

**TOWN OF BETHLEHEM
BOARD OF APPEALS
April 6, 2005**

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
Marjory O'Brien
Gilbert Brookins
Leonard Micelli

Michael Moore Attorney to the Board

ABSENT: 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 XVI, Front Yards, Section 128-66, Required Depths requested by Gregg and Mary Ellen Sagendorph for property at 62 Harrison Avenue, Delmar, New York. The Applicant wishes to construct a front porch addition, which will encroach into the front yard setback requirement at the premises of 62 Harrison Avenue, Delmar.

CHAIRMAN HODOM: Ms. Guastella, would you give us the reason for the hearing, please?

MS. GUASTELLA: Yes, Mr. Chairman. The Applicant is proposing to construct a 6-foot by 32-foot front porch addition to the existing main structure that will create front yard setback of 24-feet and 14-feet. The proposed porch will encroach 1-foot and 4-foot respectively into the 25-foot and 20-foot required setbacks for a corner lot.

The existing structure is located in an "A" Residence Zone and is occupied as a single-family dwelling.

CHAIRMAN HODOM: Thank you, Mark. Ms. Guastella, would you also read the

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955.

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 April 6, 2005 at 7:30 p.m. at the Town Offices 445 Delaware Avenue, Delmar, New York to take action on application of Gregg and Mary Ellen Sagendorph, Jr. for a Variance under article XVI, Front Yards, Section 128-66, Required Depths, of the Code of the Town of Bethlehem for construction of a front porch addition, which will encroach into the front yard setback requirement at premises 62 Harrison Avenue, Delmar, New York. Michael C. Hodom, Chairman, Board of Appeals. Attached to this Notice is notarized proof of its publication in the March 23, 2004 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 of the Applicant. Anyone desiring to speak will be allowed to do so, we just ask that you come up, stand or sit close to the black microphone, it's for recording purposes only. We'd like to welcome the Bethlehem Central students and I just want to inform you that you cannot leave early. You must stay for the entire evening, we generally get out about 11:30. Mr. Sagendorph introduce yourself to us and tell us what you want to do, why you want to do it and how you want to do it.

MR. SAGENDORPH: Good evening Mr. Chairman, members of the Board. For those of you who do not know me I'm Gregg Sagendorph, Jr., this is my wife Mary Ellen and our future to be baby in July. We're here tonight for a Variance for our front porch. We are looking to construct a front porch that is 6-feet by 32-feet. The reason we're looking to do this is because of room on the porch. We looked at the current furniture we have now, it measures between 3 to 3 ½-feet and we looked at furniture we're looking to purchase, which also measures about 3 ½-feet.

Our existing elevation of the porch will be about 26 to 28-inches, it is not required we have a railing around it but we will be putting one on, which will be within the 6-feet out. Having a railing it does take 9 to 12-inches of your porch away from you so that drops us back down to the 5-feet. If you do and go ahead and put in 3-foot, 3 ½-foot furniture, sitting in it and to try to get around foot traffic to and fro would be very difficult – it would be tight. It would be beneficial to have a bigger front porch for baby furniture and also the front porch for just shade in the summer and to sit out and enjoy the neighbors.

CHAIRMAN HODOM: Thank you Gregg. Just for clarification for the Board the existing front yard setback on the 20-foot setback side which is off of Bower Court is currently 14-feet and that's due to a build out for I believe you'd say zero clearance

fireplace. The porch addition, which will be the width of the house is only 16-feet, but because we're not eliminating the - and correct me if I'm saying it wrong Gregg, you're not eliminating the zero clearance build out for the fireplace, that's going to remain?

MR. SAGENDORPH: Correct.

CHAIRMAN HODOM: Okay. So that the one front yard setback will remain at 14-feet and the front yard setback off of Harrison will - is requested to be 24-feet in lieu of the 25-feet that's required. The setback off of Boyer is an existing - or pre-existing condition that is 16-feet for the house and 14-feet to the face of the zero clearance fireplace and I hope that's all clear. Mark had shown it here at 16-feet proposed, the porch is 16-feet but we're not changing the existing 14-feet setback so in actuality it should remain at 14-feet. Gregg when was the - - you don't mind me calling you Gregg do you?

MR. SAGENDORPH: Not at all.

CHAIRMAN HODOM: When was the house constructed if you know?

MR. SAGENDORPH: I do not know, 1940's, 1947.

CHAIRMAN HODOM: In the 40's?

MR. SAGENDORPH: In the 40's, late 40's.

CHAIRMAN HODOM: And how long have you lived there?

MR. SAGENDORPH: 2-years.

CHAIRMAN HODOM: And when you purchased the home was the build out for the - - and I'm assuming it's a zero clearance fireplace.

MR. SAGENDORPH: Correct.

CHAIRMAN HODOM: Okay. Was that already constructed?

MR. SAGENDORPH: No it was not.

CHAIRMAN HODOM: You constructed that yourself?

MR. SAGENDORPH: Yes we did.

CHAIRMAN HODOM: Just bear with me a minute, I'm just going over some notes here. In looking at your proposal Mr. Sagendorph, if you could maintain that 5-foot dimension for the porch off of Harrison you would not need a Variance....

MR. SAGENDORPH: That's correct.

CHAIRMAN HODOM: From that street.

MR. SAGENDORPH: From that street, that is correct.

CHAIRMAN HODOM: And it's your opinion at this point in time that 5-foot width porch will not satisfy your needs?

MR. SAGENDORPH: That is correct. The existing steps that are there right now – it will not come out any further than the existing steps or the shrubbery in front of the house. So when the shrubbery is taken down; the concrete porch taken away – I'm not taking any more of the actual green lawn away. Low growth shrubbery will be put around rather than the very tall shrubbery that's there now.

CHAIRMAN HODOM: Well my concern is that there are no other homes on that street that have a front porch and if it was possible to construct your porch within the confines of the existing zoning that would be beneficial to all concerned. What type of furniture are you proposing to place on the front porch?

MR. SAGENDORPH: Furniture we currently have Adirondack chairs, which I'm sure most of you know what they are so, which would be stationary. Furniture that would be on one side – furniture we're looking to install on the other side would be rocking chairs where a rocking chair does measure only 3, 3 ½ -feet, but as you know as you move the chair it does take more room.

CHAIRMAN HODOM: Have you had an opportunity to discuss your proposal with your neighbors?

MR. SAGENDORPH: Yes I have. My neighbor on – if you're looking at the house would be on the right hand side did come into the highway – or to the Town Hall did review the plans; did come over and was totally for the front porch – for the entire addition. I forgot to mention that we are here also not for the Variance for the upstairs but in conjunction with our front porch we're also adding a second story. We're fully dormering out the back and putting 2-smaller dormers in the front that I do have a building permit for. The Variance would be for the front porch; we're looking to do this all-inclusive all together. That way there when you're constructing your roof everything kind of interlocks together. It's going to be a one shot deal; we do the back; we do the front and everything's together. And speaking with the neighbors we have not had any opposition at all and there were 18-neighbors notified by letter.

CHAIRMAN HODOM: From the Town.

MR. SAGENDORPH: From the Town, correct.

CHAIRMAN HODOM: And had you visited all 18-neighbors?

MR. SAGENDORPH: No I did not.

CHAIRMAN HODOM: Okay. So you had spoken to the one neighbor on the right side as you're looking at the house?

MR. SAGENDORPH: The neighbor on the left and the one directly across the street.

CHAIRMAN HODOM: Okay. Your site plan that was submitted showed just a deck in the back on the rear right side.

MR. SAGENDORPH: Correct.

CHAIRMAN HODOM: But there's actually a room there. Was that room on the house when you purchased it or did you construct that?

MR. SAGENDORPH: Yes it was. That was constructed because the deck that is on the plans is attached to that room. You need to go out through that room that is not there onto the deck so how the deck is on the picture in that room is not - - cannot answer.

CHAIRMAN HODOM: Okay.

MR. BROOKINS: That was going to be one of my questions, are you going to take the room off or you're leaving the room...

MR. SAGENDORPH: The room would stay, correct.

MR. BROOKINS: Okay.

MR. MICELLI: Gregg looking at your house on the right side that would be Mr. Flynn, is that who you spoke to?

MR. SAGENDORPH: That would be Gwen Ringler.

MR. MICELLI: Okay because 66 would be the house on the left?

MR. SAGENDORPH: 56?

MR. MICELLI: 66.

MRS. SAGENDORPH: That's 2-doors down.

MR. MICELLI: Okay so the only person you spoke to was Mrs. Ringler who would be on the right of your house?

MR. SAGENDORPH: Would be on the right.

MR. MICELLI: And the neighbor on the left you haven't spoken to?

MR. SAGENDORPH: Yes that would be...

MR. MICELLI: Mr. Parker?

MR. SAGENDORPH: I don't know if that's...

MR. MICELLI: 56?

MR. SAGENDORPH: The house is 56 but they are the owners and I don't believe that they reside there.

MR. MICELLI: Thank you.

MR. WIGGAND: Gregg you haven't got any second floor bedroom area or anything do you?

MR. SAGENDORPH: It's all attic space.

MR. WIGGAND: Bedroom area or anything now?

MR. SAGENDORPH: It's all attic space.

MR. WIGGAND: It's an expansion attic right now.

MR. SAGENDORPH: Exactly.

MR. WIGGAND: And you're planning on doing that along with this whole job of renovation?

MR. SAGENDORPH: Correct. We plan on working these two plans together we already have the building permit, which we weren't going to start until we moved ahead with the front porch. We were hoping to do it all together because of roofing purposes I mean you want to start at the bottom and work your way up with your shingles and your roofing.

MR. WIGGAND: You're doing it the right way, you're getting all your soldiers in order, you're lining them up.

MR. SAGENDORPH: We're trying.

MR. WIGGAND: Because if you start skipping around on that because I looked at the house there and I was wondering about that attic. It's not in there now; it's just an expansion attic.

MR. SAGENDORPH: It's just an expansion attic, correct.

MR. WIGGAND: Are there stairs going to it now?

MR. SAGENDORPH: Yes there are.

MR. WIGGAND: Okay that's typical. I had one other question here, this porch – what type of material are you going to use on that just regular decking?

MR. SAGENDORPH: Pressure treated decking, correct.

MR. WIGGAND: Now you understand that if this is approved here this porch cannot be closed in then, you can't do that.

MR. SAGENDORPH: Correct, this would be fully open.

MR. WIGGAND: I just make mention because it's best to get on the record that you mentioned that.

MR. SAGENDORPH: Okay.

MR. WIGGAND: Because some people think well all of a sudden you're going to drive past something like I have in the past, and all of a sudden there's windows around it or some other thing.

MR. SAGENDORPH: Oh sure, exactly. No, we're just looking for a seasonal porch to be used in the summer. We know that we're a little bit larger than we should be but being all open a neighbor on their porch could look right through ours down the street. So really to be an obstruction it's still very open.

MR. WIGGAND: All of those homes must have been built about the same time because they appear to be pretty much a like – all of them on that street.

MR. SAGENDORPH: That's true, that's very true.

MR. WIGGAND: And no one has really done to much with it except one down a little further had some kind of a cover over their front door.

MR. SAGENDORPH: Yeah they took off the entire second floor and put up a 4-bedroom...

MR. WIGGAND: Oh, they did? I thought there was something a little different about it.

MR. SAGENDORPH: Yeah that one is pretty large, but basically probably years ago all those houses like you said were constructed identical and then you can see where everybody's added their little bit. They've dormered the front; they've dormered the back; they've added a porch or a back deck or some sort to their liking.

MR. MICELLI: You're not going to have any electricity out there are you?

MR. SAGENDORPH: No, just the outdoor lighting that's there now or we may replace it.

MR. MICELLI: Now your steps going down would it be – are you going to have 2-drop steps or...

MR. SAGENDORPH: Correct.

MR. MICELLI: Okay, and the walkway will stay? You're not going to dig up that walkway are you?

MR. SAGENDORPH: No, we may replace the concrete with pavers afterwards, after we do some landscaping. Once we get the porch in place the landscaping would come afterwards.

MR. MICELLI: All those yews are all coming out and you're just going to go with little...

MR. SAGENDORPH: Yeah the yews would come out. The winters are pretty tough on those and they're getting pretty sparse so those coming out would definitely benefit.

MR. WIGGAND: It's sounds like you have a plan.

MRS. O'BRIEN: Do you have trouble now with icing on your front steps?

MR. SAGENDORPH: Right now we do, yes.

MRS. O'BRIEN: So it would be a good reason to cover the porch?

MR. SAGENDORPH: That's also a very good reason, yes. And we also do have problems – I'm sure you've been out and you saw the little gutter extension. We do have quite a bit of water in the basement it's wet, the water doesn't raise, but it does infiltrate through the block walls so at least this would help us in the front to get the water further away from our house.

CHAIRMAN HODOM: Gregg when you put that zero clearance fireplace on did you also have the building permit?

MR. SAGENDORPH: No we did not. I didn't realize that you needed one at the time.

CHAIRMAN HODOM: The reason I ask that is because the issue of that encroachment into that front yard would have been brought up at that time.

MR. SAGENDORPH: Okay.

CHAIRMAN HODOM: Any other questions from the Board?

MR. MICELLI: No, my only concern I think Gregg was just your neighbors but if you spoke to them and I mean if you put that thing up and somebody say hey I don't like that and I can't see down the street but I guess they're for it I mean nobody showed up against it so that's a good sign. Thank you.

MR. BROOKINS: The interesting point about the potential visual impact is right almost exactly in front of Gregg's house the street takes a bend so no matter whether you're going down the street or coming up the street you're not going to be impacted by anything that's in the front of his house because it's off to the right going down and off to the left as you're coming up.

MR. MICELLI: I noticed that today.

CHAIRMAN HODOM: All set?

MR. MICELLI: I'm fine, yes.

CHAIRMAN HODOM: Any questions or comments from the audience? Anyone wishing to speak in favor of the Applicant? Anyone desiring - - Mrs. Sagendorph you certainly could speak in favor if you'd like at this point in time. Yes sir, just introduce yourself to us.

MR. SOCKI: I'm Henry Socki and I go to Bethlehem Central High School. I was just wondering what the zero clearance fireplace was that you were talking about.

CHAIRMAN HODOM: It's just a name for the type of fireplace that you can install today. Maybe Mr. Sagendorph can explain to you better how he installed that and made it zero clearance tolerant by today's standards.

MR. SAGENDORPH: The fireplace that was installed is a self-contained unit. It's fed by natural gas similar to a furnace in a house, your hot water heater, a stove - a regular house stove. It's the same deal; it's all enclosed and it just vents out through the rear. They come in various sizes, 3-foot or 3 1/2-feet wide, 3-feet tall. You build a little bump out on your house and it just sits in that.

MRS. O'BRIEN: So the zero clearance then is that there's nothing into the room.

MR. SAGENDORPH: The zero clearance is it doesn't encroach into your room, it's flush with the wall. Basically all you would do is just add a little façade around it similar to marble or type of non-combustible material, ceramic tile.

MR. BROOKINS: And it doesn't require a typical elaborate brick chimney. It vents right

out almost like a clothes dryer or something of that nature.

CHAIRMAN HODOM: That was a very good question though. Do any of your colleagues there have any questions?

MRS. O'BRIEN: Now you're on record you know, your name and everything.

MR. SOCKI: Cool.

CHAIRMAN HODOM: Is there anyone wishing 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.

MR. SAGENDORPH: Thank you.

Hearing closed 7:55 p.m.

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The next order of business was to consider the application of Norman & Mary Cohan, 18 Hawthorne Avenue, Delmar, New York. The application was found to be in order and Mrs. O'Brien made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Norman & Mary Cohan for Variance under Article XII, Percent of Lot Occupancy, Section 128-50, Single Family Dwellings & Article XVII, Side Yards, Section 128-73, Required Widths, it is hereby ordered that a public hearing on this matter be held April 20, 2005 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. Micelli 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 The Nathaniel Adams Blanchard American legion Post, 16 West Poplar Drive, Delmar, New York. The application was found to be in order and Chairman Hodom made the following motion:

An appeal having been filed with the Board of Appeals of the Town of Bethlehem, Albany County, New York by Nathaniel Adams Blanchard American Legion Post for a modification to a previously granted Special Exception under Article VI, Permitted Uses, Section 128-12 B(2), Residence "A" District, it is hereby ordered that a public hearing on this matter be held April 20, 2005 at 7:45 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 Gregg & Mary Ellen Sagendorph, Jr. for Variance under Article XVI, Front Yards, Section 128-66, Required Depths for the construction of a front porch addition, which will encroach into the Front Yard setback requirement. The following points were brought up by the Board members: There was no one that showed up and voiced an objection to the proposal. The proposed addition was a minimal and reasonable request. The front porch addition will not affect the essential characteristic of the neighborhood. On a motion made by Mr. Wiggand, seconded by Mr. Micelli, and unanimously carried by the Board, the Board directed Attorney Moore to prepare a proposed resolution granting the Variance, for presentation at the next Board meeting on April 20, 2005.

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The next order of business was to consider the proposed resolution of John & Joanne Whipple, 12 Venture Terrace, Glenmont, New York

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

RESOLUTION

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WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a Variance under Article XII, Percent to Lot Occupancy, Section 128-50, Single Family Dwellings, requested by John and Joanne Whipple for property at 12 Venture Terrace, Glenmont, New York; and,

WHEREAS, the Board, 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 March 16, 2005; 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 makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicants are proposing to construct a 13-foot by 14-foot, 182-square foot addition that will add 162.5-square feet of additional building area to the existing 1,729.25-square foot main dwelling. The total main dwelling will be 1,891.75-square feet, which is 162.37-square feet over the 1,729.38-square feet allowed. The lot occupancy will be 16.41-percent which is 1.41 over the 15-percent allowed. The existing structure is occupied as a single family dwelling and is located in a “A” Residence District.

Mr. Whipple has developed macular degeneration, which is accompanied by a high sensitivity to light. The proposed addition would be built in the location of an

existing deck at the rear of the house, which he can no longer use because the area has too much exposure to sunlight. The proposed addition will enable Mr. Whipple to filter out the sunlight with shades in the proposed addition, and so regain the comfortable enjoyment of the rear of the house.

The proposed addition will have electrical service only; no heat and no plumbing. It will be used only as a three-season room.

The Applicant testified that there are several similar three-season rooms on homes adjoining his property.

The Applicant submitted written statements from five of his neighbors, who support the proposed addition.

Other than the Applicant and his contractor, no one spoke at the public hearing.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearing, and other documents submitted by the Applicants, the Board determines that the proposed variance will be granted.

The Board has determined that the requested variance will be a benefit to the Applicants and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicants cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood.

The requested variance is minimal, and is the minimum variance that is necessary and adequate to the Applicants' needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has not been created by the Applicants.

The requested variance is granted, on the following conditions:

1. The proposed construction will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the March 16, 2005 hearing;
2. In the construction of the addition, the Applicants shall match, as nearly as possible, the existing roofing and siding on the home;
3. The project shall be completed within two (2) years of the date of this Resolution

April 6, 2005

Michael Hodom
Chairman
Board of Appeals

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Mrs. O'Brien made a motion that the Resolution be adopted, Mr. Brookins seconded the motion and it passed by the following vote:

YES	NO	ABSENT	ABSTAINING
Michael Hodom	None	None	None
Robert J. Wiggand			
Gilbert Brookins			
Marjory O'Brien			
Leonard Micelli			

(Resolution filed with the Clerk of the Town of Bethlehem on April 7, 2005.)

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The next order of business was to consider the proposed SEQRA resolution of Cingular Wireless, 39 Hannay Lane, Glenmont, New York.

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

RESOLUTION

WHEREAS the Zoning Board of Appeals for the Town of Bethlehem held a public hearing on February 2, 2005 to take testimony and comments on the application of Cingular Wireless (“Applicant”), for a special permit following site plan review under Chapter 13, Telecommunication Towers, 113-3(B) and 113-4 Alternative Tower Sites A (1), to collocate antennas on an existing communications tower at premises located at 39 Hannay Lane, Glenmont, New York; and

WHEREAS the Board reviewed the testimony and documents presented at the public hearing, including a review of the environmental impacts that may arise as a result of this project; and

WHEREAS the Board has determined that the environmental impacts of the project will not be significant; and

NOW THEREFORE, BE IT RESOLVED THAT:

The Board adopts a negative declaration pursuant to the New York State Environmental Quality Review Act as set forth on the attached document.

April 6, 2005

Michael C. Hodom
Chairman
Board of Appeals

The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York on April 7, 2005.

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

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

The Board has determined that the proposed construction of 9 telecommunication antennae at a centerline height of 137± feet on an existing 145± foot antennae tower (“Tower”) and the installation of related equipment at the base thereof (collectively “Project”), will not have a significant adverse impact upon the environment and that a negative declaration pursuant to SEQR may be issued. Reasons supporting this determination are fully explained below.

Applicant: Cingular Wireless

Project Name: Co-location of Wireless Communication Antennae at Existing Tower Site

SEQR Status: Type I [_____] Unlisted: XX

Project Description: The Project consists of the installation of telecommunication antennae on an existing 145± Tower and related equipment at the base thereof.

Location: S.B.L. 86.00-1-12.10, Bethlehem, 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 and has reviewed the environmental assessment form and the application of the Applicant for a special exemption and site plan approval, and all supporting documentation and testimony.
2. The Project Site is used for telecommunication purposes. The proposed use is consistent with existing land uses and will avoid the need for a new telecommunications tower in the Town of Bethlehem.
3. The Project Site has no unique or unusual land forms (cliffs, dunes, steep slopes 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 significant adverse visual impact upon the scenic quality of the landscape.
8. While the Project may result in the removal of minimal 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:

Town of Bethlehem
Zoning Board of Appeals
445 Delaware Avenue
Delmar, New York 12054
Attn: Karen Guastella, Secretary

Copies of this Negative Declaration shall be filed with the Town Clerk of the Town of Bethlehem.

Authorized Signature

Mr. Wiggand made a motion that the Resolution be adopted, Mrs. O'Brien seconded the motion and it passed by the following vote:

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

(Resolution filed with the Clerk of the Town of Bethlehem on April 7, 2005.)

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The next order of business was to consider the proposed resolution of Cingular Wireless, 39 Hannay Lane, Glenmont, New York 12077.

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

RESOLUTION

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WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York ("the Board") seeking a Special Exception and Site Plan Approval under Article VI, Permitted Uses, Section 128-20, Public Utility, and Chapter 113-4(A)(1), Alternative Tower Sites, requested by Cingular Wireless for property at 39 Hannay Lane, Glenmont, New York; and,

WHEREAS, the Board, 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 February 2, 2005; 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 makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicant is proposing to collocate on an existing telecommunications tower by installing 6 new panel antennas at this time. The application materials and structural analyses seek the Board's approval for a total of nine new antennae; with the additional three antennae to be installed by the Applicant at a later date. The Applicant will also install a 228.4-square foot equipment shelter and separate diesel generator at the base of the tower. The existing telecommunications tower and supporting shelters are located in a Light Industrial District.

The Applicant proposes to co-locate its antennas on the pre-existing telecommunications tower in order to provide enhanced wireless communication services in the Town.

The areas that will receive enhanced services are located on the NYS Thruway (I-87) near Hannay Lane, and in the surrounding neighborhoods.

Subsequent to the public hearing the Applicant submitted modified and corrected plans and additional material requested by the Board at the hearing. This material now establishes that the application is consistent with the Applicant's testimony at the hearing, and reflects the scope of the project described above.

No one spoke in opposition to the project at the public hearing.

CONCLUSIONS OF LAW

The application complies with the provisions of Chapter 113-3 (B), Chapter 113-4 (A)(1) and (2) and Chapter 128-25 of the Town Code.

Based on the above Findings of Fact, the Applicant requires the requested Special Exception and Site Plan approval in order to provide enhanced wireless communication services in the Town.

Accordingly, the Board grants the Applicant's request for a Special Exception and Site Plan approval to install up to nine (9) additional antennae, six (6) at present and three (3) at a later time, 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 restoring the road way and surrounding areas to the condition they were in prior to installation of the antennae;

2. The Applicant shall complete construction of the proposed antennae within one year of the date of this resolution; and
3. The Applicant shall inform the Board, in writing, if in the future it elects to install the additional three (3) antennae authorized by this resolution.

April 6, 2005

Michael C. Hodom
 Chairman
 Board of Appeals

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

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

(Resolution filed with the Clerk of the Town of Bethlehem on April 7, 2005.)

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On a motion made by Mrs. O'Brien, seconded by Mr. Micelli, and unanimously carried by the Board, the minutes of the March 16, 2005, meeting were approved as amended.

The meeting was adjourned on a motion made by Mrs. O'Brien, seconded by Mr. Wiggand and unanimously carried by the Board.

Meeting Adjourned: 8:10 p.m.

Respectfully submitted,

Secretary