

The North Royalton Board of Zoning Appeals met in the Council Chambers, 13834 Ridge Road, on **Monday, September 28, 2009**, to hold a Public meeting. The meeting was called to order at 7:30 pm by Chairman Neil Price.

Present: Chairman Neil Price, John Ranucci, Dan Kasaris, Diane Mastronicolas, Prosecutor Donna Vozar, Joe Hartman, Secretary Julie Broestl.

Moved by John Ranucci, seconded by Dan Kasaris, to excuse Tony Caraballo from the **Board of Zoning Appeals meeting of September 28, 2009.**

Chairman Price: A motion and a second. Call the roll.

John Ranucci: Yes.
Chairman Price: Yes.
Dan Kasaris: Yes.
Diane Mastronicolas: Yes.

Ayes – all. Nays – none.
Motion carried. (4-0)

(BZ09-10) Ryan and Laura Stasko request a variance to Chapter 1270 “Residential Districts”, Section 1270.04 “Area, Yard and Height Regulations”, paragraph (g), of the City of North Royalton Codified Code for relief from the maximum height allowed for an accessory building that they wish to construct on their property which is located at **10700 Akins Road, PPN: 483-25-001.**

Chairman Price: Is the applicant here? Do you want to come up to the microphone please?

Mr. Ryan Stasko approached the microphone.

Chairman Price: Raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mr. Stasko: Yes sir.

Chairman Price: State your name and address.

Mr. Stasko: Ryan Stasko, 10700 Akins Road.

Chairman Price: And you are asking for a variance?

Mr. Stasko: A variance for the height requirements for an out-building that we would like to construct on my property. The approximate height would be 20-feet to store a camper, to keep it off the side of the property and out of the weather and security for the trailer itself. Also, so that nobody kind of has any ideas what’s going on around the property and so it’s not seen.

Chairman Price: Anybody else? Okay, thank you.

Larry Antoskewicz approached the microphone.

Mr. Antoskewicz: Larry Antoskewicz, Councilman Ward 5. I just want to briefly say that I have not had anybody call me or e-mail me or anything else as far as objecting to their building.

Chairman Price: Anybody else? Do I have a motion to move BZ09-10 to the regular order of business.

Moved by Dan Kasaris, seconded by John Ranucci to **move BZ09-10 to the regular order of business.**

Chairman Price: Call the roll.

John Ranucci: Yes.
Dan Kasaris: Yes.
Chairman Price: Yes.
Diane Mastronicalos: Yes.

Ayes – all. Nays – none.
Motion carried. (4-0)

(BZ09-11) Peter and Judith Morell request a variance to Chapter 1270 “Residential Districts”, Section 1270.27 “Swimming Pools”, paragraph (b)(1)(E), of the City of North Royalton Codified Code for relief from the rear yard setback for an in-ground swimming pool that they have constructed on their property which is located at **10215 North Red Oak, PPN 488-16-055.**

Shadrach Neiss approached the microphone.

Chairman Price: Raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mr. Neiss: I do.

Chairman Price: State your name and address.

Mr. Neiss: My name is Shadrach Neiss, and I am appearing on behalf of the applicants Peter and Judith Morell. My office address is 9251 West Sprague Road, North Royalton, Ohio.

Chairman Price: Spell that last name please.

Mr. Neiss: N-e-i-s-s.

Donna Vozar: Sir, are you an attorney.

Mr. Neiss: Yes mamma.

Donna Vozar: Okay. Do you have one of your business cards with you?

Mr. Neiss: Yes I do.

Mr. Neiss approached the microphone and handed the business card to the Board.

Donna Vozar: Mr. Chairman, since he is an attorney he doesn't need to be sworn in. If you want to be offering testimony you will need to be sworn in, if you are here to argue what has been sworn in.

Mr. Neiss: If I may continue.

Chairman Price: Go ahead.

Mr. Neiss: Thank you. In spring of 2009, the applicants located at 10215 North Red Oak, hired Mr. Pools of North Royalton, to construct a private swimming pool at their home, which is an irregular pie shaped parcel. Based on the existence of one single property pin located at the northeast corner of the property, the contractor received all necessary inspections and permits from the City and completed construction of the pool in the summer. The neighbor located northeast of the property completed a survey pursuant to the construction of fence between the properties, and the surveyor revealed

that 12-feet of the pool was 9.5-feet from the property line creating the need for this area variance. Subsequent to that, the applicants have created compact shrubs, arborvitaes and mums, to try to rectify the aesthetic impact on the neighborhood. So, given the permanent nature of the improvement strict enforcement of the zoning code would create a practical difficulty on the applicants and given the circumstances of this case they respectfully request an area variance without conditions. Thank you.

Lady from the audience: Can I object to that now?

Chairman Price: We are hearing testimony now. I am hearing testimony, would you like to speak?

Mrs. Dolores Antonelli approached the microphone.

Chairman Price: As long as you're not an attorney, raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mrs. Antonelli: I do.

Chairman Price: State your name and address.

Mrs. Antonelli: Dolores Antonelli, 3213 Meadow Lane, North Royalton.

Chairman Price: Go ahead.

Mrs. Antonelli read the entire letter attached to the back of these minutes.

Chairman Price: Thank you. Anybody else?

Councilman John Nickell approached the microphone.

Mr. Nickel: John Nickell, Councilman ward 1. Mrs. Antonelli called me a couple months ago by mistake instead of Mr. Petrusky about this issue. We did talk in length. I would say that after viewing the property, what she is saying is correct. Mr. Pools probably stretched the lines or human error, but the pool, I think the fence is six foot off her line. The pool installer did use the neighborhoods land and removed small trees on her property probably without her permission, and she probably didn't realize at that time that it was her land until she had the fence put in seeing that the pool was there. I'm not recommending removal of the pool nor any type however, what I did suggest to her is that, and it sounds like they already did it but I will parlay on what she said that the bushes be conditional, I don't know if we could ever enforce that in the future. We don't have a point of sale inspection, but I think that is a reasonable request considering encroachment they gave this woman. I don't know if that is Mr. Morell, but they started to put in the arborvitaes, but that would be my suggestion. That must be maintained if the property passes and then there should be some peace. Thank you.

Chairman Price: Thank you.

Mr. Robert Jones approached the microphone.

Chairman Price: Raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mr. Jones: I do.

Chairman Price: State your name and address.

Mr. Jones; Robert A. Jones approached the microphone.

Chairman Price: Raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mr. Jones: I do.

Chairman Price: State your name and address.

Mr. Jones: Robert A. Jones, Sr., 12126 York Road. Owner of Mr. Pools. I would just like state a fact that the arborvitaes can be maintained without encroaching on her property. We were not aware of any property line that was irregular shaped that we could do any firm measurements. There was no pin location. It was a rough grade everywhere, undeveloped land directly behind the Morells. It was duly noted that it was not noted where these lines were located at exactly.

Chairman Price: Thank you. Anyone else? Can I have a motion to move BZ09-11 to the open meeting.

Moved by Dan Kasaris, seconded by John Ranucci, to **move BZ09-11 to the regular order of business.**

Chairman Price: Motion and a second, call the roll.

John Ranucci: Yes.
Dan Kasaris: Yes.
Chairman Price: Yes.
Diane Mastronicolas: Yes.

**Ayes – all. Nays – none.
Motion carried. (4-0)**

(BZ09-12) May Industries request a variance to Chapter 1278 “Industrial Districts”, Section 1278.06 “Yard Regulations”, of the City of North Royalton Codified Code for relief from the required front yard setback and loading door requirements for a new building that they wish to construct on this which is located on a vacant lot on **York-Theta Drive, PPN: 483-12-006.**

Mr. Alan Hodge walked into the council room.

Chairman Price: Just in time.

Mr. Hodge approached the microphone.

Chairman Price: Raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mr. Hodge I do.

Chairman Price: State your name and address.

Mr. Hodge: Alan Hodge, 47161 State Route 558 in Waterford, Ohio.

Chairman Price: And you are here because?

Mr. Hodge: We are looking for a variance for front yard setback and a variance for the loading dock to be in the facing the street.

Chairman Price: Would you like to present your situation?

Mr. Hodge: Currently May Industries they have been in North Royalton for approximately 30-years and they have outgrown the business they are in and they bought a parcel off of the City actually several years ago, two lots down from where they are now, and what they want to do is that they need a certain amount of square footage to store and warehouse and eventually do some more manufacturing. Exactly what they are doing in their facility now. The square footage they needed encompassed the lot from the topo submitted from our site engineer, and the drawings we previously submitted you see that the rear of the lot drops off very quickly so that it is not a very advantage to develop, so we are trying to get as much square footage as we can. We met the City's requirements for the side yard setback of 10-feet and in doing so we don't have room to have doors on the side of the property and at the rear of the property we are right up against the riparian setback so, we are kind of limited on the site. We meeting the side and rear yard setbacks but the front yard we are asking for the variances. We also took the liberty of driving around in the Industrial Parkway and noted and documented all the other properties that are actually encroaching the City's front yard setbacks and there are numerous buildings with the front yard setback and with numerous buildings have the loading dock doors in the front of their building as well. So, we don't think we are doing anything that is not already being down in the Parkway currently. Those are the two variances we are respectfully requesting, front yard and the loading dock door in the front.

Chairman Price: Okay. Thank you. You want to stay for the second part of the meeting, you were not here when the announcements were made about staying for both parts of the meeting, the Public and the Open meeting.

Mr. Hodge: I apologize for not being on time.

Chairman Price: You were on time. Anybody else? You want to read this or do you want to read this? I have a letter to read into the minutes.

Letter is attached to the back of these minutes.

Chairman Price: This letter was notarized by Susan Kaulfersch. Do I have a motion and a second to move this to the Open Meeting?

Moved by Dan Kasaris, seconded by John Ranucci, to **move BZ09-12 to the regular order of business.**

Chairman Price: I have a motion and a second to move BZ09-12 to the Open Meeting. Call the roll.

Chairman Price: Yes.
John Ranucci: Yes.
Dan Kasaris: Yes.
Diane Mastronicolas: Yes.

**Ayes – all. Nays – none.
Motion carried. (4-0)**

(BZ09-13) AT & T/John Sindyla and North Royalton City School District request a variance to Chapter 1290 "Wireless Facilities", Section 1290.03 "Public Facilities Districts", paragraph (c)(3)(A) of the North Royalton Codified Code for relief from the required setback from the eastern property line for a proposed monopole tower that they wish to erect on this property which is located at **9360 Albion Road, Albion Road School, PPN: 482-04-015.**

Mr. John Sindyla approached the microphone.

Donna Vozar: Mr. Chairman, again if Mr. Sindyla

Chairman Price: I know he is an attorney and doesn't need to be sworn in.

Donna Vozar: Unless he intends on testifying, in this case he would be. John, do you intend on testifying or do you want to present your argument?

Mr. Sindyla: I will present my argument as well. My name is John Sindyla for AT & T, 7425 Royalton Road, North Royalton, Ohio. Also, with me tonight is Don Graves, representing AT & T as well, 600 Superior Avenue, Cleveland, Ohio. To start the presentation this evening I would like to give over view of what we plan to do, and a site plan as well of the proposed project and Arial plan, and then we can get into the exact criteria required to grant this area variance. The need for this tower is demonstrated on this particular graph of all the surrounding sites in and around North Royalton. One of the interesting parts about why we need this area variance is because the actual location of the property itself within the coverage grid. As you can see here, all these current blue areas are existing sites in and around North Royalton. Some are in North Royalton and some in Strongsville or Parma. As you can see the blue represents great coverage, the green is average coverage, and yellow is very poor and no coverage. So, the reason why we are here tonight is AT & T under the Federal Telecommunications Act of 1996 is required to provide continuous and uninterrupted coverage to all customers, therefore, we need to fill these wholes in coverage whenever possible. In this particular case in this area of North Royalton, the reason why we are here is because North Royalton City School property on Albion is the only property within this area that could support a site that will fill this coverage up. So, if you can image this is the location of Albion Elementary and if the site were turned on that is what would happen. Essentially we would fill our mandates set forth by the FTC and fill our coverage gaps in this particular area. Once we have demonstrated that, I would like to get into exactly the location of the property's site plan so that we can actually see what the difficulty is in this particular case. As you can see the site plan for this project we are requesting an area variance to the eastern property line. So, Albion Road to the south, York Road to the west, this particular property that Albion Elementary actually sits more towards the eastern property line in the west in which are homes along York Road. This site would be located to the rear of the school along the eastern property line. I can show you the aerial map later but I wanted to show exactly the specifics setbacks from each of the property lines. To the rear it is 544-feet. To the west it is 401-feet. To the south it is 779-feet. And the setback to the western property line 84-feet. Under Section 1290.03, we need 350-feet from the tower itself to each of the property lines. So, we actually meet or greatly exceed the setback to the three property lines except for the one to the east. To give you a bird's eye view of the exact location and why this location was chosen, here is an aerial map from Google. What this shows is these coordinates are the exact location of the tower on the property. So, if you can imagine the northern property line, western and southern, and eastern. This particular location is basically surrounded on two sides by the area dense forest that is located to the east. So, that is the property line that we are asking the setback from, 84-feet. To the north there are approximately 600-feet of woods that separate the tower to the homes on Chesapeake Drive. 400-feet as well as some very dense trees that separate the tower from the homes on York Road. And over 700-feet from the tower to the properties on Albion Road. So, when we determined the potential location with the school district, the school didn't want to interrupt any of the existing activities on the property. There is a baseball field, parking lot, playground, but at the same time we felt that it was necessary to try and keep this tower as far as possible from the surrounding residences. So, the closest residence to this actual tower is directly east which is 580-feet away. If you have any questions or I can get into the actual criteria that are requested from the City to grant this setback variance. This is under 1264.08(e). Can there be any beneficial use of the property without the variance; on this particular case as I mentioned before the City has set forth that there be a 350-foot setback from the tower to any of the property lines surrounding this actual Public Facilities District. In the North Royalton's there are only two districts which permit Wireless Telecommunications Facilities, Public Facilities and Industrial. Because the nature of this parcel where it is more of a bowling alley shaped type parcel there isn't any location on that property that can meet that setback. In fact, since this is the only parcel in this area of the City that can

meet AT & T's needs, technically this tower under your Code can't be located on a Public Facilities District, even though the Code says you are allowed to go into Public Facilities Districts. So, because the way the Code is read and the way the property is shaped without this variance there can't be any beneficial use of this property for any type of Wireless Telecommunications Facility at all. Second criteria would be whether the variance is the minimum necessary to make possible the reasonable use of the land or the structure. As I mentioned before, this location was specifically selected to eliminate or actually minimize as much as possible the effect on the surrounding property owners, so where this is located 84-feet from the property line and we are not taking down any trees or altering the landscape, we are just simply taking up grass that is not used for anything. So, this variance is the minimum necessary to achieve the site on the property. The third criteria is whether adjoining properties would suffer detriment as a result of the variance or whether the essential character of the neighborhood would be altered. As I mentioned the City sets forth that there are only two possible districts for these types of facilities to be located. There are not any Industrial Districts anywhere in this part of the City as I well know. This is the only parcel which would be the least impactful for this type of facility. The nature of the facility is situated so that the actual distances to the residences are well over 500-feet away, and because of the area map that I just showed you it only impacts houses just on Albion Road just because of the existing vegetation the distances away and the dense forest on the property. Forth criteria, is whether the variance would adversely effect Governmental Services. This site is unmanned so this would not be affected in any fashion. Fifth criteria, is whether the variance sought is relief from the zoning provisions which was enacted after the creation of the existing condition or circumstance of the property in question. This exact variance sought is relief from the zoning provision that was enacted after the creation. So, prior to the enactment of the City Ordinances relating to Wireless Telecommunications Facilities, this tower would have been allowed on the property without the need for the variance following the enactment of the latest Ordinance, the variance is needed because of the 350-foot setback. Sixth criteria, whether special conditions exist which are peculiar to the land. In this case there are two main issues why we are asking for the variance, the width of the property doesn't permit a wireless facility to be located anywhere on it because of the irregular shape. This property is the only property in the area which would fulfill AT & T's coverage which is mandated by the FTC. Seventh criteria, whether the property owners predicament can be obviated through some other method in the variance. Just because of the nature of the property, the shape of it, a variance is needed regardless of wherever we put this on this property. If we moved it more towards the west, which would be closer to the homes on York Road, the property isn't wide enough to allow the site without getting a variance. The eighth criteria, the variance will create a nonconforming lot. No, this is not the case. There are no special conditions or circumstances which exist or result from the actions of the North Royalton City School District. Finally, whether the spirit and intent behind the zoning requirement would be observed. As I mentioned before, the City has specifically said that they would like towers in Industrial or Public Facilities District. Since this is a Public Facility District that is the largest parcel in this area of the City period. So, because of that and because the Public Facility District is a conditionally permitted use we will request that this Board grant this variance and allow us to locate this facility 84-feet from the eastern lot line. Thank you.

Chairman Price: Thank you Mr. Sindyla. Anyone else? If you wouldn't mind I would like to say a couple things about cell towers. FTC, when cell towers are brought up there is usually a lot of legal opposition and it is often very strong. Citizens complain about the towers changing the character of the neighborhood and cause signal disruptions and impair safety and reduce property values and are just plain unsightly. But, first and foremost, the courts insist on legitimate reasons and substantial supporting evidence for the denial. Mere assurance without adequate evidence such as the tower will reduce property values is inadequate. Making the zoning decisions based on concerns over the environment or health effects or radio emissions associated with wireless cell towers is likewise unacceptable. The act allows the State or local governments to regulate towers with five basic restrictions and among them the act forbids local regulations that unreasonably discriminate among providers, local regulators may not have the effect of

prohibiting towers. Decisions by local authorities must be in writing and supported by substantial evidence and probably most important local authorities may not regulate towers based on environmental impacts of radio frequency admissions as long as the tower comply with federal standards. I just wanted to mention that in the evident that we are going to have a lot of testimony.

Mr. Jim Presot approached microphone.

Chairman Price: You are not an attorney are you?

Mr. Presot: No I am not. I am Jim Presot and my address is 6520 Tulip Trail, Independence, Ohio. I am here on behalf of the North Royalton City School District. I serve under the capacity of Assistant Superintendent and what my main responsibility is the facilities and the buildings of the district. I just wanted to acknowledge our Board of Education has had numerous meetings and work sessions and public sessions to discuss the possibility of putting a tower on our property. We have cellular towers on two of our properties currently, both at Valley Vista Elementary as well as our stadium location. After much deliberation and discussions about the tower, the location, potential current use as well as future use of the property. Our Board passed a resolution in August of this year by majority vote 5-0 to go ahead with a contract or lease agreement with AT & T that will allow them to put a cellular tower on a property from the school districts perspective we do not see any problems with that on there. Again, this is a site location that would not be for future use that we would harm our future ability to do anything on the property, as well as the property would allow or the lease agreement would allow us additional revenue where we would use that revenue to actually enhance our technology within our school districts and use those dollars to be spent on our students. I just wanted to make sure the Board knew that.

Chairman Price: Thank you Mr. Presot. Anybody else?

Mr. Ed Solvol approached the microphone.

Chairman Price: Raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mr. Solvol: I do.

Chairman Price: State your name and address.

Mr. Solvol: My name is Ed Solvol, I live north of the said property, 9481 Chesapeake Drive. Built there 29-years ago because of the lot. Strong objection too many things which might be irrelevant according to what has been brought up. This is going to look like hell. I am familiar with the one at Valley Vista. I walked back there I saw one steak from the yellow ribbon on it that says lease corner. I don't know if the facility is going to be there, but I say that I am pretty close to it more so than York Road. I think that his numbers might be off a little. I definitely object to the dense forest because you have the baseball diamond, you have a soccer field, and you have about 150-feet of woods here, so that is my house right here, and I can see it clearly. I think it is going to look like hell. Honestly, we were the first house on the street and if I was to know this was going to happen and it seems to be a monetary thing here. I don't know if I can ask questions, but what is the school district going to derive from this a month?

Chairman Price: We will have questions in the Open Meeting part.

Mr. Solvol: That is just my opinion. Our property values are going to take a dump as is my neighbors. It is going to be nice looking out and seeing a tower now, and I was told that is just before that this is irrelevant. It will definitely change the character of the neighborhood. Also, one other thing to bring up later, the Life Flight usually lands here.

That is one of the designated areas, so I don't know how that will affect this also. A helicopter lands here once in a while.

Chairman Price: For your information know, the Board will be asking questions. You just make your presentation now and provide whatever facts that you think are relevant.

Mr. Solvol: Thank you.

Chairman Price: Thank you.

Mr. Don Graves approached the microphone.

Mr. Graves: I am an attorney. I'm going to testify.

Chairman Price: You are an attorney. Proceed.

Mr. Graves: I am Don Graves, I am with Buckley, (didn't hear the rest of the names) and I am here with AT & T Mobility. I have been involved in the zoning of mobile towers for quite awhile. First of all I appreciate the way that you conduct your meetings. Everybody comes to the meetings and they are civil in their presentation and I respect the voices in opposition. I really can't enhance what John has said today, but I would just like to say in the inverse. The reality is the City of North Royalton created its own Zoning Code to best protect the community from the intrusion of the cell towers as best you possibly could given the Telecommunications Act of 1996, and having been involved in representing the companies since 1996, we always advocated you set out the criteria that was best for the community given the act and we will do everything we can to comply with that. In fact, AT & T has done that with this particular location. When we looked at your zoning requirements and looked at its needs, this site is the only and best site available to provide the coverage as needed for its system. It is as far removed from any particular residential property as it could be within a Public Facility District. Unfortunately, there is a closer proximity to the tree property to the east and that is the best possibly be accomplished to meet the TC requirements that AT & T has to provide service to all the citizens of North Royalton. When I first started doing this people laughed because maybe a small percentage of the people had cell phones. The reality is it is probably almost the opposite these days as we expected it would be that almost everyone needs to have cell phone coverage. This also will have collocation capabilities so that in the event that another carrier comes, and expect that there is, at least one of the carriers would very much like to place their antenna facility in the community it could go in this location to avoid the need for replication of additional cell towers. So, I appreciate the opportunity to speak to you this evening and I will be here later on in case you have any questions that I can answer and I thank you very much for your time.

Chairman Price: Thank you. Anybody else?

Councilman John Nickell approached the microphone.

Mr. Nickell: John Nickell Councilman Ward 1. The cell tower resides in my Ward. Just for a full disclaimer I do work as the IT Director for North Royalton too, so after this I will not be voting on anything, it's for you to vote. With that being said, I just want to say that I did get a call from Mr. Solvol and I did not have any other calls and I did not have any calls of rejection from the property that it is touching. Thank you.

Chairman Price: Yes sir, come on down.

Mr. Borsuk approached the microphone.

Chairman Price: Raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mr. Borsuk: I do.

Chairman Price: State your name and address.

Mr. Borsuk: Leon Borsuk, 9475 Chesapeake Drive. You mentioned the radio emissions has a study been done on the microwave energy that that cell phone tower distributes from the tower?

Chairman Price: The Federal Government has looked at that and it is not an issue.

Mr. Borsuk: But has there been any studies done? You can also look at how it might affect the students at Albion Elementary, as far as cell phone emissions? I never had a problem with my cell phone in my area on Chesapeake Drive. I don't see where this problem would be with the signals. That is all I have to say.

Chairman Price: What we have heard so far it seems like there is an area where the signal is not as strong as it should be, so the reception is on the low end and they want to improve it.

Mr. Borsuk: Thank you.

Chairman Price: Thank you. Anybody else? Can I have a **motion to move BZ09-13 to the regular order of business.**

Moved by Dan Kasaris, seconded by John Ranucci, to move BZ09-13 to the regular order of business.

Chairman Price: Motion and a second, call the roll.

Dan Kasaris: Yes.
Chairman Price: Yes.
Diane Mastronicolas: Yes.
John Ranucci: Yes.

**Ayes - all. Nays - none.
Motion carried. (4-0)**

Chairman Price: Is there a motion to adjourn the Public Hearing?

Moved by Dan Kasaris, seconded by John Ranucci, to adjourn the Public Hearing.

**Ayes - all. Nays - none.
Motion carried.**

The North Royalton Board of Zoning Appeals met in the Council Chambers, 13834 Ridge Road, on Monday, September 28, 2009, to hold an Open meeting. The meeting was called to order at 9:15 pm by Chairman Neil Price.

Present: Chairman Neil Price, John Ranucci, Dan Kasaris, Diane Mastronicolas, Prosecutor Donna Vozar, Joe Hartman, Secretary Julie Broestl.

Moved by John Ranucci, seconded by Dan Kasaris, to excuse Tony Caraballo from the Open Meeting of the Board of Zoning Appeals meeting of September 28, 2009.

Chairman Price: Call the roll.

John Ranucci: Yes.
Dan Kasaris: Yes.
Chairman Price: Yes.
Diane Mastronicolas: Yes.

Ayes - all. Nays - none.

Motion carried. (4-0)

Chairman Price: Can I have a motion to approve August 26, 2009 minutes.

Moved by Dan Kasaris, seconded by John Ranucci to approve the August 26, 2009 minutes.

Chairman Price: Can I have a motion to excuse Diane Mastronicolas from voting on the minutes since she was not on the Board then..

Chairman Price: Yes.
Dan Kasaris: Yes.
John Ranucci: Yes.

Ayes - all. Nays - none.

Motion carried. (3-0)

Chairman Price: Can I have a motion to remove BZ09-09 from the table.

Moved by Dan Kasaris, seconded by John Ranucci, to remove BZ09-09 from the table.

Chairman Price: We have a letter that we received from Jessica Development LLC dated September 16, 2009 which is attached to the back of these minutes. This item will be removed from the agenda. BZ09-10?

(BZ09-10) Ryan and Laura Stasko request a variance to Chapter 1270 “Residential Districts”, Section 1270.04 “Area, Yard and Height Regulations”, paragraph (g), for relief from the maximum height allowed for an accessory building that they wish to construct on their property which is located at **10700 Akins Road, PPN: 483-25-001.**

Moved by John Ranucci, seconded by Dan Kasaris, to approve a variance of **5-foot 6-inches more than the maximum height allowed as prescribed in Section 1270.04(g) of the Zoning Code with regards to this proposed accessory building.**

Chairman Price: We have a motion and a second. Discussion?

John Ranucci: Mr. Chairman. In looking after looking at the property this afternoon and where the accessory building is going to be located the property falls away from the main road so the elevation of the back of the property is actually lower than the house and the road. The practical difficulty of the large fifth wheel that they plan on storing there with the pitch of the roof and the width, I see the practical difficulty for the size for the request of the 5-foot 6-inches. Based on those requirements I will be approving this variance.

Dan Kasaris: Mr. President. For those reasons and the fact that I find there is absolutely no negative effect on providing governmental services, I will also be voting to approve this requested variance.

Chairman Price: I will follow along likewise. This structure is back over 200-feet from the road. There is no effect on the governmental services as stated. The character of the neighborhood is not going to change any because of this structure. Diane?

Diane Mastronicolas: I second that. I agree with your comments Mr. Chairman.

Chairman Price: Donna?

Donna Vozar: Mr. Chairman. For the Boards review and approval I propose the following findings of fact and conclusion of law. The applicant appeared before the Board and presented evidence together with his application regarding the storage of a recreational vehicle. Due to that and the security he has requested a variance to 1270.04(g) regarding a height variance. The Board has found that practical difficulty has been established that the variance is the minimum necessary to meet the needs that have been substantially proven tonight. The character of the neighborhood will not be altered nor would governmental services be affected. Due to the topography land and the size of the recreational vehicle this variance will be within the spirit of the Code. If there is anything else the Board wants to add or change otherwise I submit it for vote.

Chairman Price: Any additions? Call the roll.

John Ranucci: Yes.
Dan Kasaris: Yes.
Chairman Price: Yes.
Diane Mastronicolas: Yes.

Ayes - all. Nays - none.
Variance granted. (4-0)

(BZ09-11) Peter and Judith Morell request a variance to Chapter 1270 “Residential Districts”, Section 1270.27 “Swimming Pools”, paragraph (b)(1)(E), for relief from the rear yard setback for an in-ground swimming pool that they have constructed on their property which is located at **10215 North Red Oak, PPN 488-16-055.**

Moved by John Ranucci, seconded by Dan Kasaris, **to approve a variance of 5.7-feet less than the required rear yard setback requirement as prescribed in Section 1270.27(b)(1)(E) of the Zoning Code with regards to this in-ground swimming pool.**

Chairman Price: Discussion?

John Ranucci: Mr. Chairman. In reviewing this application and the property earlier this afternoon I think that there were several errors that were made in this process. I don't find any malice that anything was done intentionally and maybe it should have been closer by the installer, the City, and everyone else that was notified. But the variance is not excessive. Unfortunately, the pool is already in and to address some of the issues the neighbors in the back I do agree that some proper landscaping, some screening, should be a condition to this variance to properly block and provide privacy for the neighbors in the back of this property here on North Red Oak. So, I will be approving this based on this condition.

Dan Kasaris: And that condition would be?

John Ranucci: Landscaping that would provide some privacy, some height that would screen the rear property.

Chairman Price: How about a board on board fence?

John Ranucci: I think that would actually be a better idea because of the space off of the fence line and the property line that would eliminate the concern or have an access to the rear property to maintain those arborvitaes as they would mature that would eliminate that concern.

Diane Mastronicolas: Mr. Chairman. I would recommend that in addition to the board on board fence that it would be poured on concrete there would eliminate then an individual having to go back there to cut the grass or pull the weeds. It would be easier to maintain your concern about someone having to go back there to maintain should weeds overgrow. Putting it on concrete would eliminate that.

Chairman Price: Is the representative of Mr. Pools here? Could you come up to the microphone.

Donna Vojar: Mr. Chairman. If any conditions are going to be imposed I would request that we have the attorney also because hopefully he can speak on behalf of the client on whether or not he can agree to any conditions if he would also come up to speak to the Board.

Chairman Price: My question is simply one of refamiliarizing with the spacing arrangement between the pool, concrete structure around the pool, the deck of the pool, than a fence, a black metal fence, then there are stones with some arborvitaes planted in the stones, and then behind the arborvitaes how far is it to the property line?

Mr. Jones (owner of Mr. Pools) approached the microphone.

Mr. Jones: Can we bring up these pictures.

Chairman Price: Yes. Can we keep these. Mark it exhibit A.

Mr. Jones: We have four pictures posted there exactly where the property lines starts and stops. There is plenty of room to walk around these arborvitaes to maintain them without going on the neighboring property.

Chairman Price: My question was is there room to put a fence between the arborvitaes and the pool so that the arborvitaes are what the neighbor would be looking at rather than a board on board fence?

Mr. Jones: No there is not. Actually, I don't think that would be very aesthetic at all if that was possible. You would have a fence within a fence. Unless the neighbors

Chairman Price: I wasn't thinking of aesthetics at this point, it was just

Mr. Jones: I'm sorry. I think that the arborvitaes would block pretty much everything out. I have more than 36 of them on my property all in a row and within a couple of years you can't even see the neighbor's property at all.

Chairman Price: Yes.

Mr. Jones: I believe that the maintenance at all. I believe that the maintenance is very possible at this point. As you can see in the pictures, if you could pass those on, without going on neighbor's properties. If she were to build a fence if she wanted to, as she noted earlier that would probably elevate her to see anything from that point of view. She planed on doing a board on board fence anyways. If you were to pour concrete as you recommended and then install a fence on there, I don't know how you would maintain water from one side to the other. I don't know how you would discharge it seeing that

the property runs pretty much east for water travel. It is nicely landscaped. It is done professionally. I think it looks very good.

Donna Vozar: Mr. Chairman. I am sorry to interrupt Mr. Chairman. Regarding that issue of pouring the cement and putting in the fence. I think the Building Department might have some comments on whether that is feasible or not according to our Code.

Joe Hartman: In regards to the fence?

Donna Vozar: The concrete.

Joe Hartman: I would oppose to the concrete. Drainage is probably the most important. If that fence is put up with good woolmiinized lumber it should last 26 years.

Mr. Jones: If I may ask, where would that fence go, on whose property?

Chairman Price: That is why I was asking. How much room there was from the deck to the pool to the black fence to the gravel to the arborvitaes to the property line, what is the spacing?

Mr. Jones: On the opposite sides of the arborvitaes, I believe Mr. Morell could answer that, he planted them.

Mr. Morell: I believe

Chairman Price: Wait a minute. You haven't spoken yet. Would you please come up here.

Mr. Peter Morell approached the microphone.

Chairman Price: Raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Mr. Morell: I do.

Chairman Price: State your name and address.

Mr. Morell: Peter A. Morell. 10215 North Red Oak. Between the fence and the arborvitaes and rocks that I put in, the rocks actually go right up to the end of the property line. Then there is six feet between the fence and the end of the property line. The arborvitaes are right in the middle. They are evergreen arborvitaes and when they mature they will not exceed or grow over her property. They will actually, if you look from the pictures, they touch one another. But there is enough space between the arborvitaes and the back of the property line. They won't grow over.

Chairman Price: So, the deck to the property line is six feet.

Mr. Morell: 5.5 feet from the black fence to the end of the property. Six feet from the concrete to the end of the property.

Chairman Price: And the arborvitaes are in the middle.

Mr. Morell: Correct.

Chairman Price: Thank you.

Mr. Morell: There shouldn't be any weeds. There is stuff that I put down to prevent weeds.

Chairman Price: I have to agree with John said when he said that he didn't think that there was any malice in putting the pool there without knowing exactly where the property pin was. Quite frankly, a variance of less than the span of my arms, I don't think is going to significantly change to what you see and what you hear as far as the neighbors go. It won't effect any government services. The essential character of the neighborhood is not going to be changed. There are other pools in the neighborhood. And I will then be voting for this variance.

Dan Kasaris: Mr. Chairman. Is that with the condition?

Chairman Price: No. There has been no motion to include a condition.

Dan Kasaris: I will be voting for the variance also. I don't see a need for a condition given the arborvitaes. I know how large they are. I know how large mine grown in two years. I know they are frequently placed around pools on Evergreen and Fawnhaven, and other streets in the City. So, I will be voting in favor of the application.

Chairman Price: Diane?

Diane Mastronicolas: Understanding where the arborvitaes are and there would not be an issue of weed or maintenance, I will be voting for this as well.

Chairman Price: I would like to add one other thing. When you move into a subdivision you are going to have neighbor relations because of the proximity. It is not like being out in the country. You are going to see neighbors across the fence line. You are going to see into people's houses, and that is just the nature of the beast; because you live in a subdivision. It happens in all subdivisions. Donna?

Donna Vozar: Yes Mr. Chairman. I will submit the following findings of fact and conclusions of law to the Board for there review, and any additions and comments based on your discretions. The Board finds that the applicant has presented there evidence and the applicant, Mr. Morell, testified. His attorney was here and presented his arguments on his behalf. The pool installer was also here and presented testimony. There was a neighbor that did testify and objected to the variance and presented the Board with her views as to how the process and how this occurred in the first place. The pool is installed and the Board finds that the variance that the applicant is requesting for the rear yard setback pursuant to our Code is the minimum necessary. They also find that based on the character of the neighborhood it will not be altered. There are other pools. It is a subdivision. There variance that is being requested is not substantial. The Board also indicated that a mistake did occur. It occurred and this variance is necessary because the situation can not feasible be alleviated through some other method besides a variance. As such the Board finds that practical difficulty has been established. The applicant has done what they can regarding screening and therefore the Board has found that practical difficulty has been established. If there is nothing else Mr. Chairman, go with the vote.

Chairman Price: Any additions? Call the roll.

Chairman Price: Yes.

Dan Kasaris: Yes.

Diane Mastronicolas: Yes.

John Ranucci: Yes.

Ayes - all. Nays - none.

Variance granted (4-0)

(BZ09-12) May Industries request a variance to Chapter 1278 "Industrial Districts", Section 1278.06 "Yard Regulations", of the City of North Royalton Codified Code for relief from the required front yard setback and loading door requirements for a new building that they wish to construct on this which is located on a vacant lot on **York-Theta Drive, PPN: 483-12-006.**

Moved by John Ranucci, seconded by Dan Kasaris, **to approve a variance of 19-feet less than the required front yard setback as prescribed in Section 1278.06 of the Zoning Code with regards to this new building of May Industries.**

Chairman Price: I have a motion and a second. Discussion?

Dan Kasaris: Yes. Mr. Chairman, may I inquire?

Chairman Price: Yes.

Mr. Hodge approached the microphone.

Dan Kasaris: First of all, what do you plan on using this building for?

Mr. Hodge: It is a continuation of their current facility that is a couple of lots down, and they are expanding in the City. They could keep more jobs in the park here.

Dan Kasaris: What type of deliveries will be occurring to the facility?

Mr. Hodge: They will be manufacturing their stamp products at their main facility and occasionally when they need more space to store them before they ship out. They will take them down the road in a truck.

Dan Kasaris: How large will the truck be that delivers the material into the storage facility?

Mr. Hodge: I am not 100% sure. I know that most of their deliveries will be going back and forth and be on a straight truck, probably a 20-foot bed or 24-foot bed, single axel. There will be the occasional drop trailer that will be loaded and unloaded and it will not stay there. I really can't answer the frequency of the drops, but it will be used for warehouse of their stamping products.

Dan Kasaris: Both of these variances relate to my question. If you intend on using semis or full trailers to deliver materials, I think a semi trailer is approximately 53 to 55 feet long. When you add that to the truck itself you are probably over 70-feet. So, my question is will there be any delivery trucks there that will block the road or in some way come off the property?

Mr. Hodge: I can't answer that. I know that they have their own straight trucks and they use straight trucks and I know that the owners will not have an issue with contingent with semis not blocking the road. If a trailer was dropped in it would be dropped and a tractor would be moved into the property. The trailer wouldn't be more than 53-feet. That is the longest trailer that they could possible have. The majority of their stuff would be straight trucks. I can't say on their behalf that they would never have a tractor trailer would be dropped off unloaded and then backed up to be pulled out.

Dan Kasaris: Thank you.

Chairman Price: You made the comment that materials, supply or product would be delivered from a location a couple blocks away, where is this location at?

Mr. Hodge: The address is on York-Theta.

Chairman Price: So, you have an address a couple blocks away or a company and then a facility down the street.

Mr. Hodge: Correct. It is a proposed facility. It is just a lot right now.

Chairman Price: Is there any business activity a couple doors away?

Mr. Hodge: Their prime business is on 9981 York-Theta, which is across two or three parcels away from where we are proposing there. They are out roomed there in their current facility.

Chairman Price: If you are looking at this lot, is it to the left or the right?

Mr. Hodge: It is on the same side of the road and it will be to the east of their current facility.

Chairman Price: I'm going left or right, not with east or west. Okay, so a couple parcels to the left.

Mr. Hodge: Next to Point One Design. It is actually two parcels down.

Chairman Price: Now, when you are talking about the size of this building and having to bring it forward on the lot, are you aware that change across the back of the property with two metal posts, the pad lock in the back?

Mr. Hodge: Yes.

Chairman Price: Do you intend to extend the building beyond that?

Mr. Hodge: From doing our soil borings and visiting the sites numerous times I would say the back of the building is approximately maybe 20 to 30 feet past the existing pipes and the chain that goes there now was put in to stop people from dumping back there.

Chairman Price: Does that require fill in that area back there?

Mr. Hodge: No. We are already approaching the riparian setback and our design calls for deep foundation so we are not extending the lot any further to the rear. Actually, there is a small retaining wall that we have to put on the rear so that we do not do anymore back filling back there, which is part of the plans.

Chairman Price: Yes. Thank you.

Diane Mastronicolas: Mr. Chairman.

Chairman Price: Diane.

Diane Mastronicolas: I did have a chance to visit the site and I agree with Mr. Kasaris about the concern of possibly a semi tractor trailer having to make a delivery and block the street for the other businesses on that street. That was something we did want to address. In light of this recent letter here, I did have an opportunity to address or look at the adjacent property so, I am not quite sure what property that is, but the concern from this particular individual is that your building would block the visibility, do you know the property The North Royalton Discount Storage? I'm sure you are familiar with that.

Mr. Hodge: On what street?

Diane Mastronicolas: It is located at 10001 York-Theta Drive. Was he here when you read the letter?

Chairman Price: He wasn't here.

John Ranucci: Mr. Chairman Price, if I could address Diane's concern there. I think the property is not next store. The storage facility is at the end of the road at the turn around which would be roughly five or six properties from where this building is. So, as far as a site line blocking the property I'm not sure how much of a concern that is.

Diane Mastronicolas: I apologize. You were not here when this was addressed earlier. There was a letter earlier read but obviously has no bearing on your request. Thank you.

Chairman Price: You familiar with the You Store It type of facility at the end of the cul-de-sac, where the vacant lot is located, is that road straight or does it curve?

Mr. Hodge: There is a slight curve to it.

Chairman Price: Back or forward? According to the map it straight.

John Ranucci: Mr. Chairman. In reviewing this property this afternoon, I'm not sure if it was the owner that was there, they currently have 34000 square feet that they rent and they want to consolidate all that area into one new building, and a 21000 square feet is the most they could build on this property based on the condition and lay of the land. Because of the retention or low lying land in the back that is forcing the property to be pushed forward, so based on those hardships that had been imposed on this property I see that the practical difficulty, so I will be approving this 19-foot requirement to move this to a 51-foot setback on the property. I would like to investigate this tractor trailer issue a little bit more. I don't think that we can get this answered today. In this second variance this can be an issue.

Dan Kasaris: Mr. Chairman. I see the practical difficulties that would necessitate granting variance number one. I do not see any adverse effect on governmental services. I don't see it changing the character of the neighborhood. I will be voting in favor of variance number one.

Diane Mastronicolas: Mr. Chairman. I will be voting in favor of variance number one as well.

Chairman Price: I will also.

Donna Vozar: Mr. Chairman. If I could submit the following findings of fact and conclusion of law. Evidence was heard and weighed by the Board pursuant to the Ordinance. The Board finds that practical difficulty has been established. That there can not be beneficial use of the property without the variance due to the fact that the topography of the lot, the size of the lot, the riparian setback requirements all preclude use of this property without the variance. The variance is minimum for the front yard setback. No governmental services will be effected. The variance is within the spirit and intent of the Code. There was discussion regarding an affidavit that was submitted by a neighbor that he didn't object unless it interfered with his visibility. That is all Mr. Chairman.

Chairman Price: Any additions? Call the roll.

Chairman Price: Yes.
Diane Mastronicolas: Yes.
John Ranucci: Yes.
Dan Kasaris: Yes.

Ayes - all. Nays - none.
Variance #1 granted. (4-0)

Moved by Dan Kasaris, seconded by John Ranucci, to **approve a variance allowing loading doors in the front of the building which is contrary to Section 1278.06 of the Zoning Code with regards to a new building of May Industries with a condition that the front doors do not interference or blockage to the roadway.**

Chairman Price: Discussion. I will go along with the condition that the trailers do not block the driveway. If we find out that trailers do not block the driveway then this is a

moot point. For all of the reasons I mentioned before. You can't put any sort of a loading facility on the sides or in the back. There is no room. There are other doors in the front of other buildings in that area. No governmental services will be effected. Not going to change aesthetics. I will be voting for it.

Dan Kasaris: Mr. Chairman. You have covered them all. I also will be voting in favor of this.

Diane Mastronicolas: Mr. Chairman. I will be voting for it as well.

John Ranucci: Based on the condition I will also.

Donna Vozar: The findings of fact and conclusion of law for the second variance regarding the loading dock with the condition that trailers do not block the driveway as imposed by this variance. Again, the same evidence was heard and submitted and weighed by the Board according to the criteria. In this case the topography and the size of the lot preclude the loading door being anywhere else besides in the front. It will not change the character of the neighborhood as there was testimony that there are also loading docks in the front of other parcels in the same area. Based on that and applicant's agreement of condition that the trailers do not block the driveway and if we could have him come forward and indicate that he does agree that trailers will not block the driveway. Are you able to make the decision.

Mr. Hodge: You mean the road. Actually when we were talking about the trailer I just scaled the drawing and we actually have 80-feet from the edge of the building to the edge of the curb. Now I am even more confident that it won't be an issue because the longest trailer we have is 53-feet.

Donna Vozar: So, you will agree to it?

Mr. Hodge: Yes.

Donna Vozar: Wonderful. Mr. Chairman, then I submit that to the Board for your vote.

Chairman Price: Call the roll.

John Ranucci: Yes.
Dan Kasaris: Yes.
Chairman Price: Yes.
Diane Mastronicolas: Yes.

Ayes - all. Nays - none.
Variance #2 granted. (4-0)

(BZ09-13) AT & T/John Sindyla and North Royalton City School District request a variance to Chapter 1290 "Wireless Facilities", Section 1290.03 "Public Facilities Districts", paragraph (c)(3)(A) for relief from the required setback from the eastern property line for a proposed monopole tower that they wish to erect on this property which is located at **9360 Albion Road, Albion Road School, PPN: 482-04-015.**

Moved by John Ranucci, seconded by Dan Kasaris, to approve a variance **of 266-feet less than the required setback from the eastern property line as prescribed in Section 1290.03(c)(3)(A) of the Zoning code with regards to the location for a proposed 190-foot high wireless monopole tower.**

Chairman Price: I have a motion and a second. Discussion?

Mr. Graves approached the microphone.

Chairman Price: Mr. Graves. I am assuming that this tower is designed by engineers and meets certain structural standards. If there was a catastrophic failure would the tower tip over or will it collapse on itself?

Mr. Graves: All these towers are designed so that they do not fall from the base but they collapsing usually at the joints where they are connected. They come in lengths.

Chairman Price: A distance far enough away from the school to avoid falling on the school?

Mr. Graves: Yes that is correct.

Chairman Price: As explained before the coverage and the blue, yellow and the green. The yellow is a whole in coverage that is where you can't get good reception.

Mr. Graves: That is poor reception. We have our engineer here if you have any questions.

Chairman Price: The proposal is for 190-foot tower would extending that tower increase the coverage to the west yellow area?

Mr. Graves: By extending it you mean moving it?

Chairman Price: Higher.

Mr. Graves: It really isn't practical to have a monopole higher than 190-feet.

Mr. Sindyla: Currently anything under 200-feet does not have to be lit. Anything over has to be lighted by the FAA regardless.

Chairman Price: What is the requirement for a 190-feet than? What requires the tower to be that tall to get that area of coverage.

Mr. Graves: There are a couple of reasons. What this does it accommodates multiple carriers. Because there has to be a separation between the antennas from each carrier. John, correct me if I am wrong. In order for them to have multiple carriers if AT & T would be at the top of the point, than the next carrier down would have to be at least 10-feet below that, and then another 10-feet below that, so in order to provide the coverage based upon the foliage and the topography of the area AT & T needs to have their antennas at that height. They could probably go a little lower but that would eliminate the opportunity for collocation on that tower. This would provide the most benefit.

Chairman Price: So, you are saying that that is the minimum tower height to provide the separation for collocators?

Mr. Graves: In anticipation of other carriers having to go on this tower which we are fully aware that they want to be on this tower.

Mr. Sindyla: I'm pretty sure your code says that we have to have a monopole and the standard size is 190-feet. We didn't want to light it because we thought that would be an issue.

Chairman Price: Whose responsibility is it to the left, the long area?

Mr. Sindyla: This is Strongsville. AT & T may eventually get a sight there. But in the terms of covering this 130th street, and this is Sprague, so it covers North Royalton. The yellow is Strongsville or Berea. Too close together the signal will repeat itself. I will be an engineer before this is over. What happens in this technology is that it uses the same

frequency each time. So, it can only be so powerful. They can only be so close together or you would hear other people talking.

Chairman Price: So, the use of a repeater is sort of out of the question

Mr. Sindyla: It might be the solution for something like that if they ever need it in the future but they don't see it right now. One last thing that we didn't talk about with regard to the equipment shelter and the ground level when you mentioned the word arborvitaes, this shelter and fencing as long as it is approved at the Planning Commission, will anticipate having arborvitaes all around it to make it much more attractive to the community. The question was raised earlier. We are trying to do everything to minimize the visual impact on the community.

John Ranucci: In question to the shelter there. If you are looking for potential other users on that pole will that space accommodate those futures.

Mr. Sindyla: No. The agreement that we have with the school is that the school district will lease out extra ground space to future carriers. So, if T-Mobile comes along and they want to collocate on the tower they would have to go to the district and lease from them and get additional funds and they would simply extend the compound 10 x 20 or something and then keep adding onto the compound as new comes. It would become one large compound.

Mr. Graves: Further away from the school whatever makes sense for the school district.

Chairman Price: Does that mean for every new collocator they are going to require a generator for emergency power? So, each company will have their own generators and testing them at whatever times?

Mr. Kovitch: I know that some carriers don't have a generator. For example, there is no generator on this site.

Mr. Graves: They have a connection to plug in a generator if one is needed in an emergency. If the power was out in this community and you needed communication they do have the capabilities of bringing a generator in to make sure that there is communication capability.

Mr. Kovitch: Currently, there is a battery to operator that shelter for five or six hours. The blackout that happened in 2003 and it is long term, that is when they would bring a generator.

Chairman Price: So there is no requirement for a generator to be randomly tested?

Mr. Kovitch: Not here. Not for this facility.

Mr. Graves: It is very rare that you would find a facility that requires a generator all the time. Is that a fair statement John?

Donna Vozar: John can you come up to the microphone.

John Kovitch approached the microphone.

Donna Vozar: Mr. Chairman. These are all issues, obviously, that the Planning Commission will hear when they do their conditional use. This will all be before them.

John Kovitch approached the microphone.

Chairman Price: Raise your right hand please. Do you swear to tell the truth, and nothing but the truth, so help you God?

Chairman Price: State your name and address.

Mr. Kovitch: John Kovach, 25000 Country Club Blvd., North Olmstead. Basically, as far as the generator issue goes, our operations team every year goes through a disaster recovery plan that we put together. It is basically our operations not our R and F Department which I am a part of and they determine where they should put generators permanently based on difficulties of getting into certain locations and in this location there is no rough terrain or anything that would require a permanent generator at this spot, but in some places in the rural areas where you can get your snow blizzards and don't have access to the compounds they strategically place generators throughout the network and then as issues arise through storms we do have a fleet of portable generators that the team will deploy to various cities when required.

Chairman Price: Thank you. I was just asking because we are suppose to be addressing the size of the area that is in location of the antenna complex, and we just want to know if there is going to be a generator in that space or a requirement for one. Based on your testimony and the requirements that the City has imposed and restrictions, I will be voting for this.

Dan Kasaris: Mr. President.

Chairman Price: Yes.

Dan Kasaris: An previous occasions when John has been here this is an area variance not a use variance. This Code was enacted whether by Council a few years ago or by the vote of the people from years ago, and this area was zoned Public Facilities. This is a conditional permitted use on this land. In order for the property owner, who happens to be the schools, to fully utilize their land, this variance should be granted. They can't utilize the land because in this particular ways is just one of the ways that the law allows them to use the land without granting this variance. This does not have an adverse effect on the governmental services. I think that the owner's predicament here, which was caused by the rezoning, necessitates a granting of this variance. For these reason, Mr. President, I will be voting in favor of the variance.

Diane Mastronicolas: Mr. Chairman. Based on the information presented tonight and the facts set forth for us, I too will be voting for this tonight.

John Ranucci: I am in agreement with everything that has been said here. I can see the practical difficulties and I will vote to approve this also.

Chairman Price: Donna?

Donna Vozar: Yes. Mr. Chairman. I will present the findings of fact and conclusion of law for the Board review and comment prior to vote. AT &T is here seeking an area variance of 266-feet. The evidence has been heard and weighed by the Board. There was evidence presented that it was the tower is required for coverage. It is required and mandated by Federal law that they fulfill the requirement to make sure they have coverage where available. There was presentation regarding the topography of the land and the purpose and reasons for selecting the site in the Public Facility. The closet residence to this tower is 580-feet away. The criteria to 1264.08 establishing practical difficulty was established by the applicant in their presentation. This is a Public Facility which is where telecommunication towers are a permitted use with a conditional use. There was testimony from the property owner, the school district, representative was here and has indicated that they give consent for this. Based on that Mr. Chairman the Board found that practical difficulty was established. This is the minimum necessary. It will

not alter the character of the neighborhood as this is zoned a Public Facility. This is within the spirit of the Code. Anything else Mr. Chairman.

Chairman Price: Anything else? Call the roll.

Chairman Price: Yes.
John Ranucci: Yes.
Dan Kasaris: Yes.
Diane Mastronicolas: Yes.

Ayes - all. Nays - none.
Variance #2 granted. (4-0)

Moved by Dan Kasaris, seconded by John Ranucci to **adjourn the meeting of the Board of Zoning Appeals.**

Ayes - all. Nays - none.
Motion carried. (4-0)

Approved: _____

Date: _____

Attest: _____