. People can conserve. That will save energy. Maybe Mr. Headwell can find a way to use less power and not impact the community. Everett Bitzinger, 1 Valley View Drive, said that he is installing a wind power system in Vermont this weekend. They are not bad. They save energy.

Jeremy Speich, Esq., Mr. Headwell's attorney, commented on the communication the Town received from Henry Scartin, a sound engineer. He said that Mr. Scartin's comments pertained to wind farms, where there are multiple generators, not to a single one as is the case here. Member Trzcinski said that on her farm, they can hear the noise from car radios from miles away. She does not think the sound from a wind generator will be as noticeable. Stacy Headwell, 196 Town Office Road, said that she understands that Mr. Phibbs is upset about his cell tower proposal. The difference is that cell towers emit microwave energy. Also, the wind generator does benefit everyone, because energy is being saved.

Mr. Headwell stated that the wind generator would not meet all his energy needs. Mr. Swaha stated that the generator will produce 7,000 - 9,000 KW hours of energy each year. The farm uses about 50,000 KW hours annually. There was then a discussion regarding whether the balloon would remain up. Mr. Headwell said that he has been trying to get approval for this for a year. He did not think a balloon test was required but he did it. This is a certified Agricultural District. This is a valid accessory use. Farming comes first in an agricultural district. He doesn't like looking at a lot of things in town. If the Board votes this down, all he loses is the NYSERDA funding. NYS Department of Agriculture and Markets will let him put it up anyway. If the wind generator does not work, he will take it down.

There was then a discussion regarding the status of the Town's request that the Department of Agriculture and Markets review the matter to determine whether the proposed wind generator is part of Misty Hill's farm operation and whether the height limitation in the Town's Zoning Ordinance is unduly restrictive. Attorney Cioffi said the request is still pending. Mr. Headwell said that Ag & Markets is waiting for information from the Town. Attorney Cioffi disagreed, stating that the Town provided everything it had. Attorney Cioffi asked Mr. Headwell if he had provided information to Ag & Markets. Mr. Headwell stated that they never contacted him.

Attorney Cioffi explained to the Board that it was currently reviewing this application under the Town's Zoning Ordinance. If at some point, Ag & Markets rules that the height limitation in the Zoning Ordinance is unduly restrictive of Mr. Headwell's farm operation, the Town's height limitation would then be unenforceable as to Mr. Headwell. Member Sullivan said that he thought it was important to get a ruling from Ag & Markets. Attorney Speich stated that they were asking the Board to decide this under the Zoning Ordinance. Attorney Cioffi explained to the Board that if it denies this project, Mr. Headwell will go to Ag & Markets and claim that we are being unduly restrictive, and ask that Ag & Markets rule that the Town has no power to review or stop the project.

Mr. Headwell stated that the generator will go up one way or another. If the Board approves

this, and does a SEQRA review, he can get the funding from NYSERDA. If the Board does not approve it, Ag & Markets will let him build it anyway. He will just lose the State funding. He said that if farmers can't do things like this to save money they will have to sell their land. He stated that no one does more for this community than he does.

The Chairman stated that he wanted to continue the public hearing. There was some discussion as to whether there was any purpose in doing that. The Chairman said he wanted to have the balloon left up so more people could see it and comment. Member Hannan made a motion to continue the public hearing to the October 16 meeting. Member Shaughnessy seconded. The motion was put to a roll call vote and all members present voted in the affirmative.

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

Dated: Brunswick, N.Y.
September 30, 2006

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

NOTICE OF PUBLIC HEARING

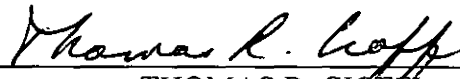
NOTICE IS HEREBY GIVEN that a Public Hearing of the Zoning Board of Appeals of the Town of Brunswick, Rensselaer County, New York, will be held on the 16th day of October, 2006, at 6:00 P.M., at the Town Office Building located at 336 Town Office Road in the Town of Brunswick, on the appeal and petition of DOMINIC MASELLI, owner-applicant, dated September 12, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a new roof on an existing structure located at 689 Hoosick Road, in the Town of Brunswick, because the construction violates the side yard setback in a B-15 District in that 10 feet is required but 6 inches is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said DOMINIC MASELLI, 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
September 30, 2006

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



THOMAS R. CLORFI
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 October, 2006, 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 LADD, owner-applicant, dated September 20, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an addition to an existing single family residence located at 1 Sanford Avenue, in the Town of Brunswick, because the construction violates the rear yard setback in a R-9 District in that 30 feet is required but 27.5 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said THOMAS LADD, 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
September 30, 2006

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 October, 2006, 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 JOHN McGRATH, owner-applicant, dated September 22, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 37 Oxford Circle, in the Town of Brunswick, because the construction violates the side yard setback in a R-40 District in that 25 feet is required but 8 feet is proposed.

FURTHER NOTICE IS HEREBY GIVEN that said JOHN McGRATH, 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
September 30, 2006

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 16, 2006, 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 September, 2006, meeting. Member Shaughnessy made a motion to approve the minutes as submitted. Member Sullivan seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of BRIAN BRADLEY, owner-applicant, dated June 26, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a swimming pool deck on a lot located at 3 Plum Road, in the Town of Brunswick, because the construction violates the side yard setback in an A-40 District in that 25 feet is required but 2 feet 8 inches is proposed. Mr. Bradley was not present. The Chairman noted that this is the third meeting at which this matter was called and the applicant has yet to appear. Member Sullivan made a motion to close the matter. Member Trzcinski seconded. The motion carried 5 - 0.

The next item of business was further consideration of the appeal and petition of JOHN YERRY, owner-applicant, dated July 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located on South Lake Avenue, in the Town of Brunswick, designated as Rensselaer County Tax Map Parcel 101.16-1-4, because the minimum lot size for construction of a home in an R-15 District is 15,000 sq. ft. , and the lot upon which the construction is proposed is 6,000 sq. ft. Attorney Cioffi noted that the Board closed the public hearing at the last meeting and that a written Decision would be forthcoming.

The next item of business was the appeal and petition of CHRISTOPHER HUFF, owner-applicant, dated August 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the

Town of Brunswick, in connection with the construction of an advertising sign for his home occupation located at 950 Hoosick Road, in the Town of Brunswick, larger than the 2 square foot limit imposed by the Zoning Ordinance for home occupations.

Christopher Huff appeared. He stated that he is requesting a larger sign. He submitted two drawings, one showing a 3' x 4' sign and the other showing a 2' x 3' sign. Member Sullivan said that there are other signs on Hoosick Road larger than that. Attorney Cioffi pointed out that this was in a different category. This is not a commercial property. It is residential, and Mr. Huff is permitted to conduct his business on the site under the Home Occupation exception in the Zoning Ordinance. The Zoning Ordinance expressly limits signs for home occupations to a maximum of 2 square feet.

The Chairman suggested that perhaps the lettering on the existing sign could be made larger. Mr. Huff asked whether, in addition to that, he could place his street number on his mailbox. Mr. Kreiger said he saw no problem with that.

Based upon the express limitation in the Zoning Ordinance on the size of signs advertising Home Occupations, the Chairman made a motion to disapprove the application. Member Trzcinski seconded. The motion carried 5 - 0.

The next item of business was the appeal and petition of THOMAS LADD, owner-applicant, dated September 20, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an addition to an existing single family residence located at 1 Sanford Avenue, in the Town of Brunswick, because the construction violates the rear yard setback in a R-9 District in that 30 feet is required but 27.5 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Thomas Ladd appeared. Mr. Kreiger handed up pictures submitted by Mr. Ladd, as well as a letter from a neighbor stating that he had no objection to the variance. Mr. Ladd stated that he wants to add 1 bedroom and a hallway to the rear of his house. The addition would extend 14 feet beyond the rear of the existing house. There will be 27.5 feet to the rear property line. This will make a total of 4 bedrooms in the house. There is nothing behind the house but woods. The house has town water and sewer.

No one from the public wished to speak, Member Schmidt made a motion to classify the matter a Type 2 action under SEQRA. Member Trzcinski 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 THOMAS LADD, owner-applicant, dated September 20, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of an addition to an existing single family residence located at 1 Sanford Avenue, in the Town of Brunswick, because the construction violates the rear yard setback in a R-9 District in that 30 feet is required but 27.5 feet is proposed, such variance is granted as requested.

Member Shaughnessy 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. Member Sullivan noted that there was no other alternative here. Member Shaughnessy noted that the requested variance was not significant.

The next item of business was the appeal and petition of JOHN McGRATH, owner-applicant, dated September 22, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 37 Oxford Circle, in the Town of Brunswick, because the construction violates the side yard setback in a R-40 District in that 25 feet is required but 8 feet is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

John McGrath appeared. He stated that it will be a standard shed, neat and good looking. He stated that his neighbor, Ernest Pirrman, will not complain. His hedges are 15 - 20 feet high and he will not see the shed. His other neighbors will not see the shed either. He will not put it any closer to the side property line than 8 feet. He cannot go much further away than that because the land slopes off and he does not want to put the shed on a slope. He can't put the shed on the other side because the septic system is there.

Ben Rounds, 31 Oxford Circle, said that the area is very wooded. The shed won't be unsightly or obtrusive. No one spoke against the application. The Chairman made a motion to classify this matter a Type 2 action under SEQRA. Member Sullivan seconded. The motion carried 5 - 0. Member Sullivan thereupon offered the following Resolution:

BE IT RESOLVED, that with respect to the appeal and petition of JOHN McGRATH, owner-applicant, dated September 22, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a storage shed on a lot located at 37 Oxford Circle, in the Town of Brunswick, because the construction violates the side yard setback in a R-40 District in that 25 feet is required but 8 feet is proposed, such variance is granted with the understanding that the applicant will endeavor to locate the shed more than 8 feet away from the side property line if possible, given the slope of the property and other physical conditions on the property.

Member Shaughnessy 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.

The next item of business was the appeal and petition of DOMINIC MASELLI, owner-applicant, dated September 12, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a new roof on an existing structure located at 689 Hoosick Road, in the Town of Brunswick, because the construction violates the side yard setback in a B-15 District in that 10 feet is required but 6 inches is proposed. Attorney Cioffi read the Notice of Public Hearing aloud.

Dominic Maselli appeared. He stated that he wants to extend his roof on the side of his business so it will be at the same level as his outdoor freezer. It will look better and it will keep things drier in the Winter. The roof extension would not cover the freezer. It would cover the walkway between the building and the outdoor freezer. No one from the public wished to comment.

Member Trzcinski 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 the following Resolution:

BE IT RESOLVED, that with respect to the appeal and petition of DOMINIC MASELLI, owner-applicant, dated September 12, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a new roof on an existing structure located at 689 Hoosick Road, in the Town of Brunswick, because the construction violates the side yard setback in a B-15 District in that 10 feet is required but 6 inches is proposed, such variance is granted as requested.

Member Shaughnessy 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.

The next item of business was the appeal and petition of THOMAS J. COLLINS, owner-applicant, dated August 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of deck on a lot located at 376 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 5 feet is proposed. Thomas Collins appeared.

The Chairman stated that he had spoke to Ron Neissen, the Code Enforcement Officer, who advised him that the new construction does not exceed the original footprint of the old construction and that all of Mr. Collins' permits are now in order. No one from the public wished to comment. Member Shaughnessy made a motion to classify the matter a Type 2 action under SEQRA. Member Sullivan seconded. The motion carried 5 - 0. Member Shaughnessy thereupon offered the following Resolution:

BE IT RESOLVED, that with respect to the appeal and petition of THOMAS J. COLLINS, owner-applicant, dated August 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of deck on a lot located at 376 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 5 feet is proposed, such variance is granted as requested.

Member Shaughnessy 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.

The next item of business was the appeal and petition of JAMIE C. VEITCH, owner-applicant, dated July 27, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a garage addition on a lot located at 117 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed. A neighbor, David Hunn, 115 Brunswick Road, stated that he had no objection to the variance but he wanted the Board to know that Mr. Veitch was in Buffalo assisting in the effort to restore power after the storm there. Member Trzcinski made a motion to continue the matter to the November 20 meeting. Member Sullivan seconded. The motion carried 5 - 0.

The next item of business was further consideration of the appeal and petition of HERBERT HEADWELL/MISTY HILL FARM LLC, owner-applicant, dated May 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a wind generator and tower at Misty Hill Farm, located at 196 Town Office Road, in the Town of Brunswick, because the maximum height for an accessory structure in an A-40 District is 40 feet, and the height of the proposed tower and wind generator is 131 feet.

Herbert Headwell appeared. He stated that he has been trying to get this approved for a year. As a farm located in an Agricultural District, under the Agriculture and Markets Law, the Town should be protecting his interests. The neighbors who came and complained about the wind generator should have received an Agricultural District Disclosure form when they bought their houses, notifying them that they were buying property in an Agricultural District and that farms produce noise, dust and odors. This should have been done by now. He has brought back Misty Hill Farms. This process takes too long. No one will know the windmill is there. There will be visual impacts, but the wind generator will benefit everyone by conserving energy and reducing the CO2 going into the atmosphere. His application was held up by Mr. Kreiger and then Mr. Cioffi denied him his hearing before the Zoning Board. He stated that he asked Robert Somers, from the NYS Department of Agriculture and Markets to attend the meeting.

Member Trzcinski stated that she has a problem with Mr. Headwell blaming the Town for the delay. In her view, as a farmer in an Agricultural District, he could have built the wind generator at any time. He is only going through the process to get NYSERDA funding.

Attorney Cioffi stated that he was confused. At the last two meetings, Mr. Headwell and his representatives stated that they wanted the Board to process the application without regard to any special status under the Agriculture and Markets Law. This was because NYSERDA required a SEQRA review in order to provide any funding to Mr. Headwell, and if this was a protected farm operation, it would be a Type 2 action and therefore exempt from any SEQRA review. Now he seems to be saying that the Town must consider his status as a farmer in an Agricultural District in deciding the application. Attorney Cioffi asked Mr. Somers the status of the Town's request to the Department of Agriculture and Markets for a determination regarding this matter.

Mr. Somers stated that the Department had received the Town's request. The Town inquired whether the proposed wind generator was an on-farm building and part of the farm operation. The Town also inquired whether the height limitation in the Zoning Ordinance was unreasonably restrictive. Finally, the Town inquired whether there were any limitations on the Board's power to apply the statutory criteria for area variances in the context of this application. He stated that the Department had a lot of matters before it and expected that a determination would be issued in 2 - 2 ½ weeks. He stated that it was likely that the Department would rule that the proposed wind generator is an on-farm building so long as it is being used only to meet the energy needs of the farm and not to sell power back to the utility. He also said the Department would likely rule that the 40 foot height limitation in the Zoning Ordinance was not unreasonably restrictive on its face. Therefore, the Town would be permitted to require Mr. Headwell to go through the variance process, but if the Board denied the variance, the Department would likely then rule that the Town's Zoning Ordinance was unreasonably restrictive as applied, and direct that the Town permit Mr. Headwell to build the wind generator unless the Town could establish that the construction would endanger health or safety. Mr. Somers stressed that the wind generator could only be denied on the basis of health and safety. Aesthetics would not be a sufficient reason to deny the application. Mr. Somers stated that the Town had submitted everything they had requested. Mr. Headwell did not submit anything but they really didn't need anything from him as the Town submitted everything.

Mr. Headwell continued to complain about the delay. He has done what the Board asked - more than he should have had to do. Chairman Hannan stated that Mr. Headwell and his representatives had asked this Board to treat this as an unlisted action and assume lead agency status under SEQRA, even though the Board had stated that if this was a protected farm operation it was a Type 2 action and therefore exempt from SEQRA review. He doesn't understand what Mr. Headwell is complaining about. Attorney Speich, representing Mr. Headwell, agreed that they had requested the Board to assume lead agency status under SEQRA, conduct a SEQRA review, and process the application.

Member Schmidt said that he had a concern about whether the wind generator had to be as high as is proposed. Mr. Headwell said that that is where the wind efficiency is. Every wind generator he has seen is 130 feet high or higher. It has to be above the tree line to work. Member Sullivan noted that they did not do a wind test at the site. It would not have been economical for them to have done so. Making the tower lower would defeat the whole purpose.

The Chairman stated that he had received letters from some realtors regarding any effect on property values. They are in the record. Cheryl Bovair, of Bovair Realty, stated that the wind generator should have no effect on property values unless it was a threat to health or safety. Dean Heer, of Heer Realty, stated that it should have no effect on property values if it is set back into a semi-remote area on the property.

Donna Forester, 547 McChesney Avenue, submitted a letter to the Board. She stated that the houses on the highest hills in town impede vistas more than the wind generator will. The Town should let Mr. Headwell do this. It will help all farmers. She has seen massive wind farms. Noise is not a factor. Cell towers are different as there are emissions from them. We need to encourage farmers. Rebecca Kaiser, 398 Moonlawn Road, stated that this will be a wonderful thing. People concerned about the viewshed will come to love it.

Member Shaughnessy asked who issues the Agricultural District Disclosure forms Mr. Headwell mentioned. Mr. Headwell said that realtors should do so. Mr. Shaughnessy stated that people are concerned about visual impacts. The disclosure form does not mention visual impacts. Mr. Shaughnessy also questioned how the wind generator would benefit everyone. Mr. Headwell said that his power consumption from National Grid will be lower, because he will be producing energy on his own on site and there will be no transmission loss. That will benefit everyone. Mr. Headwell said that if the wind generator doesn't work, he will take it down.

Member Sullivan stated that he visited the wind generator in Ghent, N.Y., which is the same model proposed here. He could barely hear it. The owner of that generator told him that the town had required that if the tower was non-operational for a year, he had to take it down.

There being no further comments, Member Schmidt made a motion to close the public hearing. Member Shaughnessy seconded. The motion carried 5 - 0. The Chairman stated that the Board would issue a written decision in November.

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

Dated: Brunswick, N.Y.
November 7, 2006

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 November 20, 2006, 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 October, 2006, meeting. Member Schmidt made a motion to approve the minutes as submitted. Member Shaughnessy seconded. The motion carried 5 - 0.

The next item of business was further consideration of the appeal and petition of JAMIE C. VEITCH, owner-applicant, dated July 27, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a garage addition on a lot located at 117 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed. Mr. Veitch appeared. He again explained his reasons for wanting to construct the garage where he requested. Member Schmidt said that he was a little uncomfortable with the 4 foot setback, but could understand why he was requesting it. Member Sullivan said that he understands Mr. Veitch's concerns and sees no other way he can accomplish what he wants except by obtaining this variance. Member Shaughnessy noted that none of the neighbors are concerned about the variance. Member Shaughnessy made a motion to classify the matter a Type II action under SEQRA. Member Sullivan seconded. The motion carried 5 - 0. Member Trzcinski then offered the following Resolution:

BE IT RESOLVED, that with respect to the appeal and petition of JAMIE C. VEITCH, owner-applicant, dated July 27, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the construction of a garage addition on a lot located at 117 Brunswick Road, in the Town of Brunswick, because the construction violates the side yard setback in an R-15 District in that 15 feet is required but 4 feet is proposed, such variance is granted as requested.

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.


The next item of business was further consideration of the appeal and petition of JOHN YERRY, owner-applicant, dated July 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located on South Lake Avenue, in the Town of Brunswick, designated as Rensselaer County Tax Map Parcel 101.16-1-4, because the minimum lot size for construction of a home in an R-15 District is 15,000 sq. ft. , and the lot upon which the construction is proposed is 6,000 sq. ft. Attorney Cioffi noted that the Board had closed the public hearing and that a draft written Determination was before the Board together with a written Resolution adopting the same. The draft Determination states that the requested variance is being denied. The Resolution Adopting Determination was offered by Chairman Hannan and seconded by Member Sullivan. It was put to a roll call vote and all Members voted in the affirmative. The Resolution was thereupon duly adopted. The Resolution and the Determination are incorporated by reference into these minutes.

The next item of business was further consideration of the appeal and petition of HERBERT HEADWELL/MISTY HILL FARM LLC, owner-applicant, dated May 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a wind generator and tower at Misty Hill Farm, located at 196 Town Office Road, in the Town of Brunswick, because the maximum height for an accessory structure in an A-40 District is 40 feet, and the height of the proposed tower and wind generator is 131 feet. Attorney Cioffi noted that the Board closed the public hearing at the last meeting and that a draft written Determination was before the Board together with a written Resolution adopting the same. The draft Determination states that the requested variance is being granted. The Resolution Adopting Determination was offered by Member Trzcinski and seconded by Chairman Hannan. It was put to a roll call vote and all Members voted in the affirmative. The Resolution was thereupon duly adopted. The Resolution and the Determination are incorporated by reference into these minutes.

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

Dated: Brunswick, N.Y.
December 1, 2006

Respectfully submitted,


THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

November 20, 2006

RESOLUTION ADOPTING DETERMINATION

WHEREAS, the appeal and petition of JOHN YERRY, owner-applicant, dated July 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located on South Lake Avenue, in the Town of Brunswick, designated as Rensselaer County Tax Map Parcel 101.16-1-4, because the minimum lot size for construction of a home in an R-15 District is 15,000 sq. ft. , and the lot upon which the construction is proposed is 6,000 sq. ft.; and

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

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

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

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

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

The foregoing Resolution was thereupon declared duly adopted.

Dated: November 20, 2006

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Appeal and Petition of

DETERMINATION

JOHN YERRY,

Applicant

For the Issuance of an Area Variance Under the Zoning
Ordinance of the TOWN OF BRUNSWICK

This matter involves the the appeal and petition of JOHN YERRY, owner-applicant, dated July 14, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a single family home on a lot located on South Lake Avenue, in the Town of Brunswick, designated as Rensselaer County Tax Map Parcel 101.16-1-4, because the minimum lot size for construction of a home in an R-15 District is 15,000 sq. ft., and the lot upon which the construction is proposed is 6,000 sq. ft.

Mr. Yerry purchased the lot in question at a County tax sale auction. He paid \$2200.00 for the lot, which included expenses and back taxes. He knew that the lot was "undersized" when he purchased it. Mr. Yerry wishes to build a home on the lot. He states that the house will be sized and located on the lot so that it meets all of the setback requirements.

In order to assess the merits of the application for area variances, the Board must consider the criteria set forth in Town Law, Section 267-b, subd. 3(b), which provides as follows:

(b) In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the

requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

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

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

Based upon the record before it, the Board is unable to find that granting the variance will not result in a detriment to nearby properties. Several owners of homes located nearby expressed grave concern about the severe drainage problems in the neighborhood. The water table is apparently quite high and that has caused septic systems to fail or not operate properly. Adjacent and nearby property owners expressed concern that an additional home on such a small lot, given to drainage problems, would result in sewage from the home running onto their properties. City sewers are not available for this property, or most of the other properties in the neighborhood.

Mr. Yerry stated that he had done his own percolation test by digging down 3 feet. He claims he did not hit any water. Given the contrary claims of all of the neighbors, and the fact that Mr. Yerry refused to consider obtaining an opinion from an engineer or other appropriate professional supporting his position, the Board rejects this claim as self-serving. Mr. Yerry has applied for a variance. It is his burden to establish that he meets the criteria. It is not up to the Board, or others, to prove that the criteria do not exist.

Mr. Yerry also contends that because several of the lots in the subdivision are well under 15,000 sq. ft. and have been built on, he should be able to do so as well. There is some proof in the record that several of the lots in this neighborhood are undersized and yet houses were permitted on them. But there is also indication that some of smaller lots that have been built on have been so improved since the 1920's, well before the adoption of the Zoning Ordinance. There is also proof in the record that several of the houses in the neighborhood comprise more than one lot, due to the drainage conditions and septic problems. Once again, none of this evidence was well defined or established. No evidence was submitted regarding the background of this subdivision. It was Mr. Yerry's burden to produce such evidence if he wished to rely upon it, and he did not.

(2) WHETHER THE BENEFIT SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY

SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE.

The Board sees no alternative method for the applicant to achieve its goal of building a home on this undersized lot. A suggestion was made that he try to buy property from an adjoining owner to make his lot bigger. This does not seem feasible since it appears that the adjoining owners need all their land, including additional lots that they own, to accommodate their own leach fields and septic systems given the soil and drainage conditions.

(3) WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL.

The Board finds the requested variance, by any measure, is substantial. The minimum lot size requirement is 15,000 sq. ft. This lot is 6,000 sq. feet. It is only 40% of the minimum. The minimal size of this lot is especially critical given the serious concerns expressed by neighbors concerning the drainage and septic system problems in the area.

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

Reference is made to the discussion of the first criterion above. The Board finds that the applicant has not established that granting the variance will not have an adverse impact on the physical or environmental conditions in the neighborhood.

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

Clearly, the applicant purchased the lot knowing that it was undersized for building. The price he paid certainly reflects that the lot is undersized. The need for the variance is clearly self-created.

Based upon all of the foregoing, and the record before it, the Board finds that the applicant has not established that he meets the statutory criteria for the granting of an area variance. Accordingly, the appeal and petition is, in all respects, DENIED.

Dated: Brunswick, New York
November 20, 2006

**TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS**

REGULAR MEETING

November 20, 2006

RESOLUTION ADOPTING DETERMINATION

WHEREAS, the appeal and petition of HERBERT HEADWELL/MISTY HILL FARM LLC, owner-applicant, dated May 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a wind generator and tower at Misty Hill Farm, located at 196 Town Office Road, in the Town of Brunswick, because the maximum height for an accessory structure in an A-40 District is 40 feet, and the height of the proposed tower and wind generator is 131 feet, 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 Chairman Hannan, was duly put to a roll call vote as follows:

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

The foregoing Resolution was thereupon declared duly adopted.

Dated: November 20, 2006

TOWN OF BRUNSWICK
ZONING BOARD OF APPEALS

In the Matter of the Appeal and Petition of

DETERMINATION

HERBERT HEADWELL/MISTY HILL FARM LLC,

Applicant

For the Issuance of an Area Variance Under the Zoning
Ordinance of the TOWN OF BRUNSWICK

This matter involves the appeal and petition of HERBERT HEADWELL/MISTY HILL FARM LLC, owner-applicant, dated May 29, 2006, for an area variance, pursuant to the Zoning Ordinance of the Town of Brunswick, in connection with the proposed construction of a wind generator and tower at Misty Hill Farm, located at 196 Town Office Road, in the Town of Brunswick, because the maximum height for an accessory structure in an A-40 District is 40 feet, and the height of the proposed tower and wind generator is 131 feet.

The wind generator is proposed to be built on the hill behind the barns on the farm. The wind generator proposed is a Bergey BWC Excel-S. It is rated at 10 kW. The height of the tower is 120 feet to the pivot point at the center of the hub, and the total height is 131 feet to the tip of the upright blade. The tower is of the lattice-type and is secured by guy wires. The applicant claims that the closest property boundary will be 684 feet from the base of the tower.

Usually determinations with regard to area variance appeals are fairly easily resolved, The Board need only weigh the facts adduced at the public hearing against the statutory criteria and either grant or deny the variance. This case, however, presents novel and complicated issues which must be resolved by the Board. Accordingly, a detailed examination of the background of this somewhat unusual case is warranted.

Misty Hills Farms, LLC is a working commercial horse boarding farm located at 196 Town Office Road. The farm comprises some 110 acres. The land comprising the farm is zoned A-40 under the Zoning Ordinance. The farm is located in a county adopted, State-certified Agricultural District. Aside from the farm, the other land uses in the vicinity are predominantly single family residential. Many of the newer homes in the vicinity are upscale. Herbert Headwell, who apparently

owns the farm with his wife, purchased the property some five (5) years ago, and has maintained it as a farm, dispelling concerns by some that the farm would be subdivided into lots for numerous homes.

According to Mr. Headwell, at some point late last year, he approached the Town's Superintendent of Utilities and Inspections on the subject of constructing a windmill, or wind generator, on his farm to help reduce the cost of the electrical demand for the farm. Mr. Headwell complains that the Superintendent unduly delayed processing his request. From the record, however, it is unclear just when Mr. Headwell submitted all of his documentation and paid the required fees, i.e., when the matter progressed from being just something Mr. Headwell and the Superintendent were talking about to an actual, formal application. Also, it is understandable that there may have been delay in the processing of this matter by the Superintendent. The issue of how to view a request to construct a wind generator under the Zoning Ordinance was and is a question of first impression in this Town. Despite Mr. Headwell's assertion that windmills have been common on farms for hundreds of years, there are, indeed, none in Brunswick, on farms or otherwise. Nor is the Board aware of any wind generators on farms elsewhere in the County. In fact, as this matter progressed, the only other wind generator identified in the County is one which is some 80 feet in height located on the RPI campus in Troy. Additionally, complicating the matter is the fact that the Zoning Ordinance does not mention or address windmills, wind generators, or anything similar as permitted principal uses, permitted accessory uses, or special uses. Neither the Zoning Ordinance, nor any other local law or ordinance, contains any regulations regarding the procedure or manner in which such structures can be approved.

What is clear from the record is that it was not until May 29, 2006, that Mr. Headwell signed and submitted his formal Application for Zoning Permit, thereby formally applying to construct the wind generator. The Superintendent formally denied Mr. Headwell's Application for a Zoning Permit to construct the wind generator on June 15, 2006, on the ground that the proposed wind generator would be 131 feet high and the maximum height for accessory structures in an A-40 District is 40 feet. This denial resulted in the instant Appeal and Petition for an Area Variance. In the latter part of June, 2006, Mr. Headwell's appeal and petition for an area variance with respect to the height limitation was, in accordance with the Board's usual procedures, transmitted to the Board's attorney for review and processing.

Upon receiving and reviewing the appeal and petition in early July, 2006, the Board's attorney, who is also the Town Attorney, sent a letter to Mr. Headwell expressing various concerns. The Board's attorney, citing the absence of any mention of wind generators in the Zoning Ordinance, and the complete absence of windmills and wind generators in the Town, stated that, in his view, a use variance would be required to construct the wind generator. The attorney's letter invited

further discussion on the issue and made clear that this Board, and not him, had the final word on whether a use variance was required.

Rather than contacting the Board's attorney to discuss the issue, Mr. Headwell appeared at the July 13, 2006, Town Board meeting and complained that his project was being delayed by the Superintendent and that the Board's attorney had denied his application and had also denied him access to this Board. He stated that as the owner of a working farm in a county-adopted, State-certified Agricultural District he could simply build the wind generator without any approvals from the Town. He presented the Town Board with documentation he had received from the NYS Department of Agriculture and Markets pertaining to the Agricultural Districts Law (Article 25-AA of the Agriculture and Markets Law). Most importantly, Mr. Headwell produced a copy of a "letter opinion" which the New York State Department of Agriculture and Markets had issued in the context of a request for an opinion involving a farm known as Cogi Farms, located in the Town of Pawling, New York. Similar to the situation at hand, the owner of Cogi Farms wished to construct a wind generator and the town's lawyers questioned whether the wind generator was an agricultural use. In that letter opinion, which was dated January 17, 2006, the NYS Department of Agriculture and Markets ruled that the wind generator requested by Cogi Farms was on-farm equipment and part of the "farm operation", at least to the extent that the wind generator was only being used to meet the energy needs of the farm and not for the purpose of generating excess power to sell back to the utility company. This letter opinion was significant for two (2) reasons. First, it apparently establishes that a wind generator on a farm is considered on-farm equipment and part of the farm operation. That would tend to obviate the concern of the Board's attorney that the wind generator at Misty Hills was not a permitted accessory agricultural use under the Zoning Ordinance, thereby requiring a use variance. Second, if the proposed wind generator at Misty Hills would be considered on-farm equipment, and part of the farm operation in a county adopted, State certified Agricultural District, under Agricultural and Markets Law, Section 301, subd, 1., the Town would be precluded from administering its zoning laws in a manner which would unduly restrict it.

Following the July 13, 2006, Town Board meeting, the Board's attorney contacted Counsel's Office at the NYS Department of Agriculture and Markets for clarification and to discuss these issues. The Board's attorney was essentially advised that determinations as to whether a wind generator is on-farm equipment, and part of a farm operation, are made on a case-by-case basis, and that either the Town or the farm owner could request such a determination. Assuming the Department of Agriculture and Markets determined that the wind generator was on-farm equipment, and part of a farm operation in a county-adopted, State certified Agricultural District, it would also decide whether the municipal zoning restriction at issue was unduly restrictive. Finally, the Board's attorney was advised that there would be no SEQRA review of a request to construct a wind generator on a working farm, because construction of farm buildings or structures are considered

Type 2 actions under SEQRA.

In light of these developments, in the latter part of July, 2006, the Town Supervisor sent a letter to the NYS Department of Agriculture and Markets, requesting that it review the instant matter and determine whether the proposed wind generator at Misty Hills was an on-farm building, and part of the farm operation, and if so, whether the 40 foot height restriction for accessory agricultural buildings could lawfully be enforced, thereby necessitating an area variance. Additionally, the Board's attorney processed Mr. Headwell's appeal and petition for an area variance, scheduling a public hearing for the August 21, 2006, meeting of this Board.

On August 21, 2006, Mr. Headwell was apparently out-of-town and was represented at the first session of the public hearing by his attorney, Jeremy Speich, Esq., and a neighbor, Peter Meskoskey. To the great surprise of this Board, given Mr. Headwell's position at the July 13, 2006, Town Board meeting, Mr. Headwell's representatives asked that this Board decide this appeal and petition under the area variance standards provided by law and without regard to any special status of the farm under the Agricultural Districts Law. They further requested that the Board classify this matter an "unlisted action" under SEQRA, declare lead agency status, and conduct a coordinated SEQRA review. The Board's attorney questioned the SEQRA review because the Department of Agriculture and Markets had indicated that this would be a Type 2 action as provided in 6 NYCRR 617.5(c)(3). After some discussion, the reason for the "change of heart" became apparent. It seems that Mr. Headwell has applied to receive reimbursement for 60% of the cost of constructing the wind generator from the New York State Energy and Research Development Authority (NYSERDA), and NYSERDA apparently does not recognize the concept that wind generators can be considered Type 2 actions under SEQRA. The Board's attorney subsequently confirmed this with NYSERDA Counsel. NYSERDA will not extend the grant funds absent a SEQRA review, and strongly prefers that the review be conducted by the municipality, rather than conduct it itself. In any event, at the August 21, 2006, meeting, this Board did agree, after substantial discussion, to classify the matter as an "unlisted action", and to pursue lead agency status. While not completely comfortable with the situation, the Board ultimately concluded that a SEQRA review could only be beneficial to the Town, and that since the applicant was requesting the review, there could be no claim of overreaching by this Board.

The second session of the public hearing, was held on September 17, 2006. Mr. Headwell was present at that session. After hearing several adjoining property owners express opposition to the project, Mr. Headwell abruptly retreated from the position taken by his representatives at the first session. Mr. Headwell pointedly advised this Board that if it turns down his application all he loses will be the NYSERDA funding since the Department of Agriculture and Markets will direct the Town to let him construct the wind generator in any event. He stated that farming comes first in an

Agricultural District. He warned that if farmers can't do things like this to save money, they will have to sell their land. He stated that no one does more for the community than he does.

The third and last session of the public hearing was conducted on October 16, 2006. At that session, Mr. Headwell again complained about the delay in getting his project approved and took an even stronger position that this Board, ultimately, had no choice but to grant this application based upon his status as a farm operation in an Agricultural District. Also attending that meeting was Robert Somers, Ph.D., the Chief of the Agricultural Protection Unit, Division of Agricultural Protection and Development Services, New York State Department of Agriculture and Markets. Dr. Somers stated that the Department was processing the request for an opinion which had been submitted by the Town Supervisor. Dr. Somers indicated, however, that the Department would likely rule that the proposed wind generator at Misty Hills is an on-farm building so long as it is being used only to meet the energy needs of the farm and not to sell power back to the utility. He also stated that the Department was likely to rule that the 40 foot height limitation on accessory farm structures contained in the Zoning Ordinance was not unreasonably restrictive on its face under the Agriculture and Districts Law and the Town could therefore properly require that Mr. Headwell seek a variance of the requirement before proceeding. However, Dr. Somers stated that if this Board should deny that variance, the Department would likely rule that the 40 foot height limitation was unduly restrictive as applied, and direct that the Town permit the structure to be built in any event, unless the Town could show that construction of the wind generator would constitute a threat to public health or safety.

On November 14, 2006, after the close of the public hearing in this case, the Department of Agriculture and Markets issued its determination in response to the Town's request mentioned above. The determination was issued in the form of a letter to the Supervisor dated November 14, 2006, from William Kimball, the Director of the Division of Agricultural Protection and Development Service of the NYS Department of Agriculture and Markets. While more "nuanced" than Dr. Somers' refreshingly frank assessment, the final determination was essentially the same. The determination confirmed that Misty Hills Farm is a "commercial horse boarding operation" and, as such, a "farm operation" as that term is defined in the Agriculture and Markets Law, located in Rensselaer County Agricultural District No. 2. The determination also stated that the proposed wind turbine would be considered "on-farm equipment" and part of the "farm operation" so long as the wind turbine does not generate more than 110% of the farm's anticipated energy needs. Additionally, the determination stated that although the 40 maximum height requirement contained in the Zoning Ordinance "appeared to be unreasonably restrictive" as applied to the Misty Hills farm operation, Mr. Headwell was first required to exhaust his administrative remedies (i.e., the instant variance application) before asking the Department of Agriculture and Markets to take any action. Finally, the determination stated that this Board's decision, and its very processes, with respect to

the variance request could then be reviewed by the Department, at Mr. Headwell's request, for a further determination as to whether there has been an unreasonable restriction of the farm operation.

Clearly, this determination, when read in conjunction with the August 10, 2006, letter received by the Supervisor in response to his letter requesting the determination, fully corresponds to Dr. Somers' description of the process. Essentially, it appears, once the Town determined that Mr. Headwell's proposed wind generator violated the height restriction in the Zoning Ordinance, the Town was within its rights to deny the permit at that point. The burden was then on Mr. Headwell, if he disagreed, to resort to his administrative remedy, i.e., an area variance request. If this Board should deny the variance, or impose conditions on any variance granted, Mr. Headwell could then ask the Department of Agriculture and Markets to review the matter and determine that the Board's action was unreasonably restrictive. If the Department were to so rule, the burden would then shift back to the Town to present evidence that the proposed wind generator would endanger health and safety. If, ultimately, the Department rules that the Town's zoning requirement is unreasonably restrictive, and that the proposed activity will not endanger health or safety, the Town would not be able to enforce the zoning restriction and would have to permit the wind generator to be built.

It is also noteworthy that in response to the required referral sent to it by this Board under Section 239-m of the General Municipal Law, the Rensselaer County Bureau of Economic Development and Planning, advised the Board that "As agricultural equipment, the regulation of the turbine is limited to safety of neighboring properties".

The point of this lengthy discourse is that the Board has been plainly and unequivocally advised, by Mr. Headwell, the County of Rensselaer and the State of New York, that notwithstanding the provisions of the Zoning Ordinance, and the area variance criteria set forth in Town Law, Section 267-b, subd. 3(b), and the Town's ability to require Mr. Headwell to submit to the variance process, as a practical matter, the Board is required to grant the variance unless it can be established that construction of the wind generator would result in a threat to public health or safety. It is likewise clear that, as a matter of law, this Board has no real jurisdiction to conduct a SEQRA review in this matter as it is indisputably a Type 2 action under 6 NYCRR 617.5(c)(3). This is not to say that the Board will not complete these processes. Rather, the Board wants to make clear that its SEQRA review and its consideration of the statutory area variance criteria are being undertaken in recognition of these significant limitations on its usual power to decide issues such as this.

These limitations extend as well to the usual processes of the Board, which the Department has stated are also subject to its review as possibly being unreasonably restrictive. Here we are referring to the processes through which the Board normally reviews applications before it. Pursuant to Local Law No. 2 of the Year 2002, this Board is entitled to engage professional consultants, at the

expense of the applicant, to assist the Board in its review of an application before it. In a case such as this, ignoring for the moment the "agricultural component", the Board would have engaged an engineer to assist in the review of the technical aspects of the application. The Board would also have directed the applicant to submit tests and other data needed to review the application. Here, the applicant ultimately agreed to conduct a balloon test and took non-professional, low-resolution photographs of the balloon from various perspectives. Normally, the Board would have required the balloon test, professional photographs, and computer generated simulations depicting just how the actual wind generator would appear as opposed to a balloon. The Board would also have normally asked for a wind study to establish that the amount of wind normally prevalent in the Town would be sufficient to make this project worthwhile. The Board would have required more detailed, professional data justifying the need for the height of the structure being requested, as well as professional analyses of the anticipated noise, loss of wildlife, ice throw, glare, flicker, etc. The Board did none of this here. Mr. Headwell did not feel that even the balloon test was required. He took the position that the professional studies mentioned above would have been so expensive so as to make the project cost prohibitive. In light of the "limitations" on the Board's ability to review this matter, the Board chose simply to do what it could with the limited information provided, rather than forcing the issue and risking a determination by the Department of Agriculture and Markets that its processes violated the Agricultural Districts Law.

Arguably, the Board could "blindly" apply the area variance criteria, without regard to the agricultural issues, and, possibly, deny the variance. That would result, of course, in the subsequent procedures discussed above taking place. There would likely be substantial further delay. The bottom line would not change. Unless it can be shown that the proposed wind generator is a danger to public health or safety it will, ultimately, be permitted. Contrary to Mr. Headwell's assertions, neither this Board nor any Town official, has any desire to harm or delay Mr. Headwell. Brunswick is a farming community. The Town Supervisor is a farmer. Three (3) members of this Board are farmers. The Town has "Right to Farm" laws. That said, the Board has an obligation to ensure that local and State laws are adhered to and that the rights of others are respected and considered as well.

Turning first to the Board's obligations under SEQRA, it is noted that the applicant has submitted a short-form EAF along with a Visual Addendum. As previously stated, although this is clearly a Type 2 action under SEQRA, the applicant has requested that it be classified as an "unlisted action" and that the SEQRA review be coordinated with NYSERDA. As stated above, the Board agreed to do so. The Board resolved at its September meeting to seek to assume lead agency status. NYSERDA has consented in writing to this Board's assuming lead agency status, and the Board hereby declares itself lead agency. The Board has caused to be prepared a Part II and a Part III to the short-form EAF. The fully completed short-form EAF is annexed hereto. As can be seen, the Board

has identified several adverse effects on the environment resulting from this project. However, the Board has also concluded that the adverse effects identified are not substantial, large, important or otherwise significant, given the "special" status of the farm under the Agricultural Districts Law, as described above. Accordingly, the Board hereby issues a negative declaration of environmental significance under SEQRA. The adverse environmental impacts are discussed in detail in Parts II and III of the EAF, and in the discussion which follows of the area variance criteria, and will not be repeated here.

Turning next to the merits of the instant application for an area variance, the Board must consider the criteria set forth in Town Law, Section 267-b, subd. 3(b), which provides as follows:

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

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

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

Taking into account that this project involves construction of what has been ruled by the Department of Agriculture and Markets to be an "on farm" building, and part of a farm operation in a county-adopted, State-certified Agricultural District, the Board finds that granting the variance, thereby permitting the wind generator to be built, will not negatively effect the character of the

neighborhood. The wind generator will be located on the hill behind the barns located on the farm. It will apparently be some 684 feet from the nearest neighboring property. Although, other than the farm, the predominant land use in the neighborhood is single family residential, much of it upscale, clearly, Misty Hills Farm, in the hands of prior owners, has been there for many years. Many people have chosen to build homes nearby in order to take advantage of the rural atmosphere provided by the farm. With the sprawling, scenic, and peaceful fields of a working farm, however, also comes noise, odors, farm equipment, and farm buildings, which might not be quite so desirable. They are, however, part of the farm and part of the community.

Relevant to a discussion of impacts on the neighborhood character, but not determinative, is the public comment on the project. Some of the adjoining property owners were concerned about the visual impacts of the tower and wind generator and the possible effects on property values. They expressed concern that several years ago, a cell tower was proposed to be constructed in this neighborhood and that it was turned down after strong public opposition. They wonder why this should be any different. There was, however, no "organized" opposition to the wind generator. Various members of the community spoke in favor of the wind generator, some extolling the virtues of renewable energy sources, others citing the need to permit Mr. Headwell to do what he needs to do to keep the farm intact. Representatives from Brunswick Smart Growth, a group organized as a result of various development projects pending in the Town, took a very positive view toward the wind generator.

The Board has received letter opinions from two (2) realtors, addressing the issue of whether the wind generator would negatively impact property values, Dean W. Heer, of Heer Realty, which is located in the Town of Brunswick, stated in a letter to the Chairman dated October 12, 2006, that the wind generator should not have a negative impact on the value of surrounding homes, provided that it is set back into a semi-remote location. That would appear to be exactly what is to happen here. Additionally, the Chairman received a letter from Cheryl Bovair, of Bovair Real Estate LLC, which does a lot of business in the Town of Brunswick, dated October 11, 2006, stating that a windmill in an agricultural district would have no negative impact on property values in the immediate or surrounding areas. Ms. Bovair went on to state in the letter that most properties, regardless of value, are not "stigmatized" in any way by the presence of a structure like a water tower or windmill, so long as it is not perceived by the public to be a potential health hazard, like a cell tower or high-tension power lines. The Board accepts as reasonable the opinions of these realtors and finds that the construction of the wind generator on the farm will not negatively affect property values in the neighborhood.

(2) WHETHER THE BENEFIT SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY

SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE.

The Board perceives the benefit being sought by the applicant is reducing his reliance and consumption on fossil fuel, and reducing his energy costs, by generating his own power from the wind, a renewable energy source. Clearly, in order to operate, the wind generator must be located high off the ground to take advantage of the wind. Since the maximum permitted height for an accessory structure in an A-40 Zone under the Zoning Ordinance is 40 feet, it would not be feasible to have a wind generator unless the maximum height were to be varied.

(3) WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL.

In the abstract, the variance is certainly substantial. The maximum permitted height is 40 feet and this structure is proposed to be 131 feet high. However, wind generators have to be located high in the air, certainly over 40 feet, to take advantage of the wind and work efficiently.

A "corollary" of this criterion, however, is that only the minimum variance necessary should be granted. In this case, there has been no professional proof offered by the applicant that 131 feet is the minimum structure height that will work. On that issue, Mr. Headwell has simply stated that this height is "where the efficiency of the wind is". Mr. Headwell's installers, from Sustainable Energy Development, have similarly stated that this is the height needed to make the generator workable. Certainly, the Board would have preferred professional studies and engineering reports. The Board understands that such reports are costly and might make the project not feasible from a financial standpoint. And, of course, since this application involves construction of what has been ruled by the Department of Agriculture and Markets to be an "on farm" building, and part of a farm operation in a county-adopted, State-certified Agricultural District, and the height of the tower will not affect health or safety, this Board has scant real power to require the applicant to look into the feasibility of a lower structure.

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

Taking into account that this project involves construction of what has been ruled by the Department of Agriculture and Markets to be an "on farm" building, and part of a farm operation in a county-adopted, State-certified Agricultural District, the Board finds that although granting the

variance, thereby permitting the wind generator to be built, will cause adverse impacts on the physical and environmental conditions in the neighborhood, none of the adverse effects are large, substantial, important or significant, and none will affect public health or safety.

The major impact of the wind generator is visual. The structure will be 131 feet high. While Mr. Headwell likes to refer to the structure as a windmill, it is more appropriately referred to as a wind generator or wind turbine. Clearly, what is being proposed here is not a quaint "Dutch windmill". What is proposed here is a turbine with propeller-like blades located atop a thin lattice tower held in place by guy wires. The pictures provided to the Board and the DVD movie of the similar structure located in Ghent, New York, confirm that the structure is not very attractive. And clearly, even the low-resolution photos taken from various locations when the balloon test requested by the Board was conducted on the site, establish that the structure will plainly be visible from numerous perspectives. Indeed, the balloon flown was plainly visible from the entrance to the new Town Hall and from the window of the hearing room at the Town Hall. It should be noted that the balloon test was conducted while the leaves were still on the trees and the balloon was quite visible from many locations. It would surely be visible from many more now that the leaves have fallen.

As previously stated, several neighbors of the farm strongly object to the structure based on its visual impact. Complicating the issue, again as previously stated, is the fact that in the late 1990's, a 120 foot high cell tower was proposed to be constructed on a lot adjoining the farm, located at 205 Moonlawn Road, owned by Thomas Phibbs. Mr. Phibbs wanted to lease some of his land to a cell phone company for that purpose. When the matter came before this Board for the required special use permit, strong objections were made by some of the neighbors mainly on the basis of visual impacts and impact on community character and property values. Interestingly, the most vocal opponent of the cell phone tower was Peter Meskoskey, who is now a proponent of the instant project and, indeed, represented Mr. Headwell at one of the public hearing sessions. In the case of the cell tower, this Board issued a positive declaration under SEQRA and ultimately denied the permit largely based upon visual impacts and impacts on the character of the community. Some of the farm's neighbors, especially Mr. Phibbs, want to know why the proposed wind generator should be allowed when the cell tower was denied. The cell tower was actually to be lower than this wind generator and, in the case of the former, a much-less visible monopole tower was proposed, as opposed to the lattice, guyed tower which is proposed here. Mr. Headwell counters that the cell tower was different because it emits dangerous radiation. The problem there is that municipalities are prohibited under Federal law from considering the health impacts of cell towers in making permitting decisions, so long as the proposed cell tower's emissions do not exceed FCC guidelines. In short, the possible health effects of the cell tower emissions played no role in this Board's decision not to allow the cell tower. Rather, as previously stated, the cell tower was denied based mainly upon visual impacts and impacts on the character of the community, after a full DEIS and FEIS were

submitted.

That said, however, the cell tower application and the instant application can be distinguished. First, the cell phone project involved an application for a special use permit; the cell tower was not a permitted principal use. In the instant case, by virtue of the afore-mentioned ruling from the Department of Agriculture and Markets, the wind generator is a permitted accessory agricultural use. Second, and more important, the cell tower application did not involve a working farm in an Agricultural District, or an on-farm structure. Therefore, this Board was not there constrained, as it is here, by the prohibitions contained in the Agricultural Districts Law against unduly restricting farm operations.

In short, while there will certainly be visual impacts resulting from the construction of the wind generator, the impacts do not rise to the level of affecting health or safety.

Another environmental impact from the wind generator is noise. By their very design and nature, wind generators make noise when they operate. Joseph Swaha, of Sustainable Energy Development, the applicant's installer, stated at the hearing that the wind generator will make a light "hum" and a "whooshing" noise when it is operating. Mr. Swaha stated that according to the manufacturer, the sound generated from the model which Mr. Headwell wants to install on his property, the Bergey BWC Excel-S, will be inaudible 300 feet upwind and 500 feet downwind from the tower. Mr. Swaha submitted a Wind Turbine Noise Output Evaluation report which was prepared in July, 2001, by Wild Sanctuary, Inc., a California company, at the request of the manufacturer. The report concludes that the sound generated by the turbine blades was of the same class as "white" or "pitched" noise commonly experienced by humans in the natural world, and that no sound emanating from the wind turbine at any level was present that would be considered objectionable within the classes of industrial sound commonly thought of as such. Further, that at distances in excess of 100 feet from the tower, the ambient sounds in the vicinity were louder than the sound of the turbine blades.

Additionally, at least two (2) Board members stated at the hearing that they went to observe the wind generator in Ghent, New York, which is purportedly the same model proposed. The Chairman stated that although there was noise coming from the generator there, he did not find it offensive. He stated that there was a fair amount of ambient noise in the vicinity which helped mask the noise from the generator. Member Sullivan stated that he also observed the Ghent wind generator and could barely hear the noise.

The applicant also produced a document entitled "Acoustic Tests of Small Wind Turbines" prepared by the National Renewable Energy Laboratory in Colorado. With respect to the Bergey

Excel model proposed here, the report concludes that in normal operation, it is difficult to discern between turbine noise and the background noise. However, the report did conclude that the turbine can become noisy under high wind conditions when operated unloaded (inverter offline).

No noise report specific to this application, or to the amount of background noise in this location, was provided.

Based on the foregoing, and given the "agricultural component" of this application, the Board finds that the noise from the wind generator will not have a significant adverse effect on the environmental conditions in the neighborhood. Certainly, the noise generated will not affect health or safety.

Another environmental impact is the effect on wildlife, specifically birds. The spinning blades of the turbine can kill birds which fly into them. This issue was only briefly addressed by the applicant. Kevin Schutte, also from Sustainable Energy Development, stated that because this is a single, relatively small, wind generator, as opposed to a wind farm with multiple generators, only a "small portion of the sky" would be impacted, and the number of birds killed would be minimal.

Other impacts identified were glare from the turning blades, "flicker" from the turning blades, and ice throw from the blades. Once again, these impacts were only briefly addressed by the applicant. As to the ice throw, Mr. Schutte said that the turbine blades would be painted black, which would minimize the buildup of ice. Also, since the turbine will be located in a semi-remote area of the farm, away from other structures, the ice throw should not be dangerous to anyone. As to the glare, Mr. Schutte stated that painting the blades black would reduce the glare as well. Finally, as to the flicker, Mr. Schutte stated that the "flicker radius" would be 400- 500 feet, and no person or residence will be that close to the generator.

Although, as previously stated, the proof offered in connection with these impacts was minimal, there appears to be no discernable affect on public health or safety.

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

The "difficulty" Mr. Headwell is trying to remedy by constructing this wind generator, is combating the high cost of energy and reducing reliance on fossil fuels by taking advantage of a

renewable energy source. Mr. Headwell is not responsible for the high cost of energy or the increasing demand for energy today.

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

Were it not for the fact of Mr. Headwell's status as the owner of a working farm in a county adopted, State-certified Agricultural District, the Board would have difficulty in resolving this "balancing test" in his favor.

According to the data supplied by Sustainable Energy Development, it is anticipated that the Bergey BWC Excel-S wind turbine, which is rated at 10 kW, if installed at Misty Hill Farm, would generate some 7,737 kW of electricity on an annual basis. The cost of the wind turbine to Mr. Headwell, after the NYSERDA contribution, is \$21,260.00. Assuming the price of electricity being \$0.12/kWh in year one of the project and a projected inflation rate of 5% throughout the design life of the wind system, Sustainable Energy Development estimates that the wind system will pay for itself in the 18th year of operation, with an additional savings on electrical charges of \$31,000.00 by the end of the 30 year design life of the system. Both Mr. Headwell and Joseph Swaha stated that the annual use of electricity at the farm was some 50,000 kW hours annually.

Clearly, the wind generator proposed will only meet a small fraction of the total energy needs of the farm. By their own data, it appears that the total savings in electricity will not equal the cost of the applicant's portion of the cost of the system until its 18th year of operation. In the remaining 12 years of the system's design life, a total of only \$30,000 in energy costs will be saved. NYSERDA's portion of the project cost is not even being considered. Beyond his desire to decrease his energy costs and to reduce the demand for and dependence on fossil fuels, it is unclear exactly what Mr. Headwell's intentions are. Is this a test to see if the wind generator will "work" in Brunswick, which is not a particularly windy place? If it does work, will Mr. Headwell seek to install larger and/or multiple generators so as to have a more significant impact on his energy costs?

Based on the above, a credible case could be made for the proposition that the relatively small financial savings to the applicant, when viewed against the farm's total energy costs, are "outweighed" by the visual impacts of the tower. However, as the Board has repeatedly observed throughout, due to the applicant's status as a working farm in a county-adopted, State-certified Agricultural District, and the fact that the proposed wind generator has been determined by the Department of Agriculture and Markets to be an on-farm building, as a practical matter, this Board

can only deny this application if the project would have an adverse effect on public health or safety. That is certainly not the case here.

Based on all of the foregoing, recognizing the Board's limited power and scope of review, as repeatedly alluded to above, the Board hereby grants the variance as requested, increasing the maximum permitted height of the proposed accessory wind generator at Misty Hill Farm from 40 feet to 131 feet, on the following conditions:

1. The tower and the wind generator should be painted or finished in a neutral color designed to blend into the background and reduce visual impacts.
2. There shall be no signs, logos or lettering, of any kind or nature, on the wind generator or the tower. It shall not be illuminated or lighted in any way.
3. The turbine blades shall be painted or finished black in color in a manner designed to reduce ice build-up, glare and flicker.
4. The variance shall be deemed null, void and of no effect in the event that the proposed wind generator is not installed and fully operational within one (1) year from the date of this determination.
5. In the event that, at any time in the future, Misty Hills Farm, or the land which now comprises it, ceases to be a "farm operation" as that term is defined in the Agricultural Districts Law, this variance shall be deemed null, void and of no further effect, and the applicant shall dismantle and remove the system.
6. In the event that the wind generator is non-operational for any consecutive period of six-months or more, or for a total of six months or more in any calendar year, this variance shall be deemed null, void and of no further effect, and the applicant will dismantle and remove the system.

Dated: Brunswick, New York
November 20, 2006

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 Misty Hills Farm, LLC	2. PROJECT NAME Wind Generator and Tower at Misty Hills Farm
3. PROJECT LOCATION: Municipality Brunswick, Town of County Rensselaer	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 196 Town Office Road, Town of Brunswick, Rensselaer County-Map provided to Town.	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Ten (10) kilowatt Wind Turbine with a twenty-three (23) foot rotor diameter located on top of a one hundred twenty (120) foot guide lattice tower - total structure height = 132 feet.	
7. AMOUNT OF LAND AFFECTED: Initially <u>1</u> acres Ultimately <u>1</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly Area variance required for structures in excess of forty (40) feet in an A-40 Zone.	
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: Commercial horse boarding farm operated on parcel of approximately one hundred (100) acres.	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: New York State Energy and Research Development Authority - Grant PON 792 - Wind Incentives for Eligible Installers.	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: Misty Hills Farms, LLC	Date: 08/21/06
Signature: <u>Jeremy H. Speich</u> Jeremy H. Speich, Attorney-in-Fact	

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

617.20
Appendix B
State Environmental Quality Review
VISUAL EAF ADDENDUM

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

(To be completed by Lead Agency)

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

DESCRIPTION OF EXISTING VISUAL ENVIRONMENT

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

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

NOTE: add attachments as needed

5. Are there visually similar projects within:

[~]1/4 mile Yes No 1 mile Yes No 2 miles Yes No 3 miles Yes No

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

EXPOSURE

6. The annual number of viewers likely to observe the proposed project is 200?

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

CONTEXT

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

FREQUENCY

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

Reset

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

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

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

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

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
 Yes. The wind turbine will generate noise. There is a "humming" noise from the turbine and a "whoosh" noise caused by the turning of the turbine blades.

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
 Yes. The tower and wind generator is proposed to be 131 feet high. The tower is to be of the "lattice" type and is to be secured by guy wires. The structure will be visible from numerous perspectives.

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
 Yes. The turning turbine blades present a danger to birds.

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:
 Yes. This is a new use in Brunswick. There are currently no wind generators or windmills in the Town. The Town currently has no regulations concerning the siting and construction of wind generators.

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
 Yes. This may serve as a precedent for other applications for wind generators. Also, this area was considered in the past for a cell tower location. Having another tall structure there may make a future application for a cell tower more likely.

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:
 Yes. Possible ice throw from the turbine blades, "flicker" from the turning blades, and glare from the turning blades.

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

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

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

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

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

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

November 20, 2006

Name of Lead Agency

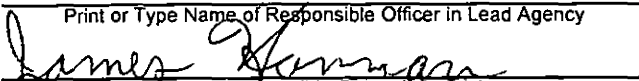
Date

James Hannan

Chairman

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer


 Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

Reset

PART II - IMPACT ASSESSMENT cont.

E. There is controversy related to potential environmental impacts of the proposed wind generator. There was opposition to the project from some of the adjoining property owners based mainly on the perceived visual impacts of the structure. There was also a concern expressed by some that an application for another tall structure, a cell tower, was denied several years ago, after a full environmental review, based largely on visual impacts and a change to the character of the community. The opposition to this project was not organized. More people, but not necessarily adjoining neighbors, expressed support for the project due to the fact that it is a way to reduce dependence on fossil fuels, and because the wind generator would assist the owner of the farm in making the farm financially viable and thereby keep it from being subdivided or otherwise developed.

PART III - DETERMINATION OF SIGNIFICANCE

C1. The noise generated by the wind generator will be minimal. According to the applicant's installer, the sound generated from the model which Mr. Headwell wants to install on his property, the Bergey BWC Excel-S, will be inaudible 300 feet upwind and 500 feet downwind from the tower. According to a Wind Turbine Noise Output Evaluation report which was prepared in July, 2001, by Wild Sanctuary, Inc., a California company, at the request of the manufacturer, the sound generated by the turbine blades of this model is of the same class as "white" or "pitched" noise commonly experienced by humans in the natural world, and that no sound emanating from the wind turbine at any level was present that would be considered objectionable within the classes of industrial sound commonly thought of as such. Further, the Report indicates that at distances in excess of 100 feet from the tower, the ambient sounds in the vicinity were louder than the sound of the turbine blades. Additionally, at least two (2) Board members went to observe a wind generator in Ghent, New York, which is purportedly the same model proposed. One stated that although there was noise coming from the generator there, it was not offensive. He further stated that there was a fair amount of ambient noise in the vicinity which helped mask the noise from the generator. The other stated that he could barely hear the noise. The applicant also produced a document entitled "Acoustic Tests of Small Wind Turbines" prepared by the National Renewable Energy Laboratory in Colorado. With respect to the Bergey Excel model proposed here, the report concludes that in normal operation, it is difficult to discern between turbine noise and the background noise. However, the report did conclude that the turbine can become noisy under high wind conditions when operated unloaded (inverter offline), so that situation should be avoided if possible.

According to the application the closest property boundary will be 684 feet from the base of the structure.

It is also noted that the wind generator is proposed to be located on a working farm in a county-adopted, State-certified Agricultural District. Farm operations are known to generate noise. Wind generators have been recognized by the NYS Department of Agricultural Markets as "on-farm" buildings and part of the "farm operation" to the extent that they are used only to meet the electrical needs of the farm and not to sell power back to the utility company. Under the Agricultural Districts Law, a municipality may not apply its zoning regulations in such a way as unreasonably restrict a farm operation in an Agricultural District, unless the activity in question will affect public health or safety. In this case, the Town has been advised by the NYS Department of Agriculture and Markets that unless this project will impact public health or safety, it must be permitted.

Based upon the foregoing, the environmental impact of the noise is not substantial, large, important or otherwise significant.

C.2 The structure will be 131 feet high. What is proposed here is a turbine with propeller-like blades located atop a thin lattice tower held in place by guy wires. The photos taken from various locations when the balloon test requested by the Board was conducted on the site establish that the structure will plainly be visible from numerous perspectives. The balloon flown was plainly visible

from the entrance to the new Town Hall and from the window of the hearing room at the Town Hall. The balloon test was conducted while the leaves were still on the trees and the balloon was quite visible from many locations. It would likely be visible from many more once the leaves have fallen. On the other hand, the structure is to be located in a semi-remote area on a large, working farm. It will be some 684 feet from the nearest property line.

It is also noted that the wind generator is proposed to be located on a working farm in a county-adopted, State-certified Agricultural District. Farm operations are known to require various forms of large, cumbersome equipment. Wind generators have been recognized by the NYS Department of Agricultural Markets as "on-farm" buildings and part of the "farm operation" to the extent that they are used only to meet the electrical needs of the farm and not to sell power back to the utility company. Under the Agricultural Districts Law, a municipality may not apply its zoning regulations in such a way as unreasonably restrict a farm operation in an Agricultural District, unless the activity in question will affect public health or safety. In this case, the Town has been advised by the NYS Department of Agriculture and Markets that unless this project will impact public health or safety, it must be permitted. Clearly, the visual impacts of the structure will not effect public health or safety.

Based upon the foregoing, the visual impacts of the tower are not substantial, large, important or otherwise significant.

C-3. The effect on wildlife will be minimal. The concern is that the spinning turbine blades will kill or injure birds which fly into them. As the applicant's installer points out, this is a single, comparatively small, wind turbine, as opposed to a wind farm, where there are numerous, large wind generators being employed to produce electricity on a large scale. The rotor diameter of the turbine is 23 feet. Comparatively, only a small portion of the sky will be impacted by this structure.

It is also noted that the wind generator is proposed to be located on a working farm in a county-adopted, State-certified Agricultural District. Wind generators have been recognized by the NYS Department of Agricultural Markets as "on-farm" buildings and part of the "farm operation" to the extent that they are used only to meet the electrical needs of the farm and not to sell power back to the utility company. Under the Agricultural Districts Law, a municipality may not apply its zoning regulations in such a way as unreasonably restrict a farm operation in an Agricultural District, unless the activity in question will affect public health or safety. In this case, the Town has been advised by the NYS Department of Agriculture and Markets that unless this project will impact public health or safety, it must be permitted. Clearly, the minor impacts of this structure on wildlife will not effect public health or safety.

Based upon the foregoing, the impacts of the tower on wildlife are not substantial, large, important or otherwise significant.

C-4 Although this is a new use in Brunswick, and the Town has no regulations in effect concerning the siting and construction of wind generators, that is not a substantial concern in this

case. It is noted that the wind generator is proposed to be located on a working farm in a county-adopted, State-certified Agricultural District. Wind generators have been recognized by the NYS Department of Agricultural Markets as "on-farm" buildings and part of the "farm operation" to the extent that they are used only to meet the electrical needs of the farm and not to sell power back to the utility company. Under the Agricultural Districts Law, a municipality may not apply its zoning regulations in such a way as unreasonably restrict a farm operation in an Agricultural District, unless the activity in question will affect public health or safety. In this case, the Town has been advised by the NYS Department of Agriculture and Markets that unless this project will impact public health or safety, it must be permitted. Clearly, then, the absence of regulations is not a significant concern because it is unlikely that they could be applied in any event, even if they existed.

C-5. As this is the first wind generator proposed in the Town, permitting it could arguably result in a precedent for future, similar structures. Also, there are currently no other "tall structures" in the neighborhood. Several years ago, a cell tower was proposed to be built on a lot adjoining the farm. That application was denied, after a full environmental review, based upon visual impacts and impacts on the character of the community. Permitting this wind generator, a "tall structure", might make it more difficult to deny a future applications to construct a cell tower on that same site or other sites in the neighborhood.

As previously stated, the wind generator is proposed to be located on a working farm in a county-adopted, State-certified Agricultural District. Wind generators have been recognized by the NYS Department of Agricultural Markets as "on-farm" buildings and part of the "farm operation" to the extent that they are used only to meet the electrical needs of the farm and not to sell power back to the utility company. Under the Agricultural Districts Law, a municipality may not apply its zoning regulations in such a way as unreasonably restrict a farm operation in an Agricultural District, unless the activity in question will affect public health or safety. In this case, the Town has been advised by the NYS Department of Agriculture and Markets that unless this project will impact public health or safety, it must be permitted. Therefore, permitting this project is not likely to result in a meaningful precedent for applications for wind generators or other tall structures which are not proposed to be built on working farms in Agricultural Districts, and to which the Agricultural Districts Law does not apply.

C-6. As to the ice throw, applicant's installer stated that the turbine blades would be painted black, which would minimize the buildup of ice. Also, since the turbine will be located in a semi-remote area of the farm, away from other structures, any ice throw should not be dangerous to anyone. As to the glare, the applicant's installer stated that painting the blades black would reduce the glare as well. Finally, as to the flicker effect, the installer stated that the "flicker radius" would be 400- 500 feet, and no person or residence will be that close to the generator.

It is noted that the wind generator is proposed to be located on a working farm in a county-adopted, State-certified Agricultural District. Wind generators have been recognized by the NYS Department of Agricultural Markets as "on-farm" buildings and part of the "farm operation" to the extent that they are used only to meet the electrical needs of the farm and not to sell power back to the utility company. Under the Agricultural Districts Law, a municipality may not apply its zoning

regulations in such a way as unreasonably restrict a farm operation in an Agricultural District, unless the activity in question will affect public health or safety. In this case, the Town has been advised by the NYS Department of Agriculture and Markets that unless this project will impact public health or safety, it must be permitted. Clearly, the ice throw, glare and flicker effects caused by this structure will not effect public health or safety. Based upon the foregoing, these impacts of the tower are not substantial, large, important or otherwise significant.

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 18, 2006, 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 November, 2006, meeting. Member Trzcinski made a motion to approve the minutes as submitted. Member Schmidt seconded. The motion carried 5 - 0.

The next item of business was action upon the referral from the Town Board for a recommendation regarding 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. Attorney Cioffi explained that the specific proposal is to construct 48 additional apartment units in 4 buildings, 12 units per building, on a 12.7 acre parcel of land, located on McChesney Avenue, adjacent to the existing Sugar Hill Apartments. There would be parking, sewer, and water connections to the existing apartment complex infrastructure.

The Board discussed the proposal. Member Schmidt noted that the proposal is for 4 new buildings, but the Planning Board, in its recommendation, noted that the parcel could support 5 new buildings, based upon the current density. Member Schmidt felt that the Town Board should address the issue of the number of buildings at this time, rather than leaving the issue open. Member Sullivan expressed concern that lighting is already a problem at the apartments, and more buildings would only exacerbate the conditions.

Member Shaughnessy made a motion to go into private session to ask Attorney Cioffi some legal questions. Member Sullivan seconded. The motion carried 5 - 0. The Board met with Attorney Cioffi in private session. No action was taken.

After the Board returned to public session, there was further discussion on the issue of the referral. The Chairman then offered the following Resolution:

BE IT RESOLVED, that with respect to the referral from the Town Board for a recommendation regarding the pending application of Brunswick Associates LP for a Planned Development District to construct additional apartment buildings adjacent to the existing Sugar Hill Apartment complex, located on McChesney Avenue, in the Town of Brunswick, the Zoning Board of Appeals does hereby find and decide as follows:

The Zoning Board of Appeals hereby adopts a positive recommendation on the application of Brunswick Associates of Albany LP for a Planned Development District to encompass four (4) twelve (12) unit apartment buildings to be constructed on a 12.7 acre parcel located immediately adjacent to the existing Sugar Hill Apartments PDD complex located on McChesney Avenue in the Town of Brunswick. The Board notes that the Town Board has already determined in the context of the existing Sugar Hill Apartments PDD that apartments are an appropriate land use for this area. This new parcel is immediately adjacent to the existing apartment complex and the proposed new apartments should therefore also be considered an appropriate land use. The Board notes that locating additional apartments in this area may keep apartments from being requested in other, less appropriate areas of the Town. The Board recommends that the issue of whether there will be 4 or 5 new buildings permitted should be addressed by the Town Board at the time of approval, rather than leaving the issue open. If the fifth building is permitted, the applicant always has the option of simply not building it. The Board also recommends that the issue of lighting for the new buildings be addressed carefully by the Town Board and the Planning Board. The lighting should be diffused and not projected outward, so as to minimize the effects on the public. The Board further recommends that the lighting plan for the existing PDD be reviewed and reconsidered in this light as well, as existing lighting at the apartment complex needs to be upgraded and replaced.

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.

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

Dated: Brunswick, N.Y.
December 31, 2006

Respectfully submitted,



THOMAS R. CIOFFI

Town Attorney - Zoning Board Secretary