

**TOWN OF BETHLEHEM
BOARD OF APPEALS
September 17, 2003**

A regular meeting of the Board of Appeals, of the Town of Bethlehem, Albany County, New York was held on the above date at the Town Offices, 445 Delaware Avenue, Delmar, New York. Michael Hodom, Chairman, presiding.

PRESENT: Michael Hodom
Robert Wiggand
Richard Lewis
Gilbert Brookins
Marjory O'Brien

Patrick Seely Attorney to the Board

Mark Platel Building Inspector

Chairman Hodom called the meeting to order at 7:30 p.m.

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Good evening Ladies and Gentlemen. This is a regular meeting of the Board of Appeals for the Town of Bethlehem. The first order of business this evening is a public hearing for a Variance under Article XII, Percentage of Lot Occupancy, Section 128-49, Total Building Area, Section 128-55, Accessory Structures and Article XVI, Front Yards, Section 128-66, Required Depths requested by Elizabeth Hogan for property at 61 Burhans place, Delmar, New York. The Applicant wishes to construct a detached garage and a front stoop, which will exceed the percentage of lot occupancy for the total building area and for accessory structures and also encroach into front yard setback requirement at the premises of 61 Burhans Place.

CHAIRMAN HODOM: Mr. Platel, would you give us the reason for the hearing, please?

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing three different projects to the existing site that will require the 3-separate variances. The applicant is proposing to remove an existing 1-story 733.25 square foot portion of the existing main structure and replace it with a 576.6 square foot 1-story addition. Also on the main structure is a proposed 4'4" by 6'6" roof to be constructed over the existing front door entrance. The applicant is also proposing to construct a 552 square foot detached garage to be located at the rear of the lot. The new detached garage will occupy 6.48 percent of the lot, which is 1.48 percent over the 5 percent accessory structure allowed or 126-square feet over the 426-square feet allowable. The total lot occupancy will be 20.42 percent, which is .42

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percent over the 20 percent allowable or 36.04 square feet over the 1,704 square feet allowed by a lot consisting of 8,520-square feet. The front yard setback will be 25.67-feet, which is 9.33-feet shy of the 35-feet required. The existing front yard setback of 30-feet is a pre-existing non-conforming condition.

The existing structure is occupied as a single-family dwelling and is located in an "AA" residence zone.

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, would you please read the official call of the meeting?

Notice of Public Hearing. Notice is hereby given that the Board of Appeals of the Town on Bethlehem, Albany County, New York will hold a public hearing on, Wednesday September 17, 2003 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Elizabeth Hogan, 61 Burhans Place, Delmar, New York for Variance under Article XII, Percent of Lot Occupancy, Section 128-49, Total Building Area, Section 128-55, Accessory Structures and Article XVI, Front Yards, Section 128-66, Required Depths of the Code of the Town of Bethlehem for construction of a detached garage and a front stoop cover, which will exceed the percentage of lot occupancy for the total building area and accessory structures and also encroach into the front yard setback requirement at premises 61 Burhans Place, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the September 10, 2003 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. The procedure that we use this evening; we'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition. Anyone desiring to speak will be allowed to do so, we just request that you come up, stand or sit close to the black microphone, it's for recording purposes only. Any questions or comments should be directed to the Board. Mr. Bolduc will you be making a presentation for the Applicant?

MR. BOLDUC: Yes.

CHAIRMAN HODOM: Please introduce yourself and your association with the Applicant for us.

MR. BOLDUC: My name is Steve Bolduc. I'm owner of Keystone Builders, Incorporated in Delmar and I was asked by Liz Hogan to help her with some situations she had and some redesign of the house and a new garage. I'm going to stand over here. As Mark said, it's 3-different projects kind of combined, hopefully combined into one here. When Liz asked me to come by her house, it was last winter and as you all know we had a terrible winter with a lot of snow. I got there and the front porch was impassable, it

was - - there's no cover there now so the snow comes right off the roof and the steps are just uncovered. You couldn't go in that door even if you wanted to; it was all iced up and covered with a lot of snow.

The other area, the other entry to the house is now – I don't know if you all been over there, but there's – you go down the driveway and it's a side entry and that's pretty bad there to. It's a little bit covered, but the driveway gets iced up and she's very concerned about the safety, you know especially the front door. You can't even use it. So that's kind of where this all stemmed from.

They also needed some more space for the garage and some storage space. It's a single car garage now with a little extra storage space, but they've got 2-vehicles and they'd like to keep them both in again, because of the winter. So the existing porch that's there now converted is in the back of the house is not built very well. It's got a very shallow roof; again it's got problems with ice and snow there. He's got to get up and shovel it off when there's a heavy snow and again, that's not very safe especially the older we all get.

So there's a lot of different situations there that are mostly attributed to the weather and they've had some problems with all 3-areas so that's kind of where we've gotten into these redesigns. And a lot of these extra areas that are pushing us over the size, they're not living area, they're protected areas. We've got in all 3-cases we've got a protected area with a garage, a protected area with a back entry that is going to get used mostly if they can park their cars in the garage. There will be a walkway up to that door. And then for their guests that will come and use the front of the house, we want to get this stoop that's there now protected.

So that's a lot of what's going on along with the additions and the new construction of the garage. We're going to reside the house, we're going to put new vinyl replacement windows in that will be more energy efficient; try and blend everything together. The construction hopefully will be all integrated and look like you know, it was there. So I think that the main concern is safety and that's what's we're pursuing here. Unfortunately, we've got some situations that are creating the need for these Variances so that's why we're here. If I can answer any questions about construction, I'd be glad to.

CHAIRMAN HODOM: Steve the 8-foot wide storage area - - let me ask you this questions first, the size of the garage and including the storage area, is there anyway that can be reduced down in size?

MR. BOLDUC: The garage itself is pretty minimal; it's a 20 by 20 garage. For a 2-car garage is – I wouldn't think it would make any sense to make it any less than that. The storage area, I don't think it's excessive, you know it's a small area along with that but that's something I think Liz would have to answer to you. I know their basement is not great for storage it's damp and I think that's part of the reason why they like to get a storage area outside. They don't have the ability to add a detached building for their lawn mower or snow blower, so I think by the time they put a few items in there it's not going

to be excessive in added space. But again I can't answer what they're going to store other than lawn equipment.

CHAIRMAN HODOM: Ms. Hogan, perhaps you could address that question. The storage area, which is approximately 8 by 15, what items were you considering storing in that area?

MS. HOGAN: Part of the reason why I really need a storage area that's at that level is there is no attic in our house and we have a musty basement where as we speak, we're running a dehumidifier so it's very difficult. We have very little closet space. I've had three-knee surgery's, which makes it difficult for me to at times get up and down stairs especially holding anything. So what I'm looking for is a place to store things from the house, the lawn mower, the snow blower, garden equipment and that kind of thing. But probably also household things, you know the Christmas decorations and things like that where I would have easy access to without trying to carry them to the basement. Problematic of course in the basement is the musty issue, so I really have very little storage in the house. And I felt that a storage space of the size that Steve drew on the plans would probably address the needs that we have to store.

CHAIRMAN HODOM: Have you had an opportunity discuss this proposed or these proposed changes with your neighbors?

MS. HOGAN: Yes I have. As a matter of fact - - well I had discussed them with some of my neighbors in the period since I first talked to Steve and we started talking about making renovations. Since my neighbors got the notice of this Board meeting, the neighbors in my immediate area, the people on the sides of me, people across the street and my direct neighbor behind me have made it a point to come over to us and tell us that they thought that it was going to be just wonderful and if we needed any kind of letters to the Board, they would be happy to provide them. I didn't ask them to do that, but I could do that if it's something that you want. My neighbors have expressed an interest in having this done; they think it's going to look terrific, and they seem to be very happy and very supportive of it.

CHAIRMAN HODOM: Do you think after discussing it with your contractor that any of these areas could be reduced in size and still meet the needs that you're affecting?

MS. HOGAN: I certainly would have to say yes; they could be reduced in size. It's certainly not impossible to do that if the Board refuses to allow us to build as we proposed. I feel that the amount that we are over on the allowable square footage you know, it is minimal and certainly we could reduce it if we had to. I would like not to and, you know I ask the Board to allow us to build as we proposed because I really think that the amount of storage space that I will get really will be utilized fully. It's not going to be a space that's going to sit empty. And the garage itself, we have a van that is - I think it's in excess of 18-feet long so we're having - you know, it's pretty big. We have another vehicle so the 20 - I think it was a 20 by 20-foot garage that was proposed is really tight. It's really going to be a tight situation as it is. I think that the dimensions of the entire

garage are you know, we tried to keep them - - we tried to keep the whole project that we had proposed, the way Steve drew the plans, we really tried to present it aesthetically and not wastefully. So I think that if I'm unable to build, you know as we proposed you know, we'll have to cut it back. But I'd like to tell you that the amount of space that we requested will be utilized fully, it's not going to be a wasted space.

CHAIRMAN HODOM: How long have you lived at the premises?

MS. HOGAN: Since 1991.

MR. BROOKINS: How many in the household?

MS. HOGAN: There are two of us.

CHAIRMAN HODOM: And the number of vehicles?

MS. HOGAN: We have 2-vehicles.

CHAIRMAN HODOM: 2-vehicles?

MS. HOGAN: Yes, well actually we have three. I'm hoping we'll have two soon, but right now we have three.

CHAIRMAN HODOM: Steve maybe you can go over some of the architectural features of what you're proposing to do to the existing home and also to the proposed garage addition and the addition to the house.

MR. BOLDOC: Okay. Well I'll start with the front porch, right now there's a stoop there that's got a couple of steps, it's masonry. We intend to veneer the sides and risers on the steps with brick and then put stone treads on and it will be either a blue stone or a limestone tread. So it's going to look a lot nicer than it does now and then construct the - - the little over hang over it, directly over the stoop. As you can see we're going to have the column come down on the stoop with the new treads and then the roof will be a matching pitch to the dormers. It's a vinyl railing system called perm-a-rail, it's a nice quality railing that we've been using that doesn't need any maintenance so it holds up to weather.

And then the column also is a - it's called a fiber classic column. It's a maintenance free column; you just have to paint it. But it won't rot, it's not wood it's actually fiberglass. And then the fascia work and the siding will be, well actually the whole front facades going to get changed, but it'll match. So it'll all be vinyl and aluminum, so maintenance free façade there. Same thing goes with the addition to the rear, same type of idea here with a covered entry, which is just project out from this mudroom area here will have columns again, and matching roof pitches here that would be sided in vinyl.

The - - as you come in the door here, which would carry out to the new garage will be a mudroom with a closet. The step up here to the living area, which will match the elevation of the house because right now it's several steps up right up into the back entry now, so we're trying to minimize the steps all at once so we're breaking it up a little bit here so there will be little easier transition from the yard to the house.

The back wall of the kitchen is going to be removed to open up into this area here of the addition, which is going to be a dining and a sitting area. There'll be a lot of natural light here, interior is going to carry and be sheet rocked. Basically, it'll try and blend with what's there. That's pretty much it I guess for that. It'll be on a crawl space addition, it's not going to have a full foundation you know, there's no need to put in storage down there because Liz say's it's damp now so we don't want to compound the problem. That's pretty much it for the addition, we did put in a little gable window up here, it's going to have a cathedral ceiling to give it a little more feeling of space.

The garage is just general 2 by 4 construction, one door for ease of entrance. There'll be a pull off as you can see on the site plan. There's going to be a little pull off on to the left of the garage there, so they can back out and drive out forward so they don't have to back all the way out the driveway, which is going to be quite a ways back. We positioned the garage to be not right on the 2-foot setback that's required, we've made it...

UNIDENTIFIED WOMAN: I'm sorry to interrupt you, excuse me...

CHAIRMAN HODOM: This is the Zoning Board of Appeals.

UNIDENTIFIED WOMAN: Board of Appeals, yes. Thank you.

MR. BOLDUC: So we pulled it in a little bit so they can maintain the areas behind the garage and get a lawn mower back through there. The garage again, we put in the storage area that we've discussed and then this covered entry here again, for protection from the snow and ice so they're not constantly getting problems building up there in the winter. When they want to go into the garage, they can get out of the weather. That's pretty much it, I guess. I don't know if I can, you know all the...

CHAIRMAN HODOM: And maybe you can't answer, maybe Ms. Hogan again, would - the area that's being demolished which has that shed roof on it, what was that being used for?

MS. HOGAN: It's a porch in the summer we, you know sit out there; we store things out there. It's been part of our kitchen because we keep the door open, but what we're trying to do now - there's actually a wall there. So what we're trying to do now is take that wall down so that it's a more open space. Actually get rid of the wall and allow more light into the kitchen. We've had a lot of problems, whoever put that particular part of the house on, the pitch of the roof is really, really difficult. And we've had, especially this winter I mean, Charles was up there with the, you know the heating gun because we were having

such leaks, because we can't - - I guess it's the pitch from what Steve said. It's just been terrible.

And the other problem that we have is that roof, the side entry to my house – part of the steps are uncovered and there's a terrible drip through there so we get the ice build up on the side porch, on the side steps. So both entries to our house have been extremely problematic and the worse the winter, the worse it is. It's crazy, I mean it's to point of being dangerous, I mean we've had horrible icicles and the house at 63 Burhans - - Actually when I approached Steve I was looking, because I didn't realize all the setback issues. I was looking to put a little porch on the front, actually across the front of my property and, you know he raised the issue of it being a setback problem. So actually what he proposed is what the house next door to us has, which is the exact same and the exact same site and they have this, which is what he advised us to go with which is what we did go with.

CHAIRMAN HODOM: The existing dining room that you show on the plan, will that remain as a dining room or are you changing that area?

MS. HOGAN: I think the dining room...

MR. BOLDUC: Here.

MS. HOGAN: Yeah, I think - - actually I think that's an error on the plan because I think that room is a little study, small office – I use it as a little office. We have our computer in there. When my mom was ill and living with us, we had it as a bedroom for her on the first floor. So that's - - we have our computer in there, we do have a dining room and a living room on that floor and a half bath. We will continue to use those rooms also.

CHAIRMAN HODOM: You do have a dining room off the existing kitchen?

MS. HOGAN: Yes.

CHAIRMAN HODOM: Which would be below it?

MS. HOGAN: It's to the front of the house, correct. It's on the left side as you look at the house.

MR. BROOKINS: In front of the kitchen, right?

MS. HOGAN: Yes, toward the street.

CHAIRMAN HODOM: So the proposed dining area is more for...

MS. HOGAN: Well we want to put a table out there. I don't have a table in the kitchen we have a breakfast bar. And, you know it's high and we have 2-stools that we have to sit at and I've had some medical issues with my back and it's becoming more difficult for

me to sit at that level. So I need to – what I want to put is a small table that we can use everyday that is right there pretty much in the kitchen. So what we propose to do in the new space is have a table and chairs and we'll probably have a TV and a few, you know recliners out there, use it basically as a living space. It's become problematic for me to sit at that - - in our kitchen because of the height of that and just the pressure it puts on my back. So I would like to have a small everyday area to eat at, and that's what we propose doing in that space.

CHAIRMAN HODOM: Any questions from the other Board members?

MR. WIGGAND: Ms. Hogan?

MS. HOGAN: Yes.

MR. WIGGAND: That structure on the back of the house was that there when you moved in the house?

MS. HOGAN: Yes, it was.

MR. WIGGAND: And it was not something that you built later?

MS. HOGAN: No, I did not.

MR. WIGGAND: Okay, because that appears to be on a deck.

MR. BOLDUC: Yeah.

MR. WIGGAND: A deck that was enclosed.

MR. BOLDUC: Yeah, it's ¾.

MR. WIGGAND: There's no foundation under that, just piers maybe?

MR. BOLDUC: No that would never meet the Energy Code for the construction codes today.

MR. WIGGAND: So now it's your intent to take that whole deck right off and everything right down to the ground and start over?

MR. BOLDUC: Correct.

MR. WIGGAND: You're going to put a crawl space and footings and foundation?

MR. BOLDUC: Yeah, a condition for crawl space.

MS. HOGAN: Yeah, that porch - - that area out there is very you know, when you close

that back door if the wind takes that door, that whole area back there feels very unstable. So we're very anxious to do something with that.

MR. BOLDUC: I was able to get the roof pitch that's here to get it steeper so that we could not have such problems that are here now with the flat roof. By stepping this down with the shed roof here we're able to get more pitch out of it.

MR. WIGGAND: I kind of gathered that's why you did that.

MR. BOLDUC: Yeah, just to get a little more roof pitch out of it and again we were able to clear the window that's in the bathroom upstairs there with this roof pitch, so we've got some pretty good pitches there to deter the water.

MR. WIGGAND: Now that structure that's against the house, it's attached to the garage presently.

MS. HOGAN: It's attached on the outside; it abuts it I guess. Is that what it does Steve?

MR. BOLDUC: I think it was two-separate jobs.

MR. WIGGAND: Two separate jobs for that. Was that garage an Alaskan slab type thing?

MR. BOLDUC: You know, I'm not sure of that whether it's on a slab or....

MR. WIGGAND: Because that would create some kind of movement there. You probably had some movement in that deck in the back in cold weather when that driveway froze. It appeared to me that you might have had a little problem there.

MS. HOGAN: We've had lots of problems and also...

MR. WIGGAND: That's all going to come off anyway.

MR. BOLDUC: Everything, yeah. The whole garage right back to the main house there.

MS. HOGAN: We have a problem with the slope in our driveway to. Whoever put that in didn't slope it – it slopes down into the garage so every time it rains we have all kinds of ...

MR. WIGGAND: But the garage totally comes down.

MS. HOGAN: Yes.

MR. WIGGAND: I think that's a good idea.

MR. BOLDUC: I think if I'm not mistaken Mark, is the garage in violation now with the

side yard setback?

MR. PLATEL: I don't believe so.

MR. WIGGAND: I would have been years ago, because now it seems to be attached to the house.

MR. PLATEL: Oh yeah, it is.

MR. BOLDUC: It is?

MR. PLATEL: It shows at 7, it would have to be 10. It's just like the front setback, when these houses were built I don't think the requirements were the same when they were built. All these houses over here are about the same setback, so I believe they were probably 25 at the time when they were built then they got changed to a "AA" Zone.

MR. MOODY: Well the original garage, excuse me, but the original was...

CHAIRMAN HODOM: Sir?

MR. MOODY: What we proposed to build now.

CHAIRMAN HODOM: Will you introduce yourself please?

MR. MOODY: Yeah, I'm Chuck Moody, Elizabeth's husband and we said the garage that's there now is what we had, but when I spoke to the neighbor behind us, Mr. Pat who's been there for many many years. He asked us where the new garage was proposing to be and I told him, he said well it's where the old garage was and I said yes, it's where the old garage was, which is what is 63 where they have their garage now, basically the same thing. And another thing about the back porch, it isn't heated. It was just built and there was like I think a concrete block or a stone that they put the foundation on when they built it and it was – you go out and you smell stuff and it was the rotting wood so I had to replace that just to keep the porch from falling down.

CHAIRMAN HODOM: So that's more like a 3-season room currently?

MS. HOGAN: Yeah, in the real cold weather it's you know, you can't be out there, but yeah. But definitely we had to have someone come in and put new I think it was metal post because when he looked under there he said the whole thing was sitting on like a post that was rotting and so we had it shored up. We just couldn't afford to tear this whole thing apart at that point so we had it shored up the best we could, but it's definitely not a permanent solution. We have tried in working with Steve and you know he's presented wonderful plans. We've tried very hard to - - the whole project to be a very ascetically pleasing for the neighborhood, and you know, to maximize the needs that we have – that this would meet them and you know, I think the neighbors as I said are very, very supportive. Should you wish, I'll be happy to provide you with any letters or

anything from them.

CHAIRMAN HODOM: Thank you.

MR. WIGGAND: Steve I had another question for you. Are planning on building that this fall?

MR. BOLDUC: Yes.

MR. WIGGAND: You are? So you'd like to get going on it?

MR. BOLDUC: As quickly as we can I guess, yeah. I'm starting to see the colors turning and I get nervous when we see that.

CHAIRMAN HODOM: Any questions or comments from the audience? Anyone wishing to speak in favors of the Applicant? Anyone desiring to speak in opposition? Hearing no further questions or comments, we'll declare the hearing closed and we'll notify you in a timely manner. Thank you very much.

MS. HOGAN: Thank you.

Hearing closed 8:00 p.m.

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The next order of business this evening is a public hearing for Special Exception under Article VI, Permitted Uses, Section 128-12 B (1), Public Utility and Chapter 113-4 A (1), Alternative Tower Sites, requested by AT & T Wireless for property at 308 Kenwood Avenue, Delmar, New York. The Applicant wishes to install a communication antenna on an existing water tank.

CHAIRMAN HODOM: Mr. Platel, please give us the reason for the hearing.

MR. PLATEL: Yes, Mr. Chairman. The Applicant is proposing to install up to 3-antennas on the existing water tower and also install 2-equipment shelters on a 6-foot by 10-foot concrete pad. The water tower is located in an "A" Residence Zone.

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, please read the official call of the hearing.

Notice of Public Hearing. Notice is hereby given that the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a public hearing on Wednesday, September 17, 2003 at 7:45 p.m. at the Town Offices, 445 Delaware Avenue, Delmar, New York to take action on application of AT & T Wireless PCS LLC, 15 East Midland Avenue, Paramus, New Jersey for Special Exception under Article VI, Permitted Uses, Section 128-12 B (1), Public Utility and Chapter 113-4 A (1), Alternative Tower Sites of

the Code of the Town of Bethlehem to install a communication antenna on an existing water tower at premises 308 Kenwood Avenue, Delmar, New York 12054 Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the September 10, 2003 edition of the Spotlight, official paper of the Town of Bethlehem. All persons listed in the petition as owning property within 200 feet of the premises in question were notified by mail at least five days prior to this hearing.

CHAIRMAN HODOM: Thank you, Karen. We'll use the same procedure that we used earlier this evening. We'll hear the Applicants presentation; we'll entertain any questions or comments from the audience; we'll hear anyone wishing to speak in favor of the Applicant and anyone desiring to speak in opposition. All questions or comments should be directed to the Board. If you would, just introduce yourself to us and your association with the Applicant.

MR. DIMITROFF: Certainly. Thank you Mr. Chairman, members of the Board and other Town Officials. My name is Doug Dimitroff. I'm an attorney with Phillips, Lytle; law firm with offices throughout the State and we've been assisting AT & T on their build out of a network – a new network for them in the Albany area. With me tonight are two other representatives of AT & T wireless, including Sophia Buckley who's a RF or Radio Frequency Engineer on the project and Erin McCabe who is a site acquisition specialist. So depending on what questions there may be, we'll direct those to the appropriate ladies if I'm not the appropriate person.

As was indicated in the opening, we seek approval from the ZBA tonight to collocate up to 3-panel antennas and related equipment on the existing Delmar water tower located at 308 Kenwood Avenue. The proposal involves adding 1-antenna on each of three different what we refer to as pipe mounts, which are basically extensions that are going to be mounted to the base of the tower portion or the tank portion of the water tower. The top of the water tank is approximately 167-feet and the centerline of AT & T's antennas would be about 160-feet. The antennas themselves are about 4 ½ or 5-feet tall, maybe 5-inches wide so they're about this tall. That means in effect that the antennas themselves will not extend above the height of the existing water tower.

As also was indicated in the reasons that my building department representative identified; AT & T proposes to install up to 2-equipment cabinets, which would be connected with cabling. The cabinets are basically refrigerator size or actually a little smaller than a refrigerator. They'd be mounted or placed on a concrete pad measuring 6 by 10-feet. They'd be located behind one of the tower tank legs. The cabling would run up the side of the tank leg, if you will I think consistent with or similar to some of the other carriers.

There are in fact three other carriers, as I understand on this water tank so I presume the Board has probably seen this sort of application on this particular water tower in the past. All of what I describe in terms of the installation are specifically shown on the construction drawings, which are provided under Exhibit A of our letter of intent dated August 27th and which was forwarded to Town on that date.

The letter of intent also includes various other exhibits and they are the - - a copy of the FCC license for AT & T for this market. Our radio frequency propagation plots, which identify the need of the area of coverage that AT & T to gain from this particular site. A redacted copy of the lease between AT & T and the Town of Bethlehem Water District, who's the owner of the tank. A long form Environmental Assessment Form and a visual addendum, copies of the completed Town Application form, a letter dated June 5, 2003 from Paul J. Ford Structural Engineers confirming that the proposed load relating to AT & T's equipment will have a negligible effect on the main load carrying members, that is the legs of the water tower. Also photo simulations of the water tower showing AT & T's proposed antennas or how they would look with the pipe mounts as described and a draft SEQRA negative declaration for your use if you so chose to move forward with the negative declaration. So, hopefully that gives you a little bit of an overview, we're happy to answer any questions you have now.

CHAIRMAN HODOM: Mr. Dimitroff the coaxial cable, there seems a conflict between your plans, drawing CO2 and CO6, which indicate that there are 12-coaxial cables.

MR. DIMITROFF: Right.

CHAIRMAN HODOM: And in your structural report, which is exhibit G only refers to 6-coaxial cables. Can you explain that for us?

MR. DIMITROFF: Yeah, exactly in fact we've got a clarification for you, it is 6, not 12. The typical installation is 12, but we clarified in fact Ms. McCabe had a direct conversation with the engineers and clarified that we looking for only 6-cables, not 12. And so that reference on page CO2 is simply an error from the STV Inc., the firm that drafted the cable or the CD's.

CHAIRMAN HODOM: So would you then provide this Board with a corrected document?

MR. DIMITROFF: Absolutely.

CHAIRMAN HODOM: Showing 6.

MR. DIMITROFF: Yeah, but we've already asked for that to be corrected.

CHAIRMAN HODOM: The other question is, is the location of the 3-antenna on the tower where your structural report refers it being located in sectors 0-degrees, 120-degrees, 180-degrees and I believe your plans show it being at 30-degrees, 150-degrees and 270-degrees. Which in fact could be different with a wind loading if there is a problem?

MR. DIMITROFF: Actually we just saw that as we were sitting here earlier and I clarified with – and I'll ask the question directly to the RF Engineer who can answer the

question with respect to which is the correct configuration. So why don't Sophia, you just confirm the proper...

MS. BUCKLEY: It will be 30, 150, 270.

CHAIRMAN HODOM: Introduce yourself and your association please.

MS. BUCKLEY: Sophia Buckley, RF Engineer – low talker. It's going to be 30, 150, 270.

CHAIRMAN HODOM: 30, 150 and 270?

MS. BUCKLEY: Yes.

CHAIRMAN HODOM: Okay, thank you.

MR. DIMITROFF: And just to pick up on your point Mr. Chairman, we can get clarification from the Paul Ford Company that that will not impact in a mature way on it's loading. I'm quite confident that's the case, but we'll certainly be able to provide with that in writing.

CHAIRMAN HODOM: Okay. The Board will need a clarification of that. I also think that this Board and I think the other members will join in my statement that there was no structural analysis made of the tower based on the addition of the antennae to the tower. There's been an assumption made based on the negligible weight of the antennae and the coaxial cable and so forth. We have in the past required a structural analysis that confirms that there is no detrimental effect to the tower for the addition of these antennae. I think that's what we're looking for from you folks to provide, not something that's in general terms that we don't think it's going to be a problem. We want to know that it's not going to be a problem.

MR. DIMITROFF: Yeah, it's a relatively standard – maybe the Building Department representative can confirm this or deny it if it's not true, but in my experience those types of analysis are relatively standard. I think at this point if the Board insists you know we can go back to Ford and ask them to do a slightly different analysis. So I guess what I'm suggesting is I'll check with the client, I don't think it's going to be problem.

CHAIRMAN HODOM: Okay, because they do not look at the pipe stand attachment either, which we would like to make sure that the design is adequate for this installation.

MR. DIMITROFF: Right. And certainly with respect to that issue, part of the discussion I think Erin had with the STV, Inc. engineer about the first issue you mentioned, which is the discrepancy is it 12 or 6 – asked the question about the design because the Paul Ford Company mentioned that specifically that it needs to be designed properly. And their answer was, and they will confirm it in writing but it's indirectly already confirmed because they've stamped the drawings, but they will confirm in writing that indeed the

design is consistent with what Ford is suggesting. But I see that's it's a question that's all sort of tied together from your prospective so I think we can have that addressed.

CHAIRMAN HODOM: Okay. We would be looking for that before we made any final decision on the matter.

MR. DIMITROFF: Can I ask one question, I'm sorry before I forget the thought. You mentioned that you have been provided structural's before. Is it on this tank? And if that's the case, can we get those because that may be of value to the company that's going to do the structural; whatever's been done in the past.

CHAIRMAN HODOM: It's in the record; it's public record so...

ATTORNEY SEELY: You certainly would be free to get it; follow whatever formalities that have to be done as far as Foil's are concerned, but I'm quite sure that since there are antennas up there, there would be an existing...

MR. DIMITROFF: We'll do that, they just want to add - - because that's a question I suspect they might ask me you know, is there something existing. I'm sorry.

MR. LEWIS: That's quite all right. You mentioned other co locators on the structure, I have four checked and I may be wrong because - - I'll tell you what I have. I have Omni - Point is there, Nextel is there, and LCC Inter/xm radio and I have also Divine Tower Intercorp and then I have a withdrawn in parenthesis and I have a slash through it. This is a document furnished to us 2-years ago, telecommunications in the Town of Bethlehem as of 08/01/01. I don't believe there have been any other co locator's on the water tank. I'm trying to find out if we have 3 or 4 up there now and I wondered if you would know because as I say I have four check marks but I have a withdrawn and a line through it, which leads me to believe that the Divine Tower people were going to withdraw and decided not to. There may be four up there, one being an XM radio antenna.

MR. DIMITROFF: Yeah, I don't know but let me refer that question to Erin or both Erin and Sophia. Have you gotten any clarification on who else is up there?

MS. MCCABE: Probably IWO.

MR. DIMITROFF: Do you want to identify yourself for that.

MS. MCCABE: My name is Erin McCabe and I'm a consultant with General Dynamics. I believe IWO, Independent Wireless One is on the tank as well as Omni Point, Nextel, LCC, and I believe Devine - you would be correct in saying that they withdrew because I think they were looking at maybe Cirrus Radio. I'm not really certain of the - IWO, LCC, and Nextel.

MR. LEWIS: Okay, so Omni, Nextel, Independent Wireless and LCC are up there?

MS. MCCABE: Yeah, that's what I believe yes. And if you look at the drawings I believe they've got them set out on the equipment on here showing and that's on E01.

MR. LEWIS: Do you have any idea of how many of these antennas – this structure is capable of handling? I mean are we getting pretty much the end of it?

MS MCCABE: When I had spoken to Ron Crompt from STV this afternoon, he had indicated that the structurals on a water tank are very different than say a tower because of the way they do the wind loading and the ice he said so water tanks structurally can take a lot more antennas but as far as, I mean I don't personally know how many the total would take to go on there and again it would depend on the size and you know the type of antenna and coax you were running. But again to, I don't know the total number, no.

MR. DIMITROFF: My suspicion Mr. Lewis is that the information that the chairman asked about, additional structure will provide that answer.

MR. LEWIS: Yeah, I was just going to say that's why the chairman has asked for this because with four others up there, we'd like to know will yours fit and not put the structure in danger?

MR. DIMITROFF: Yeah and I think the discussion that I was involved with Erin and the STV folks today made me pretty comfortable that given these towers and the way they're designed you know, this should not be any issue but I understand the question and we'll make sure that you know, further investigation is done to confirm. So just again, just from my gut reaction based on the conversation, the engineers didn't think this is at all a problem; the addition of the AT & T equipment, but we'll get more information.

MR. BROOKINS: Approximately how much do these panel antennas weigh?

MR. DIMITROFF: Sophia, you can correct me but I think I've heard very recently that the AT & T kind of style is about 20 pounds. Is that true?

MS. BUCKLEY: That was going to be my guess.

MR. BROOKINS: And the piping...

CHAIRMAN HODOM: Sophia, could you just sit up in the front here because you speak so lightly, just like I am.

MS. BUCKLEY: I get that all the time. The piping I think would just be a standard hollow pipe mount, but I'm not sure of the weight; steel hollow pipe.

MR. DIMITROFF: We can find out the weight.

MS. BUCKLEY: Yeah, the structural would reveal all that.

ATTORNEY SEELY: Right we're just looking for the total weight. We know we've got 60 pounds between 3-antennas and whatever else, the wiring and poles, etc.

CHAIRMAN HODOM: But that's also part of the structural analysis that should be mentioned in the letter saying that those have all been including in the analysis and there's no detrimental effect to the tower. Perhaps Sophia you could go over or discuss the radio frequency propagation plots with us and tell us why the tower's need in this location – or why the antennas are needed in this location; what the benefits are.

MS. BUCKLEY: Okay. I've brought larger plots if you want me to put them up on the Board.

CHAIRMAN HODOM: Sure, please.

MS. BUCKLEY: This plot shows the AT & T coverage without the proposed site, without the water tank site. Basically what this drawing is showing is 3-levels of coverage. The gray represents an on-street level where you can make a cell phone call if you were outside of a building on the street, outside of your car. The green represents a level where you could make a call in your car and traveling on the highway, you could easily make a call. And the blue shade represents an in-building coverage, which would be obviously in buildings you could make a call and sustain a call. This is the village of Delmar without the water tank. You could see that we would have on-street coverage, but we wouldn't have in-vehicle or in-building coverage. This part shows with the water tank, you would have in-building coverage for the Delmar area, which is where the population is centered and where the shopping centers are and where most of the people will be making calls.

CHAIRMAN HODOM: Will there be a need by AT & T to co-locate in other locations within the Town to pick up coverage?

MS. BUCKLEY: There are two other locations in the Town that we've already applied for and been approved for. There shown in the southwest corner and this side along 87. This is the outline of Bethlehem right there.

CHAIRMAN HODOM: So this basically would complete your coverage within the Town?

MS. BUCKLEY: Yes.

CHAIRMAN HODOM: This co-location on the water tower?

MR. DIMITROFF: Under this design I will say we never like to say never. This is an initial design for AT & T as I mentioned before, they don't have coverage in this area. And it is possible, there could be additional sought by AT & T depending on the use of the network. They may need to add antennas or locations, but there are no plans currently for additional sites so if we come back it would be because they decided that based on the

launch of the network that they have needs elsewhere within the Town. This is it for now.

CHAIRMAN HODOM: And is it my understanding that it's AT & T philosophy to use co-location as a primary source?

MR. DIMITROFF: Absolutely, in fact within this design I think 98 percent of the sites are co-locations. They aggressively pursue co-locations because Towns such as Bethlehem prefer it.

ATTORNEY SEELY: Are you indicating then that that portion – I think it's still within the Town that gets down near the legend, which currently shows the lowest level of coverage will remain that way?

MS. BUCKLEY: Yes.

ATTORNEY SEELY: Does that include a stretch of the thruway down there?

MS. BUCKLEY: It includes probably about a quarter mile to a half-mile gap on the thruway.

MR. DIMITROFF: Do you want to just point out where you're...

MS. BUCKLEY: Right there. But the levels are such that someone speeding along on the highway, I don't think you'd drop a call. There are no co-location opportunities in this area at this time so we wouldn't put site there.

MR. LEWIS: You furnished us with an Environmental Assessment Form, part 2, project impact and their magnitude. Could you very briefly give us a run down of things like any impact that these antennas would have on environmental areas, energy noise and odor, public health, growth and character of the neighborhood.

MS. BUCKLEY: Do you want to speak to that or - -

MR. DIMITROFF: Sure, I'll probably come back to you on part of this. In terms of noise, the equipment is located on the ground is extremely quiet. There are air conditioning units within the cabinets themselves, but those are ambient level. It's probably not much more than a room air conditioner. In fact the equipment shelter – it's already there it would be probably be much greater in terms of the noise that's generated and this would not add to it unless we were you know, among those air conditioning units at times when the others weren't. It's just highly unlikely because they are all trying to air condition roughly at the same temperature; the temperature is going to be the same. In terms of any other environmental impacts, there really aren't any. I'll ask Sophia to talk a little bit about the radio frequency emissions, but beyond that you know, there's no significant use of electric system. The electric is already there at the site, it's a basically a 220-line; a level of electricity is required. There isn't any impact on the utility needs if you will, and lead the connect as well to the landline system; the telephone land line

system. Then again that's already there because the other carriers have their equipment there as well. Frankly, the only other impact that I believe could be considered would be the visual impact. We've identified or included rather under tab- H a photo simulation of how the pipe mounts would look, the first photograph under exhibit H is the water tank as it exists and the second photograph is the proposed pipe mounts with AT & T antennas identified or located on it. From my prospective and I would suggest to the Board that the visual impact of the 3-little antennas, which are roughly 4 ½ -5-feet tall and a few inches wide is extremely minimal, insignificant.

MR. LEWIS: I also ask you two if would the stress, the impact of public health because A) of the proximity of the tower to a school and the fact that we have 4 of these co-locators on and at what point does do we get a public health impact from the radio activity out of all of these.

MR. DIMITROFF: Right, and that's really the question I was going to ask Sophia to answer – go ahead.

MS. BUCKLEY: I did do a maximum permissible exposure study for this thing and basically what that is, is the FCC's limit for our frequency are 1900 PCS band is 1-milowatt per centimeter square. So I've conducted a rough study, when I say rough I don't mean inaccurate I mean greatly exaggerated. In my study I proposed that the antennas are facing straight down so that we don't take any antenna patterns into consideration so the maximum beam of the antenna is facing straight down. The exposure limit for a person standing at the base of the tower was 15 percent of that 1-milowatt per Centimeter Square.

CHAIRMAN HODOM: So what you're saying is there is no health hazard?

MS. BUCKLEY: No, well it's 15 percent of what the FCC has set before as it's guide line.

MR. LEWIS: Is that yours or the combined?

MS. BUCKLEY: Combined.

MR. LEWIS: It's the combined?

MS. BUCKLEY: It is.

MR. LEWIS: I thought that's what you said for the people in the audience who might be interested I wanted them to be clear.

MR. BROOKINS: The FCC has set a threshold of presumed safety and you're factoring in all of the installations at an abnormal angle and they combined only – they reach only 15 percent of the Fed's minimum threshold?

MS. BUCKLEY: Yes.

MR. BROOKINS: Okay.

MR. LEWIS: Sophia let me ask you one other question. In the course of the – since the coming on the scene of wireless communication, to your knowledge has there been observed any detrimental effect on public health of individuals of living near by any of these towers, co location spots or - -

MS. BUCKLEY: There has not.

MR. LEWIS: Thank you.

MR. BROOKINS: It would be safe to assume also that your original project with maximum downward focal as the antennas are displayed in their normal operating procedure, the exposure is much less?

MS. BUCKLEY: Yes, probably about half.

MR. DIMITROFF: Is that half of the same distance away from - -

MS. BUCKLEY: Yes, directly under the water tank.

MR. BROOKINS: And then it certainly dissipates out as you move into - -

MS. BUCKLEY: Yes.

MR. DIMITROFF: Do you want to explain the formula for how far – how the emission drops, percentage –

MS. BUCKLEY: It's basically an inverse square law, which follows - - any wave follows this law and so every foot you move about - - it's about 10,000 times less.

MR. DIMITROFF: So if the maximum exposure is right in front of the antenna, as you go out every foot the exposure, the length of level of radio frequency emissions drops 10,000 times.

MRS. O'BRIEN: A question about the noise level, this is assuming everything as it is now would be electricity being supplied on site and your thinking in terms of some of the discussions after the recent blackout. Does AT & T have anything in the works as far as putting some kind of back up generators to continue their service?

MR. DIMITROFF: AT & T does not use back up generators as some of the carriers do. The equipment cabinets that they use have back up – battery back up power. Do you recall how many towers that's - -

MS. BUCKLEY: I believe it's two, but I'm not 100 percent sure.

MRS. O'BRIEN: Yeah, that's where the service fell down is you know - - you do have a back up battery power but your not in any way shape or form planning on putting any kind of back up generator?

MR. DIMITROFF: All I can say is that I certainly haven't been advised that they're looking to do that. They have not in any of the installations, and we've been involved in 100's around the State over the last couple of years, they've never installed a power generator. And I am aware that some of the carriers or at least one or two of them do do that on occasion or maybe even frequently, but I'm not aware that AT & T has any desire to do that or any intention.

MRS. O'BRIEN: Because that noise level would be certainly something that we would want to consider in approving these things.

CHAIRMAN HODOM: Can you and I don't know if want to get into this Sophia or Doug, go over the color of the panels? Are they white?

MR. DIMITROFF: I think the intent is to match them to the color of the water tank to be green or green blue.

CHAIRMAN HODOM: Okay.

MR. DIMITROFF: As I believe the others are, so we would do the same thing.

CHAIRMAN HODOM: And the - - your equipment at grad level, will that also match the surrounding equipment on the premises?

MR. DIMITROFF: I actually have not - - I've only photos, I've haven't been to the site but Erin, you can help me with that the equipment - I'm not sure what typically or I've never seen us paint the equipment cabinets but they're basically a silver color, steel color. I suspect the other equipment is the same.

MS. MCCABE: Yeah, I think they're all pretty much the same, or maybe the shelter would be a different color but it would be all pretty much same.

CHAIRMAN HODOM: Okay, the cabinets are metal cabinets?

MS. MCCABE: Yes.

CHAIRMAN HODOM: You're not proposing the shelter?

MS. MCCABE: No.

CHAIRMAN HODOM: Okay. And the color of your metal cabinets are?

MS. MCCABE: I believe it's light gray.

MR. DIMITROFF: It's similar to the cover of that outlet.

CHAIRMAN HODOM: Okay. And I believe the other equipment down there is very similar to that.

MR. DIMITROFF: I've seen that the Nextel – from the photo's I've seen, the Nextel cabinets look identical. And as I'm thinking about it, Sophia you've been to thousands of sites, any different colors that you've seen?

MS. BUCKLEY: No, it usually ranges from a silver to like a beige color. I know Omni Point uses a beige.

CHAIRMAN HODOM: As long as there is consistency. I don't want yours to be purple when the other one's are silver or beige.

MR. DIMITROFF: I'll verify the color.

CHAIRMAN HODOM: Okay.

MR. DIMITROFF: Well check on that. But if the others are hot pink, do you want us to go hot pink?

ATTORNEY SEELY: Absolutely.

CHAIRMAN HODOM: Absolutely. We want to be consistent.

MR. LEWIS: We might even get out and paint them this color so you'd have to.

CHAIRMAN HODOM: Any other questions from the Board?

MR. BROOKINS: I'll just ask, these - - you're not using any exterior lighting on these so there won't be any night glare or off site lighting?

MR. DIMITROFF: No.

CHAIRMAN HODOM: I noticed your lease calls for site availability, 24/7, 365. How often do you examine or maintain your equipment?

MS. BUCKLEY: There's a tech that visits the site about once a month and then there are internal alarms that say if the cabinet door swung open, we could have someone out there that day or if an antenna fell off, that would be picked up by the switch.

CHAIRMAN HODOM: Now you say the alarms, are they – they go through the wire,

they're not a ...

MS. BUCKLEY: Oh yeah, they're not an alarm at the site. They're an alarm in the switch that we would send a tech out to.

MR. DIMITROFF: The switch is the computing center that sort of operates all the systems.

CHAIRMAN HODOM: You have a system monitor?

MS. BUCKLEY: Yes.

MR. DIMITROFF: Right.

CHAIRMAN HODOM: Okay. On your equipment do you have any emergency call numbers or names if there should be a number or something that somebody for AT & T could be contacted?

MR. DIMITROFF: It's called a NOC, or National Operation Center. And I think by law, by FCC regulations are required to post that on every installation so that would be - - it's an 800 number that's posted on the equipment cabinets.

CHAIRMAN HODOM: Are there any questions or comments from the audience?

MR. KELLY: Yeah, I've got a question. I'm Bill Kelly and I live at 307 Kenwood and my question basically is directed not to the radio emissions but more information that I've heard about; electromagnetic fields and I don't know how much coaxials involved with the project but could you speak to that and if there's any even remote possibility of a concern there.

MS. BUCKLEY: I think that the studies that you've heard of are regarding the use of cell phones and their electromagnetic emissions and how closely they are to kept to the head.

MR. KELLY: Right.

MS. BUCKLEY: So that's why cell phone manufacture would recommend using a hands free set just to keep the electromagnetic waves away from your body.

MR. KELLY: Right. I guess my question is will there be any electromagnetic fields generated by - - is there anything being generated right now by these antennas and will there be more with yours added to it?

MS. BUCKLEY: There will be radio propagation and the FCC has set limits for that. It's the one milowatt per centimeter squared that I spoke of earlier.

MR. KELLY: It's the same thing, electromagnetic fields and radio emissions are the same thing?

MS. BUCKLEY: Yes.

MR. KELLY: Okay.

CHAIRMAN HODOM: Mr. Kelly, are you all set?

MR. KELLY: Yes.

MRS. LOMBARDI: Well I would like to know Sophia - - Christine Lombardi. I would like to know Sophia how long have you researched the health effects from this 15 percent or what ever?

MS. BUCKLEY: I've been in the industry for 5-years and I haven't done any research, but I read all the journals and magazines...

MRS. LONBARDI: So you figure maybe – how many years?

MS. BUCKLEY: Five.

MR. DIMITROFF: I think I understand where you're going with the question, and we can provide information frankly and we can provide it to the Board or we can provide it to you. Electromagnetic frequency's or the radio frequency emissions of this sort have been around for decades and I've learned from reading myself and from listening to the health experts who do the research and I've talked to the m directly. We've met with several of them over 7 or 8-years and in effect what the credible studies show, and these are studies that are sponsored by the World Health Organization, FCC, European Union and many other you know, neutral bodies that there is absolutely no evidence and these studies have been going on for decades and there are always studies going on. In fact one of the folks who I can probably get information from is quite recent, is on the committee with the National Institute of Health and he's at Harvard University and he reviews the studies that are submitted on this issue, radio frequency emissions. And he has said repeatedly and I can provide documentation of which he infers this that there is actually no evidence of these types of radio frequency emissions that would impact on health. They can't - - they cannot effect tissue; living tissue.

MRS. LOMBARDI: Well I spoke with three electrical engineers and you know what they tell me? I wish they would come here because a couple of them work for the State, and they said once they complete this sort of a job – I says well how come you're not effected? He says once we completed with and throw that switch, we are gone. But I wouldn't live around that area or I wouldn't put my children in that kind of a situation. This is 3-engineers that you know, talk like that. I know you're probably educated person and all but I wish there somebody that was knowledgeable in that field that could you know, explain this.

MR. DIMITROFF: Well as I say we can get information.

CHAIRMAN HODOM: But I think to help answer your question is that there are regulations, federal regulations that these folks must comply with and I'm sure that studies have been done for many, many years to set the standards...

MRS. LOMBARDI: But we haven't had the phone for many, many years.

CHAIRMAN HODOM: But their requirements are to meet these federal regulations and my understanding and the Boards understanding is that they are meeting these regulations. That's what they're required to do, and I have no idea what your engineers are telling you, but with all the information that the Board has in it's files and records we believe that the installation is safe. We've gone over these things, questions that you've asked them before and we've researched them and all the information that's been proposed to us has stated that it's a safe installation.

MRS. LOMBARDI: Okay. So you're going to give us all guarantees that 20-years from now – I'm not going to be around here...

CHAIRMAN HODOM: There are no guarantees in life.

MRS. LOMBARDI: Well then why would something expose people to something when there is no guarantee.

MR. LEWIS: Because we don't know whether we're doing that.

MRS. LOMBARDI: 20, 15-years from now, you know somebody's going to come up – come down with a you know, nervous disorder or leukemia or some of the things, then what are we going to do?

CHAIRMAN HODOM: I guess we'll have to deal with it then.

ATTORNEY SEELY: We can't – ma'am, we can't speculate. You're giving us hearsay of something somebody told you who isn't here commenting on the proposal that we're looking at.

MRS. LOMBARDI: Well they are electrical engineers, they should know something.

ATTORNEY SEELY: Then they should come before us and present that information, but everything that has been presented to this Board in the past as well as anything that's been written about this topic is that it doesn't present a health risk. We are more than willing to listen to anything that you reported that someone told you. That doesn't give us the kind of information that we need to be able to rely upon.

MRS. LOMBARDI: I'll tell you - you know, you mean parents of the middle school

have been notified and nobodies here, I can't believe this.

ATTORNEY SEELY: Ma'am, I'm one of those parents and I don't have the remotest concern about my children being at that school.

MR. BROOKINS: You're not the first to bring these issues up. These things – this is probably one of the more sensitive areas that the industry is familiar with and it's certainly something that has been heavily monitored by the Federal Government, FCC sets the standards. So this is not something that we're dreaming up as we go along here, there's a huge body of literature on this. There's a huge number of studies. The issues that you've raised have been studied for decades, so we have to trust in something. You raise an excellent point, what if something else happens in 20-years? I'm not sure anybody can prove a negative and so that's very difficult. We have to take some solace and some comfort in what we know and not what we fear.

MRS. LOMBARDI: Why not just put this some place where we're not exposed to you know, I mean – we so close and the middle school is so close. There's gotta be an area where there's no people you know, I mean these - -

MS. BUCKLEY: Well the radius of this site is probably only about 2-miles to cover people where they live and work and congregate. We have to be close to that.

CHAIRMAN HODOM: Well we thank you very much for your concern and we're concerned as well. Is there anyone else that has questions or comments? Anyone wishing to speak in favor of the Applicant, other than those who already have? Does anyone wish to speak in opposition to the Applicant? I'm going to close the hearing Mr. Dimitroff, and I'm going to allow you 10-days to get the data that we requested before we make a final determination.

MR. DIMITROFF: The next meeting is 2-weeks?

CHAIRMAN HODOM: The next meeting will be the first Wednesday in October.

MR. LEWIS: Which is the first of October.

MR. DIMITROFF: I think 10-days should be fine.

CHAIRMAN HODOM: If there's a problem, let Karen know if you would.

MR. DIMITROFF: Okay, I'll do that. But certainly we will do our best to get it in well before that.

MR. BROOKINS: Additionally if possible, I know it's possible. If you could provide us with a short bibliography or citation of some of the studies and it would be helpful if they could be not only from a technical aspect, but anything that be more user friendly from the popular press.

MR. DIMITROFF: Okay.

CHAIRMAN HODOM: Hearing no further questions or comments, we'll declare the hearing closed and we'll notify you in timely manner. Thank you all for attending and have a good evening.

Hearing closed 8:45 p.m.

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The next order of business was to consider the application of William Gregory, 270 Waldemaier Road, Feura Bush, New York. The application was found to be in order and Mr. Lewis made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by William Gregory, 270 Waldenmaier Road, Feura Bush, New York for Use Variance under Article VI, Permitted Uses, Section 128-11, it is hereby ordered that a public hearing on this matter be held October 15, 2003 at 7:45 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mr. Brookins seconded the motion and it was unanimously carried by the Board.

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The next order of business was to consider the application of Francis and Mary Beth Bonafide, 7 Shetland Drive, Delmar, New York. The application was found to be in order and Mr. Lewis made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Francis and Mary Beth Bonafide for Variance under Article XVII, Side Yards, Section 128-73, Required Widths for construction of an attached carport, which will encroach into the side yard setback requirement at premises 7 Shetland Drive, Delmar, New York 12054, it is hereby ordered that a public hearing on this matter be held October 1, 2003 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mr. Wiggand seconded the motion and it was unanimously carried by the Board.

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The next order of business was to consider the application of Steven and June McQuide, 74 Delmar Place, Delmar, New York. The application was found to be in order and Mr. Lewis made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Steven and June McQuide, for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwelling for construction of an addition, which will exceed the percentage of lot occupancy at premises 74 Delmar Place, Delmar, New York, it is hereby ordered that a public hearing on this matter be held October 15, 2003 at 7:30 p.m., at the Town Offices, 445 Delaware Avenue, Delmar for the purpose of hearing all those interested in this matter.

Mrs. O'Brien seconded the motion and it was unanimously carried by the Board.

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The next order of business was a discussion of the previous public hearing held in the matter of Elizabeth Hogan, 61 Burhans Place, Delmar, New York. The following points were brought up by the Board members: The Applicant was seeking three different Variances, all of which are minimal. The design was well thought out, it would alleviate some potential problems with the current shed in the back and also relieve the problems with the ice. On a motion made by Mr. Wiggand, seconded by Mr. Brookins, and unanimously carried by the Board, the Board directed Attorney Seely to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on October 1, 2003.

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The next order of business was to consider the proposed resolution of Independent Wireless One, 15 East Midland Avenue, Paramus, New Jersey.

The following proposed resolution was presented by Attorney Seely for the Board's consideration.

RESOLUTION

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WHEREAS, an application has been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Independent Wireless One Leased Realty Corporation (“Applicant”), for a Special Exception under Article VI, Permitted Uses, Section 128-11 B (1), Public Utility and Chapter 113-4 A(1) Alternative Tower Sites requested by Independence Wireless One for property at the Slingerlands Methodist Church, 1499 New Scotland Road, Slingerlands, New York. The Applicant wishes to install three PCS antennas and related call processing equipment within the church and/or steeple at the premises of 1499 New Scotland Road, Slingerlands, New York, and.

WHEREAS, the Board of Appeals, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on September 3, 2003; and,

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those who desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

BE IT RESOLVED, that the Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicant seeks site plan review under Chapter 113-3(B), Telecommunication Tower Sites, Section 113-4 (A)(1) Alternative Tower Sites to locate three antennas in an existing church steeple at premises 1499 New Scotland Road, Slingerlands, New York

(the applicant originally sought four antennae in its application, but amended the application at the public hearing to conform the application to the structural certification of the engineer).

The Applicant submitted the following in support of its application:

1. A completed application;
2. A completed short environmental assessment form (EAF) with attached photo simulation of the view of the project;
3. A site plan that show the existing and proposed improvements;
4. An engineer's report certifying that the existing structure is structurally adequate to accommodate the proposed antennae and transmission line loading providing that such equipment is installed and supported in accordance with the drawings prepared by C & S Engineers, Inc.; and
5. A copy of its FCC license;
6. A redacted lease with the owner showing the owner of the existing facility allows the proposed shared use; and
7. Mapping of the existing and proposed cell phone coverage area.

The Applicant is an affiliate of Sprint PCS in the northeastern United States. Under its affiliation agreement with Sprint PCS, the Applicant has the exclusive right to use all 30 megahertz of Sprint's spectrum and the exclusive right to market and provide personal communications services under the Sprint PCS brand name. Sprint PCS, through another affiliate, Wireless co L.P., is a federally licensed wireless communications carrier. Pursuant to its federal license it is obligated to build out a system to provide adequate service coverage. The Applicant has determined that the Town of Bethlehem does not have adequate Sprint PCS facilities. It has identified an area in Slingerlands where Sprint PCS coverage drops off for users.

The Applicant originally sought to construct a new tower behind the Price Chopper Plaza on New Scotland Road, but the application was not successful. The Applicant then sought to locate antennae on a new tower on Font Grove Road, in the Town of New Scotland. That application was ultimately denied and litigation ensued. The Applicant had previously considered the church steeple as a location for its antennae, but believed

its then existing construction plan would not be approved by the New York State Office of Parks, Recreation and Historic Preservation (“SHPO”). Applicant’s further investigation revealed it could install its antennae in the church steeple in a less invasive and disruptive manner such that SHPO approved its current plan.

The antennae will be located in the upper windows of the church steeple behind a RF Transparent louver and creates less diminution in radio frequency, yet maintains the appearance of the steeple by matching colors. The support equipment for the three antennae will be located in the church basement. All wires would run inside the building. The only noise generated by the equipment is a low humming sound that would not be any bother to the church or the quietness of the church.

The Albany County Planning Board (“ACPB”) recommended the Board notify the City of Albany, Village of Voorheesville and the Town of New Scotland of this application in order to facilitate inter-municipal coordination and potential co-location of facilities.

No one spoke in opposition to the project.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, this Board concludes that the Applicant requires a special permit in order to install the proposed antennae. This Board has considered the materials submitted by the Applicant and finds that the modifications to the existing tall structure (church steeple) are insignificant. Accordingly, the Board grants the Applicant’s request for a special permit to install the proposed antennae, subject to the following conditions:

1. The Applicant shall complete construction in accordance with the plans, specifications, testimony and exhibits submitted to the Board in support of the application, including but not limited to the maximum number of antennae to be installed by Applicant will be

no more than three, and,

2. The Applicant shall complete construction of the proposed antennae within one year of the date of this resolution.
3. The color of the new radio frequency (RF) transparent louvers will match the existing window trim as closely as possible.

September 17, 2003

Michael C. Hodom
 Chairman
 Board of Appeals

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Mr. Lewis made a motion that the Resolution be adopted as amended, Mr. Brookins seconded the motion and it passed by the following vote:

| YES | NO | ABSENT | ABSTAINING |
|-------------------|------|--------|------------|
| Michael Hodom | None | None | None |
| Robert J. Wiggand | | | |
| Richard Lewis | | | |
| Gilbert Brookins | | | |
| Marjory O'Brien | | | |

(Resolution filed with the Clerk of the Town of Bethlehem on September 18, 2003.)

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On a motion made by Mr. Lewis, seconded by Mrs. O'Brien, and unanimously carried by the Board, the minutes of the October 1, 2003, meeting were approved.

The meeting was adjourned on a motion made by Mr. Lewis, seconded by Mr. Wiggand and unanimously carried by the Board.

Meeting Adjourned: 9:25 p.m.

Respectfully submitted,

Secretary