

**ZONING BOARD OF APPEALS**

**Town of Salina  
July 18, 2022  
Final Minutes**

A regular meeting of the Zoning Board of Appeals was held on Monday, July 18, 2022 the Salina Town Hall, 201 School Road, and Liverpool at 7:00 P.M. Those present were:

Chairman	Mike Gunther
Member	Edward Puma
Member	Richard Hunter
Member	John Muldoon
Member	Bill Tassone
Member	Michael Brigandi
Member	Bill McGillivray
Attorney	Joseph Frateschi Esq.
Secretary	Denise Wilhelm
Code Enforcement Officer	Peter Mitchell
Zoning Board Engineer	Cosmo Pagano III

Mr. Gunther welcomed those in attendance and explained the purpose of our meeting tonight is to hear the cases before the Zoning Board of Appeals for Area and Use Variances. We will also, render interpretation of zoning laws, consider all Planning and Subdivisions and if needed to consider all Special Use Permits. Mr. Gunther will announce each case. He will read for the record the Staff Reports from the Director of Planning and Development, the affidavit of mailings to the neighbors and submitted exhibits for tonight's cases. The person asking for the variance or project will come to the podium. We ask that you speak clearly into the microphone, giving your name and address as this is being recorded for the purpose of the minutes we are required to file. Mr. Gunther went on to state that the first matter before the board is to approve the minutes from the June 6, 2022 meeting.

**APPROVAL OF MINUTES**

Mr. Gunther entertained a motion to approve the minutes of June 6, 2022. Mr. Muldoon made the motion and the motion was seconded by Edward Puma. It was unanimously carried by the remaining board members.

**SEQR RESOLUTION:**

Mr. Gunther stated that for the Zoning Board Cases before us tonight, the Board has declared itself the lead agency for these actions. Mr. Gunther declared the proposed actions to be Type II actions under the New York State Environmental Quality Review Act and requiring no further action by the Zoning Board.

**NEW BUSINESS**

**011.-03-17.0      KERRIE BARBER, 7528 MOCCASIN PATH  
                                 ZONED R-1, 1<sup>ST</sup> WARD**

**CASE 22-16      Applicant is requesting an Area Variance from Zoning  
                                 Ordinance 235-7 D (6) to install a utility shed 11' from the rear  
                                 lot line where a minimum rear yard setback of 25' is required.**

Kerrie & David Barber provided the Burden of Proof. Ms. Barber stated that the benefit sought could not be achieved by other feasible means because their preferred area of placement would have been the left side of the drainage easement in the back of the house however there is a 15' drainage easement and the area is prone to standing water in the spring. Granting the variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties because the shed will

be located in the back of the property and is not visible from the street. It will be eventually surrounded by native shrubs and trees masking its appearance. It will be located near the sheds belonging to the neighboring properties. She had photos to show the board which were already uploaded into this Zoning Board case and viewed by the board. The variance is not substantial because the shed is not much different in size and setback location from the neighboring sheds on adjoining properties. It will not have an adverse physical or environmental effect on the neighborhood given that many properties in the neighborhood already contain sheds and barns. The alleged difficulty was not self-created because of the easements and the native trees. Mr. Barber asked about the gutters that the director recommended preventing an environmental impact. Mr. Gunther corrected him with to prevent storm water. Mr. Gunther added Mark will clue you in on this. That's a recommendation of the board but being that you're 11' from your property line, we put it in there as part of the findings because he recommended that. Our conversation here is how it impacts your neighbors. Mr. Lafaver stated that you do not have to put gutters up unless the neighbors have an issue. Ms. Barber stated that their land slopes down towards the neighbor. She continued that they will talk to the neighbor about it. Mr. Lafaver added see what the water does on the shed then if you have an issue we'll address it at that point. Mr. Gunther suggested that very often putting stone at the base of your shed as drainage to absorb the water and keep it there or a rain guard is just as effective. Mr. Barber stated that they were reading the code and thought they needed a variance for the size of the shed but after speaking with code enforcement they only mentioned it was because of the back distance to the property line. Mr. Gunther clarified that if the Planning & Development Office says this is the variance we are to consider, than this is what the board is going to consider. He added that actually by rule this is what was advertised and this is what we will consider.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. Muldoon wanted to state that presentation was very well done and that he appreciated it. Mr. McGillivray stated that he saw they have some pitch problems but he figured out where they wanted to put the shed. He added that as far as the recommendation for gutters, he would hold off and see how it goes as you're 11' away from the property line. Mr. Hunter stated that about the gutters, the problem isn't with the 11' it's with the 8' that's on the downhill slope and that's the side the water is going to run. You might want to consider having happy neighbors.

Mr. Gunther asked if anyone in the audience wanted to speak for or against this project. None was noted.

Mr. Gunther closed the Public Hearing and asked for determination.

Mr. McGillivray summarized Case 22-16 Kerrie Barber, 7528 Moccasin Path, Tax Map 011.-03-17.0, R-1, 1<sup>st</sup> Ward

The applicant is asking for an area variance from the Zoning Ordinance 235-7 D (6) to install a utility shed 11' from the rear lot line. Based upon the testimony given in this matter and the exhibits offered, it is hereby resolved the applicant has met the requirements by providing the following: an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than an area variance. The requested variance is not substantial. The proposed variance will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty is not self-created. . I therefore move based upon the forgoing that the variance applied for be granted. Of granting the above variance is conditioned upon the following: 1) All improvements to be constructed and located in accordance with the exhibits submitted herewith in support of the application. 2) That the building permit must be obtained within 30 days of the date of the variance approval. 3) That all work must be completed within the time that the permit is granted for. 4) Unless these conditions are complied with, the variance shall expire. Mr. Gunther wanted to add to the question of whether the alleged difficulty was self-created. The easements on their property limit their options of where they can put the shed. He polled the board and it was unanimously carried.

Mr. McGillivray made a motion. Mr. Muldoon seconded it. Mr. Gunther polled the board members.

Mr. Tassone	Yes
Mr. Puma	Yes
Mr. Hunter	Yes
Mr. Muldoon	Yes
Mr. Brigandi	Yes
Mr. McGillivray	Yes
Mr. Gunther	Yes

Mr. Gunther stated it is adopted and passed.

### **NEW BUSINESS**

**069.-13-07            NARAYAN KARKI, 117 NOBLE AVE  
                             ZONED R-3, 4<sup>TH</sup> WARD**

**CASE 22-17           Applicant is requesting an Area Variance from Zoning Ordinance  
                             235-10 D (4) to construct a covered front porch with a 17.7' front  
                             yard setback where 25' is required.**

Mr. Karki provided the Burden of Proof. Mr. Karki stated the benefit sought cannot be achieved by other feasible means because he is replacing an old falling apart existing porch. Granting the variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. He is replacing an old front porch and it will look a lot better. The requested variance is not substantial as he is replacing an existing porch. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district because it will make my home look better. The alleged difficulty was not self-created. He is replacing an old existing porch.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. Brigandi asked if he understood that he will need to put gutters up to keep the rain water on your property. Mr. Karki replied yes. Mr. Brigandi added you have already have a small landing. He asked if he was replacing that or is it only the roof. Mr. Karki said he is putting a roof over. Mr. Puma asked if he is doing the work himself. Mr. Karki replied he is with some friends. Mr. Hunter stated that all the yards in that area are within the 25'. So the variance you're asking for is very small and it's been done many times in that area. Mr. Frateschi asked if he has received any complaints from the neighbors on what you want to do. Mr. Karki replied no.

Mr. Gunther asked if anyone in the audience wanted to speak for or against this project. None was noted.

Mr. Gunther closed the Public Hearing and asked for determination.

Mr. Brigandi summarized Case 22-17 Narayan Karki, 117 Noble Ave, Tax Map 069.-13-07.0, R-3, 4<sup>th</sup> Ward

The applicant is asking for an area variance from the Zoning Ordinance 235-10 D (4) to construct a covered front porch with a 17.7' front yard setback. Based upon the testimony given in this matter and the exhibits offered, it is hereby resolved the applicant has met the requirements by providing the following: an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than an area variance. The requested variance is not substantial. The proposed variance will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty is not self-created. . I therefore move based upon the forgoing that the variance applied for be granted. Of granting the above variance is conditioned upon the following: 1) All improvements to be constructed and located in accordance with the exhibits submitted herewith in support of the application. 2) That the building permit must be obtained within 30 days of the date of the variance approval. 3) That all work must be completed within the time that the permit is granted for.

4) Rain Gutters to be placed on the roof directing drainage away from the neighboring properties. 5) Unless these conditions are complied with, the variance shall expire.

Mr. Brigandi made a motion. Mr. Puma seconded it. Mr. Gunther polled the board members.

Mr. Tassone Yes

Mr. Puma Yes

Mr. Hunter Yes

Mr. Muldoon Yes

Mr. Brigandi Yes

Mr. McGillivray Yes

Mr. Gunther Yes

Mr. Gunther stated it is adopted and passed.

## **NEW BUSINESS**

**066.-01-03.0 TAM NGUYEN, 100 EDMERE TERR  
ZONED R-1A; 3<sup>RD</sup> WARD**

**CASE 22-18 Applicant is requesting an Area Variance from Zoning Ordinance 115-6 D to install a 5' chain link fence in the front yard where a maximum height of 4' is allowed.**

Ms. Nguyen provided the Burden of Proof. Ms. Nguyen stated that the benefit sought cannot be achieved by other feasible means because she needs the fence to prevent the neighbors 3 pit bulls from jumping and attacking my dog and grandchildren. Granting the variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties because she is asking for 1' and the fence will be a chain link. The requested variance is not substantial as she is only asking for 1' more. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district because it will be 15' from the edge of the road and it will be a chain link fence. The alleged difficulty was not self-created because she is trying to keep her grandchildren and her dog safe. Mr. Gunther stated that we want you to have the ability to enjoy your property and protect your children and small dogs. Mr. Gunther added that in my humble opinion a very good reason to give you something as simple as a foot on a chain link fence.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. Hunter stated that because you are on a corner lot unfortunately you have two front yards. He added that Ms. Nguyen has a unique property. Mr. Brigandi states that he noticed Ms. Nguyen is putting up a garage. So you will have a gate that opens to get to your garage. Ms. Nguyen replied right in the garage, there is no fence. Mr. Brigandi clarifies so the fence will go around your garage. Ms. Nguyen replies yes. Mr. McGillivray asks if it will be gated. Ms. Nguyen replied that she never thought of that. If I can avoid it it's expensive and if I find it necessary I will ask to add one. Mr. Gunther stated that the variance is for the height of the fence and the gate is not a consideration for this board and Mr. McGillivray just wanted clarity.

Mr. Gunther asked if anyone in the audience wanted to speak for or against this project. None was noted.

Mr. Gunther closed the Public Hearing and asked for determination.

Mr. Hunter summarized Case 22-18 Tam Nguyen, 100 Edgemere Terr, Tax Map 066.-01-03.0, R-1A, 3<sup>rd</sup> Ward

The applicant is asking for an area variance from the Zoning Ordinance 115-6 D to install a 5' chain link fence in the front yard. Based upon the testimony given in this matter and the exhibits offered, it is hereby resolved the applicant has met the requirements by providing the following: an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than

an area variance. It's the only method to keep her grandchildren and dog safe in the yard. It is not substantial because it's on a corner lot and she has two front yards. The proposed variance will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty is not self-created because a dog got in and attacked her dog so she wants to keep her dog safe. I therefore move based upon the forgoing that the variance applied for be granted. Of granting the above variance is conditioned upon the following: 1) All improvements to be constructed and located in accordance with the exhibits submitted herewith in support of the application. 2) That the building permit must be obtained within 30 days of the date of the variance approval. 3) That all work must be completed within the time that the permit is granted for. 4) Unless these conditions are complied with, the variance shall expire. Mr. Hunter made a motion. Mr. Gunther seconded it. Mr. Gunther polled the board members.

Mr. Tassone	Yes
Mr. Puma	Yes
Mr. Hunter	Yes
Mr. Muldoon	Yes
Mr. Brigandi	Yes
Mr. McGillivray	Yes
Mr. Gunther	Yes

Mr. Gunther stated it is adopted and passed.

### **NEW BUSINESS**

**030.-05-01.0            NANCY LEGRA-GARCIA, 302 VIKING PL  
                                 ZONED R-1, 2<sup>ND</sup> WARD**

**CASE 22-19            Applicant is seeking relief from Town Zoning Ordinance 235-7 D  
                                 (6) to construct a 12' x 20' utility shed 5' from the rear lot line  
                                 where a 25' rear yard setback is required.**

Nancy Legra-Garcia provided the Burden of Proof. Ms. Legra-Garcia stated that the benefit sought cannot be achieved by other feasible means because her backyard is not big enough for a 25' set back. Granting the variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The shed will be used for storage of items. I am not planning to use it for anything else. There is no other building close to where I will be placing the shed. The requested variance is not substantial because the 25' set back would put the shed over my principal property. I chose the right side of my property because on the left side there is a tree. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district because the shed was built by professional builder. It will be placed in my yard and will not be close to any property or cause interference with the neighbors. The alleged difficulty is self-created because I needed more storage. Mr. Gunther stated it has value through your testimony that with this needing a 25' setback, if you were to abide by that, then you would have actually needed a variance because it would be too close to your house. Either way, you would have needed a variance. This does give you use of your back yard. You do understand because of the size of your shed and you putting it 5' from the property line, we will ask you to abide by the recommendation of the Planning & Development Office that you do put gutters on that shed. Mr. Gunther asked Ms. Legra-Garcia if she was fine with that. Ms. Legra-Garcia replied yes.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. Hunter states this is a pretty big shed. Is there any way you could have gone smaller in size, like a 10 x 12. Ms. Legra-Garcia answered that she tried but it's too small to fit everything in. Mr. Hunter added you don't have a garage. Ms. Legra-Garcia replies no. He then added that she covers the bottom of the shed so no rodents or animals can get under.

Mr. Gunther asked if anyone in the audience wanted to speak for or against this project. None was noted.

Mr. Gunther closed the Public Hearing and asked for determination.

Mr. Hunter summarized Case 22-19 Nancy Legra-Garcia, 302 Viking Pl, Tax Map 030.-05-01.0, R-1, 2<sup>nd</sup> Ward

The applicant is asking for an area variance from the Zoning Ordinance 235-7 D (6) to construct a 12' x 20' utility shed 5' from the rear lot line. Based upon the testimony given in this matter and the exhibits offered, it is hereby resolved the applicant has met the requirements by providing the following: an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties. There are properties with big sheds in the neighborhood. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than an area variance. She needs storage. The requested variance is substantial. The yard is fenced and she will keep it nice. The proposed variance will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty is self-created because she wants more storage. I therefore move based upon the forgoing that the variance applied for be granted. Of granting the above variance is conditioned upon the following: 1) All improvements to be constructed and located in accordance with the exhibits submitted herewith in support of the application. 2) That the building permit must be obtained within 30 days of the date of the variance approval. 3) That all work must be completed within the time that the permit is granted for. 4) Rain gutters are to be placed on the shed directing drainage away from the neighbors. 5) Unless these conditions are complied with, the variance shall expire. Mr. Hunter made a motion. Mr. Puma seconded it. Mr. Gunther polled the board members.

Mr. Tassone	Yes
Mr. Puma	Yes
Mr. Hunter	Yes
Mr. Muldoon	Yes
Mr. Brigandi	Yes
Mr. McGillivray	Yes
Mr. Gunther	Yes

Mr. Gunther stated it is adopted and passed.

## **NEW BUSINESS**

**039.-02-13.0            THOMAS HARRINGTON, 4855 DRIFTWOOD DR  
ZONED R-1, 2<sup>ND</sup> WARD**

**CASE 22-20            Applicant is seeking relief from Town Zoning Ordinance 235-7 D  
(6) and 235-33 A (3) to locate a second utility shed where only 1  
is allowed, 20' from the rear lot line where a setback of 25' is  
required.**

Thomas Harrington provided the Burden of Proof. Mr. Harrington stated that the benefit sought cannot be achieved by other feasible means because most of his back yard is under water most of the time. He has no alternative spot. Granting the variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties as the shed is located in a fenced in back yard with a back tree line. There are rain gutters on it that will keep the rainwater on his property. The requested variance is not substantial because he is only asking for 5'. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district. I am discharging all the rain water onto my property. The alleged difficulty is self-created. I bought the shed 5 years ago and was negligent in where I placed it. I placed the shed about 2-3 feet in the drainage easement. Mr. Gunther stated so you've had this shed for 5 years. He asked Mr. Harrington if there was any impact with the drainage of it that has impacted any of your neighbors in any negative way or has there been any comment from neighbors that they did not like this shed. Mr. Harrington replied that he asked his adjacent neighbor that has his own standing water problem and no it hasn't worsened the situation.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. Hunter stated that he saw what the problems were but it's a nice shed. He asked if Mr. Harrington was going to pull it out of the easement. Mr. Harrington replied yes, I have to talk with the shed people to move it. I'm going to have a shed mover, move it forward 6'. It's about 15' from the back property line. Mr. Hunter added that he saw Mr. Harrington did a great job on the gutters and displacing the water onto your property. Mr. Hunter added so you are just using this for storage. Mr. Harrington replied yes for various things. Mr. Brigandi stated that since it's been there for 5 years, why are you coming forward now. Mr. Harrington replied that he was cited for encroachment in the drainage easement, not the proper set back and having 2 sheds on his property. Mr. Brigandi added so the codes official cited you. Mr. Harrington replied yes. Mr. Brigandi asked if he was moving it about 1 foot. Mr. Hunter replied that he is moving it as far as he needs to get it out of the easement. Mr. Harrington added that it will be about 21' from the back lot line and out of the easement. Mr. Hunter added please cover the bottom to prevent animals from getting underneath. Mr. Harrington said he would seal that up. Mr. Muldoon asked Mr. Frateschi if we should include to the resolution that he has to move the shed out of the easement. Mr. Frateschi replied I think he has to because the condition of the resolution is that he has to build it to the planning specifications which show 20' off the property line. Mr. Mitchell stated that for full clarification, this stemmed from a water complaint. We had a drainage issue that's why we looked into it. Then we realized there were several issues. But as far as we are concerned, he's put the gutters on directing the water away from the neighbors so the water complaint has been resolved.

Mr. Gunther asked if anyone in the audience wanted to speak for or against this project. None was noted.

Mr. Gunther closed the Public Hearing and asked for determination.

Mr. Hunter summarized Case 22-20, Thomas Harrington, 4855 Driftwood Dr, Tax Map 039.-02-13.0, R-1, 2<sup>nd</sup> Ward

The applicant is asking for an area variance from the Zoning Ordinance 235-7 D (6) & 235-33 A (3) to locate a second utility shed 20' from the rear lot line. We have made a determination that he will have the shed moved out of the easement. Based upon the testimony given in this matter and the exhibits offered, it is hereby resolved the applicant has met the requirements by providing the following: an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties. The shed has been there for 5 years. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than an area variance. He needed more storage. It's a nice shed and he keeps his property very well. The requested variance is not substantial. He's moving the shed out of the easement by 7'. The proposed variance will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty is self-created because he bought the shed and put the shed there and now has to move the shed. I therefore move based upon the forgoing that the variance applied for be granted. Of granting the above variance is conditioned upon the following: 1) All improvements to be constructed and located in accordance with the exhibits submitted herewith in support of the application. 2) That the building permit must be obtained within 30 days of the date of the variance approval. 3) That all work must be completed within the time that the permit is granted for. The shed is moved the prescribed distance. 4) Unless these conditions are complied with, the variance shall expire.

Mr. Hunter made a motion. Mr. Puma seconded it. Mr. Gunther polled the board members.

Mr. Tassone	Yes
Mr. Puma	Yes
Mr. Hunter	Yes
Mr. Muldoon	Yes
Mr. Brigandi	Yes
Mr. McGillivray	Yes
Mr. Gunther	Yes

Mr. Gunther stated it is adopted and passed.

Mr. Gunther stated that this concludes the Zoning Board Cases. We will now move on to the Planning Board Case.

#### **NEW BUSINESS-PLANNING CASE**

**019.-02-04.1            JACK M. VANDENABEELE, 7239 OSWEGO RD  
                                 ZONED C-3, 1<sup>ST</sup> WARD**

**CASE 22-3                Applicant is seeking site plan approval to locate a temporary  
                                 cell tower on wheels in the parking lot.**

Mr. Gunther turned the floor over to the Attorney to consider the SEQR. Mr. Frateschi stated that because this is a commercial use in a commercial district, we need to make a finding for SEQR purposes. We need to look at what is proposed. Before we do that would anyone like to make a motion to designate the Town of Salina Zoning Board as lead agency for SEQR purposes. Mr. Muldoon made the motion and Mr. Gunther seconded the motion and it was unanimously carried. Mr. Frateschi went on to say that we looked at Phase I of the Short Environmental Assessment form and our engineer has a few questions. Mr. Pagano stated that question 9 of the assessment, does the proposed action meet or exceed the state energy code requirements, you answered yes but you left the explain how blank. Alec Gladd, from the law firm Cuddy & Feder, replied that the answer should have been no. Mr. Pagano stated that question 16; the applicant indicated that the temporary cell tower will be located in the 100 year flood plan. I would like to understand what mitigation practices are generally in place given the extreme intensity of storm events or flood events to mitigate any failure of that cell tower be it by earth moving or electrical damage. Mr. Vandenabeele replied we gave specs on how tall the trailer is. The trailer will be elevated off the ground. Mr. Pagano asks if we know what the 100 year flood elevation is in that area. Mr. Vandenabeele answers no we do not. We will have to find that out. Mr. Pagano asked them to confirm what the 100 year elevation is in that area versus where the trailer is actually going to sit. Mr. Gunther asks Mr. Pagano if he was comfortable with not having the exact answer to that question preclude us from moving forward with this action tonight. Mr. Pagano responds no, given that this is not the 1<sup>st</sup> temporary trailer that's been installed. I would just ask for that confirmation or make it contingent upon the motion from the Board that we have the confirmation. Mr. Gunther handed the meeting over to Mr. Frateschi. Mr. Frateschi stated that based on the engineers review and my review of SEAF Part 1 and the answers that were provided; he believes that the proposed variance will not have a significant impact for SEQR purposes. He read the 11 questions from the SEQR and there was no objection from the board which indicates the answers were either no or a moderate effect. Mr. Frateschi asked the board to make a motion finding no significant impact for SEQR purposes. Mr. Muldoon made the motion. Mr. Brigandi seconded the motion and it was unanimously carried.

Mr. Gunther opened the public hearing. Mr. Jack Vandenabeele of Airosmith Development and Mr. Alec Gladd from the law firm Cuddy & Feder were here representing Dish. Mr. Gladd stated that they are here on behalf of Dish, a new wireless carrier to the market. He gave a discussion of the history of why they are doing this. For a permanent long term solution, Dish is looking just North in the National Grid right away. Mr. Vandenabeele went over the site selection analysis that was submitted to show how they came up with this site. All board members were handed a copy. Mr. Lafaver suggested the Flamingo Bowl site (7239 Oswego Rd) because it is a commercial property and you can tuck it in the back corner. This site is also, close enough to the future permanent site and will give us the coverage we need. Mr. Gunther inquired that with these portable towers has there been any adverse effect on the neighborhoods like site 2 that you looked at voiced. Is there anything that we should know about moving forward. Mr. Vandenabeele replied no, the landlord of that site had a concern that the tower was taller than any trees around the property. Mr. Gunther so it was a visual thing. Mr. Vandenabeele replies yes.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. Hunter asks what is temporary. Mr. Vandenabeele replies that insulation is expected to be 12-18 months and that he believes the max is 36 months. Mr. Hunter so it's not going to be like 5 years. Mr. Vandenabeele replies that is correct. Mr. Brigandi asked what the



potential end game was. Where is the tower going to go 18 months down the road. Mr. Vandenabeele referred back to the site selection analysis packet that everyone had. So the National Grid site on the last page is going to be the permanent location. Mr. McGillivray asked if they would be taking it down in its entirety and if there potentially was going to be any scrap metal or toxic waste that would be left behind. Mr. Vandenabeele replied these are very valuable to the companies that own them and they will keep them intact. Mr. Gunther asked so if this board was to adopt this site plan and put a limit of 24 months on it would that be acceptable. Mr. Vandenabeele asked if there could be an option where if we need more time, can we supply the stats and not have to reappear before this board. Mr. Gunther asked Mr. Frateschi and Mr. Pagano for input. Mr. Frateschi replied that if the Board were okay with 36 months, he'd prefer doing that. Mr. Gunther asked the Board members if they had any comments on the 36 months versus 24 months. None were noted. Mr. Muldoon wanted to note that as a 47+ year resident of the area, he'd like to compliment Mr. Lafaver on choosing this site. And he thanked Mr. Vandenabeele on being flexible enough to understand the relevance of the neighbors being obstructed or feel that there's going to be a tower in the neighborhood. Thank you, Mr. Lafaver for picking a site that's the most non-intrusive in the area. Mr. Brigandi stated that the fence you have stated in your proposal is going around a 25'-35' area. Is this fence going to be a 6' fence. Mr. Vandenabeele replies that it's typically a 6' fence. They follow FCC requirements. It's not on the specs but he can clarify that too, as a condition. Mr. Lafaver stated that he would like a 6' fence there. Mr. Gunther would like to note that they have a cell tower on their site at the Mattydale Fire Department and that's a 6' fence. Mr. Gunther stated that clarification would be appreciated. Mr. McGillivray asked if it was going to be a chain link fence not cemented or in posts. Mr. Gunther clarified that no it would not be cemented because it's layed out as a temporary cell tower. Mr. Frateschi stated that if we make a motion tonight, I can help say the motion and the Board can adopt it, so we will make a motion for site plan approval as well as a special permit issuance. I can verbalize the motion.

Mr. Gunther closed the Public Hearing.

Mr. Gunther handed the meeting over to Mr. Frateschi to guide us with the resolution. Mr. Frateschi asks at this time would someone on the Board like to make a motion for site plan approval and a special permit issuance conditioned on the following: subject to the applicant providing information related to the 100 year base flood elevations and a satisfactory review by our engineer and conditioned also on a 6' enclosure to be built around the tower and the final condition being the site plan approval being for a period of 3 years or 36 months from the placement of the tower at which time it will expire.

Mr. Muldoon made the motion. Mr. Gunther seconded the motion. Mr. Frateschi polled the board members.

Mr. Tassone Yes

Mr. Puma Yes

Mr. Hunter Yes

Mr. Muldoon Yes

Mr. Brigandi Yes

Mr. McGillivray Yes

Mr. Gunther Yes

Mr. Frateschi stated it is passed.

Mr. Gunther asked if there were any other matters at this time. At some point we have discussed sitting down with Mr. Frateschi and getting further direction on the planning. It is summer. Would you rather getting together at a fall meeting instead. We will hold off because our time in the summer is limited and it will give Mr. Frateschi an opportunity to put something together. We will move ahead then.

### **ADJOURNMENT**

Mr. Gunther entertained a motion to close the Zoning Board of Appeals at 8:51 pm. Mr. Tassone made the motion. It was seconded by Mr. Puma and it was unanimously carried. The meeting was adjourned.

Prepared By: \_\_\_\_\_  
Denise Wilhelm, Secretary