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**Members Present:**

Kary Jablonka  
Adrian Ooms  
JP Henkel  
David Everett, Chairman  
Mitchell Khosrova  
Robert Leary  
Tal Rappleyea, Atty.  
Paul McCreary, Engineer

**Members Absent:**

Suzanne Williams

**Public Present:**

Scott Longstreet      Scott Olson  
Jean Marie Frawley    Judy Grunberg  
Jack Millard

Chairman David Everett called the January 24, 2008, meeting of the Zoning Board of Appeals to order at 7:00 PM. The Pledge of Allegiance was recited. Kary Jablonka moved and Mitchell Khosrova seconded that the meeting minutes from the previous meeting be approved. This carried.

**VERIZON WIRELESS- SPECIAL USE PERMIT AND SITE PLAN REVIEW TO  
CO-LOCATE ON EXISTING CELL TOWER ON HARMON HEIGHTS RD.  
PUBLIC HEARING**

The Public Hearing was opened by Chairman Everett at 7:01 PM. Postal receipts were turned in, as well as a check given to Atty. Rappleyea. The applicant had submitted a structural analysis of the tower and found it to be in good condition. A few very minor problems were found---such as one of the fiberglass branches was missing a bolt. Atty. Rappleyea reported that the ownership of the tower had changed and a new escrow bond has been created. Atty. Olson, who is representing Verizon, showed a sample that will be used on the new shelter, which matches that which already exists. The antennae will be painted with a special green paint to match the tree canopy. There was a question regarding the landscaping. Whatever is removed will be replaced by similar trees of a similar height. Atty. Tal Rappleyea will check the prior approvals on this site to be sure all is in accordance to any stipulations that may have been set. There was no public comment. The Public Hearing was closed at 7:12 PM. Engineer McCreary is satisfied with the structural integrity, but reminded the Board that the new antennae will extend a little bit from the canopy. The Short Form SEQRA application, which shows no significant adverse effects to the following: air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems was reviewed. Also, there are no aesthetic, agricultural, archaeological, historic, or other natural or cultural resources or community or neighborhood character concerns. There are no significant effects to vegetation or fauna, fish, shellfish or wildlife species, significant habitats or threatened or long or short-term effects identified. Since this is the case, Kary Jablonka

moved that there is no significant adverse environmental impact with this project, and should be accepted. This was seconded by Bob Leary and carried unanimously. David Everett moved that the application be approved based on the plans submitted with the conditions that: (a) the shelter color matches the other shelter, (2) the antennae be painted green to match the canopy, (3) everything is in compliance with the original permit and (4) the same number of trees taken out will be replaced in accordance to type and size. This was seconded by Mitchell Khosrova and carried unanimously.

### **PS/21- REQUEST FOR RELIEF FROM RESTRICTIONS PLACED ON THE SPECIAL USE PERMIT- INFORMATIONAL**

Atty. Scott Longstreet stated that when the special use permit was approved the applicant tried to anticipate impacts and mitigate possible problems, which caused the permit to have many limitations placed. At the time, it made sense to do that, however now that two seasons have passed the impacts are negligible. The limitations do not serve a useful purpose, and the applicant would like to remove them. By having these, a hardship for PS/21 has been created in running some of the events, such as having to run summer movies before it gets dark, and meeting the time constraints if there is a late start due to an emergency, either personal or technical. Specifically, PS/21 is requesting relief from the following: (1.) hours restrictions, (2.) number of performances permitted per week, (3.) length of season, (4.) the use of the tent beyond 5 years, and (5.) use of the tent and permanent facility (when built) as rental to 3<sup>rd</sup> parties for non-performing arts private events. PS/21 also wishes to be allowed to use the 2 houses on the property for the performers. Chairman Everett noted that no formal application had been filled out. Atty. Longstreet stated that none of the categories on the form seem to be applicable to this request. Chairman Everett requested that a letter be submitted to the Zoning Board regarding these modifications.

Atty. Longstreet stated that as far as the hours of performance goes, limitations are not needed if no one is able to hear what is happening on the property. There was a discussion regarding extending the hours to midnight. Mitchell Khosrova stated that he has reservations with both extending the 5 year temporary term and removing all of the time and use restrictions placed in the permit. Atty. Longstreet stated that financially more than 5 years will be needed. It has taken the first two years to be sure this would work. It is important to be able to run a tent season in the black and with the economy the way it presently is, it has been difficult to raise a lot of money. Chairman Everett stated that he feels this is a great project for the Town. He sees the need for some restrictions, but can see the sense in extending the time out. Judy Grunberg stated that it would be a comfort to not have the pressure of the present time frame, and that running the season in a tent for longer is fine. JP Henkel stated that he lives in close proximity to the facility and has not heard anything from it. He said his

concern is that if the space is allowed to be rented to a third party, problems could be caused because a third party doesn't have a vested interest in PS/21. Atty. Longstreet stated that the sound limits would still be in place, and there are strict guidelines as to who they could rent to and still retain their tax exempt status, so he doesn't see this as a potential problem. David Everett wondered if our present zoning allows this to occur, and that more specific detail as to what is being proposed is needed. Mitchell Khosrova stated that the Board gave PS/21 a lot of flexibility to fund-raise during the five year tent period, which could include, in his opinion, rental to a third party during this time. Kary Jablonka stated that the decisions made regarding this project to date have been because of the input from the public, which we will hear at the Public Hearing. Bob Leary stated that he feels extending the time is fine, but he is not comfortable with third party usage unless we define what that means. Chairman Everett said that he agrees with Mr. Leary and would want more information on this third party usage, with particulars such as limiting alcohol on the premises. Atty. Longstreet stated that other places rent out their space. Maybe it's not allowed per se under the code, but it is done. The applicant is providing good reasons for allowing this to occur.

In regard to using the buildings on the property, the request is to be able to house the artists or students who may be there. They would be used for as few as a couple of hours to a week, depending on the program. They'd be an accessory use, subject to Site Plan approval by the Planning Board. In the largest building there would be potentially 8 occupants, and 6 occupants in the other. There is a very small building where two beds would be placed, as well.

A Public Hearing will be set for the next meeting.

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Jack Millard, who arrived part-way through the meeting, asked to be heard. He had come to the meeting in regard to the Verizon Wireless project heard at the start of the meeting. He showed the Board the letter he received, which stated that the Public Hearing would begin at 7:30. In actuality, the meeting, which was advertised in the newspaper, began at 7:00, and that project had been completed well before 7:30. Mr. Millard was distressed that he was unable to stand up for his rights. The tower is right in his view shed, it is very ugly, and his concern is that it will now be larger. He also is upset that the metal reflects the sunlight in a very unpleasant manner. Chairman Everett explained that the tower will not be larger, that this is a co-location situation. He also told Mr. Millard that the paint on the antennae will be a transparent green color to match the canopy. Mr. Millard stated that the tower sticks up well above the tree line and is very unpleasant to look at. Mitchell Khosrova suggested that Mr. Millard call Mr. Olson, who is representing Verizon, and express his concerns to him, as he appears to be willing to mitigate any difficulties that may arise. Mr. Everett added

that the restrictions in place on this tower try to minimize the impact of the tower. Mr. Millard reiterated that he objects to the time stated on the letter.

**PAUL O'LEARY- AREA AND HEIGHT VARIANCE FOR PROPERTY ON ROCK CITY ROAD**

Atty. Rappleyea reported that when this project came before the Board, we were unaware of a 1994 modification where an on-site fence approval would be granted by the Highway supervisor. This resolution never got put into the books. Mitchell Khosrova suggested that before something comes before the Board, we should be sure it is necessary. David Everett suggested that the Town Board needs to write a local law regarding the fence law. Mitchell Khosrova moved and Kary Jablonka seconded, that Chairman Everett write a letter requesting that a local law be created for this purpose. This carried with one negative vote (AdrianOoms).

The meeting was adjourned at 8:43PM.

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Chairman

Respectfully submitted,

Marilyn Cohen, clerk