

**Zoning Hearing Board Meeting  
03/10/04**

Zoning Hearing Board Agenda

Wednesday, March 10, 2004 7:30 P.M.

1. Introduction of Board Members
2. Pledge of Allegiance to the Flag
3. Approve January 7, 2004 Meeting Minutes
4. New Business Case #1-04 - The application of Jeffrey and Karen Snow, property located at 1019 Millersville Road, Lancaster, PA. The applicant is requesting the following variances: 1) Section 204.4 - To allow a new detached garage to have an encroachment into the front yard setback and 2) Floodplain Zones - Section 211.7 - Variances - to allow the demolition and replacement of an existing detached garage in the floodplain zone with the same foot print approved by the Zoning Hearing Board on July 30, 2003 because the existing garage has structural problems. The property is located in the Medium Density (RM) Zoning District.

**DRAFT MANOR TOWNSHIP ZONING HEARING BOARD MINUTES**

Wednesday, March 10, 2004 Time: 7:30 P.M.

The Manor Township Zoning Hearing Board met on Wednesday, March 10, 2004 at 7:30 p.m. at the Manor Township Municipal Building, 950 West Fairway Drive, Lancaster, PA 17603. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, Chairman I. Norman Gerlach, Vice Chairman Barbara Douglas, Secretary Township Officials Present: James R. McManus, ZHB Attorney Bruce R. Ott, Zoning Officer Visitors Present: Karen, Jeffrey & Conor Snow, 1019 Millersville Road Jake Toews, 1558 Stonemill Road John May, 100 Red Fox Road

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of the Zoning Hearing Board, the Zoning Officer, the Zoning Hearing Board Attorney, the Court Report and the Recording Secretary.

Mr. Gerlach moved the meeting minutes of January 7, 2004 be approved as submitted. Motion was seconded by Ms. Douglas and the motion carried.

Old Business Mr. Granger read a letter that was sent to Mr. Ott from Florence Hainey requesting an extension on Case #6-03 for a variance for Echo Housing at 152 Walnut Hill Road which was approved October 8, 2003. Ms. Hainey stated her daughter will be purchasing her home and the Echo Housing will commence when Ms. Hainey's daughter's home is sold. No agreement has been entered into for Ms. Hainey's daughter's home and due to that fact a six-month extension is being requested for the variance. Mr. Gerlach made a motion to grant the extension requested.

The motion was seconded by Barbara Douglas and the motion carried unanimously.

New Business Case #1-04 - The application of Jeffrey and Karen Snow, property located at 1019 Millersville Road, Lancaster, PA. The applicant is requesting the following variances: 1) Section 204.4 - To allow a new detached garage to have an encroachment into the front yard setback and 2) Flood plain Zones - Section 211.7 - Variances - to allow the demolition and replacement of an existing detached garage in the Flood plain zone with the same foot print approved by the Zoning Hearing Board on July 30, 2003 because the existing garage has structural problems. The property is located in the Medium Density (RM) Zoning District. Mr. Granger turned the hearing over to Mr. McManus. Mr. McManus asked if anyone was present who would participate in the proceedings that were not an applicant witness or in support of the application. There was no one present who was opposed to the application. Bruce Ott, Township Zoning Officer, was sworn in and testified that he received the application Case #1-04 and the date, time, and place of the hearing were advertised in the Lancaster Newspapers on February 25 and March 3, 2004. Proof of publication was marked Exhibit #2 and the application was marked Exhibit #1. Mr. Ott testified the property was posted on February 19 with the date, time and place of the hearing. Mr. Ott testified a notice was placed in the Township Building on February 19 with the time, date and place of the hearing for public inspection. Jeff Snow and Jake Toews were sworn in by the Court Reporter. Jeff Snow, 1019 Millersville Road, Lancaster, PA stated the reason he was coming before the Board for a variance is actually an additional variance with the original variance being received July 30, 2003. Mr. Snow stated initially that they had asked to extend the size of the garage which would encroach on the front yard setback by five feet and would be in the Flood plain zone. Both of those variances were approved and they proceeded to obtain a building permit. Mr. Toews did an assessment of the existing garage because the idea was to add onto the garage in the front and build onto the top of the garage for a second story. Mr. Snow stated upon inspection Mr. Toews determined the garage itself was structurally unsound. Mr. Snow stated that it was found that the footers and the walls were badly cracked in a number of areas and there was visible evidence that the building would not sustain the addition. Mr. Snow stated extensive rebuilding would be needed in order to build onto the existing garage. Mr. Snow stated that they are requesting that instead of trying to repair the building that they be allowed to demolish the existing building and rebuild in the exact footprint that was approved by the Board in July of 2003. Jake Toews, of Toews Associates, stated that he is a registered professional engineer in the State of Pennsylvania. Mr. Toews stated accompanying the application was a copy of his opinion which stated the existing structure is not structurally in sound condition to support the proposed expansion. Mr. Toews stated the existing structure has a clearance on the first floor of six foot five and one-half inches and that is inadequate for a garage. The intent from the beginning was to raise the roof of the garage to get at least an eight-foot clearance. Mr. Toews showed on a blueprint an outline of the garage as well as the proposed addition. Mr. Toews stated the entrance of the garage facing Millersville Road will be moved to the side street. Mr. Toews stated he highlighted the area of the existing building on the drawing that needed to be torn down or rebuilt due to the deterioration of the building. Mr. Toews stated about 70% of the perimeter of the building would have to be torn down and rebuilt because of the condition of the building. Mr. Toews pointed out on the drawing the cracks in the walls and the foundation. Mr. Toews stated that the masonry wall is eight inches thick. This is adequate for providing a garage height that we intended but with the condition of the wall, Mr. Toews stated he could not put his seal of approval on this expansion using the existing structure. This is due to the

instability of the wall and not knowing what type of foundation is under the building. Mr. Toews showed the Board pictures of the cracks in the walls that were referred to in their testimony. The revised site plan was marked Exhibit #3.

Mr. McManus clarified that the only difference between Site Plan Exhibit #3 and the site plan presented to the Board in the July 2003 application is the label “garage to remain” now substituted by “garage to be removed and replaced.” Mr. Snow stated that the labeling was the only change. Mr. McManus asked if the proposed driveway areas will remain the same as offered in the July 2003 application and Mr. Snow stated that was correct. Mr. Snow stated that the only other supporting documentation offered to the Board is the consideration of photographs illustrating the degree of the cracking and the location which has been numbered to correspond with the items listed on Mr. Toews drawing. The photographs were marked Exhibit #4. Mr. McManus asked Mr. Snow if the photographs offered visual evidence of what was testified. Mr. Snow stated that was correct. Mr. Toews went through the photographs pointing out the problem areas of the existing garage. Mr. Granger stated he interpreted what was said that there may be ways to possibly save what is there but it would be economically unfeasible and it would be much better to take the garage down and starting from scratch. Mr. Snow stated that was correct. Mr. Granger asked how the exterior of the new garage would look compared to the existing garage. Mr. Snow stated the new garage will have the same look but use something that looks more authentic. Mr. Granger asked if everything that was given to the Board the last time will remain the same and Mr. Snow stated that was correct. Mr. Gerlach asked if it would be the same minor encroachment on the building setback and Mr. Snow stated that was correct. Mr. Gerlach asked if there was any change in the fact that the entrance onto Millersville Road is being eliminated and Mr. Snow stated that was correct. Mr. McManus stated as part of the application Mr. Snow recognized there was a prior decision of the Board Case #3-03 regarding this property for essentially the same use and Mr. Snow stated that was correct. Mr. McManus asked Mr. Snow if he was familiar with the contents of the decision and Mr. Snow stated he was. Mr. McManus asked if the findings are accurate and do they reflect, except for the fact Mr. Snow will be constructing a new garage rather adding onto the existing garage, the present application. Mr. Snow stated that was correct. Mr. McManus stated that although the initial application sought relief under Section 503.2 Non-Conforming Structures, which allowed under certain conditions the modification, expansion, alteration, reconstruction of nonconforming structures, that all the facts relating to that former application would apply to this one. Mr. Snow stated that was correct. Mr. McManus asked Mr. Snow if his testimony with respect to the necessity to encroach on a required setback remains the same in this application and has not changed. The variance request before the Board is precisely the same. Mr. Snow stated that is correct. Mr. McManus asked Mr. Snow if the application before them will comply with the provisions of 503.2 in that nothing done with respect to this proposed construction will cause unacceptable increased in flood height, velocities or frequencies of flood waters. Mr. McManus asked if it is also fair to say the designation of the Flood plain area includes most of the lot and the dwelling. Mr. Snow stated that is correct. Mr. McManus asked if there was no reasonable alternative location on the lot to locate a garage that would function as a garage with access to two roads and not be in the Flood plain. Mr. Snow stated that there was no other location on the lot. Mr. Gerlach made a motion to close testimony and the Board render a decision on April 7, 2004 at 7:00 p.m. in this room. The motion was seconded by Ms. Douglas and the motion carried

unanimously.

The next meeting will be Wednesday, April 7, 2004 at 7:00 p.m. in this room. Meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer

Zoning Hearing Board Meeting

04/07/04

#### MANOR TOWNSHIP ZONING HEARING BOARD MINUTES

Wednesday, April 7, 2004 Time: 7:30 P.M.

The Manor Township Zoning Hearing Board met on Wednesday, April 7, 2004 at 7:00 p.m. at the Manor Township Municipal Building, 950 West Fairway Drive, Lancaster, PA 17603. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, Chairman I. Norman Gerlach, Vice Chairman Barbara Douglas, Secretary Township Official Present: James R. McManus, ZHB Attorney Visitors Present: L. Allan Kreider, 141 Supervisors Road Bob & Jody Croft, 442 Shultz Road Paul Blanker, 321 Cedar Drive, Harrisburg Paul Dugan, 418 Pleasant Valley Dr., Conshohocken Tom Readinger, 985 Jolly Road, Blue Bell Vlad Tarasov, 985 Jolly Road, Blue Bell James Strong, 3401 N. Front Street, Harrisburg Jeff & Karen Snow, 1019 Millersville Road

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of the Zoning Hearing Board, the Zoning Officer, the Zoning Hearing Board Attorney, the Court Reporter and the Recording Secretary.

Mr. Gerlach moved the meeting minutes of March 10, 2004 be approved as submitted. Motion was seconded by Ms. Douglas and the motion carried.

Old Business Case #1-04 - The application of Jeffrey and Karen Snow, property located at 1019 Millersville Road, Lancaster, PA. The applicant is requesting the following variances: 1) Section 204.4 - To allow a new detached garage to have an encroachment into the front yard setback and 2) Floodplain Zones - Section 211.7 - Variances - to allow the demolition and replacement of an existing detached garage in the floodplain zone with the same foot print approved by the Zoning Hearing Board on July 30, 2003 because the existing garage has structural problems. The property is located in the Medium Density (RM) Zoning District. Mr. Granger stated testimony was closed at the last meeting and Mr. McManus contacted each Board Member individually for their opinions and drafted a decision that was given to each member. Mr. Granger stated at this time the Board would discuss the draft decision. After discussion, Mr. Gerlach made a motion the application of Jeffrey E. Snow and Karen M. Snow, with address at 1019 Millersville Road,

Lancaster, PA 17603 for a variance to the provisions of Sections 204.4 (Front Yard Setback) of the Manor Township Zoning Ordinance to demolish an existing non-conforming building in use as a garage and reconstruct a garage building on the building footprint approved by the Board by its decision dated July 30, 2003, On Re: Application of Jeffrey E. Snow and Karen M. Snow, No. 3-03 on their property at 1019 Millersville Road, Tax Map parcel No. 13H16-3-5, Account No. 410-00277-0-0000 is hereby approved subject to the following conditions: 1) Applicants shall adhere to the fact and dimensional criteria contained in their application, as well as all testimony presented by the Applicants or presented on their behalf at the hearing held on March 10, 2004. 2) Applicants shall adhere to the dimensions and locations of all proposed improvements as set forth in their site plan admitted as Exhibit " E" . 3) Applicants shall comply with the requirements of Section 211.10 of the Zoning Ordinance which sets forth design and performance standards for uses and structures within the FP-Floodplain Zone. 4) Applicants shall comply with all other applicable Federal, State and local regulations regarding the construction of the proposed detached garage. 5) Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies as set forth in the Pennsylvania Municipalities Planning Code. The motion was seconded by Ms. Douglas and the motion carried unanimously.

New Business Case #2-04 - The application of Cello Partnership d/b/a Verizon Wireless, property located directly at 180 Shenks Lane Tax Map No. 15J-1-2A Account No. 410-53484-0-0000 Millersville, PA. The Applicant is requesting a special exception of Section 207.3.15 to erect a cell tower monopole in accordance with Section 453 – Cell Site Antenna and, if necessary, a variance of Section 308 – Required Vehicular Access. The property is located in the General Commercial (GC) Zoning District. Mr. Granger turned the hearing over to Mr. McManus. Mr. McManus asked if anyone was present who would participate in the proceedings who was not an applicant witness or in support of the application. There was no one present who was opposed to the application. Mr. McManus indicated review of the file showed proof of publication for March 24 and March 31, 2004 in the Lancaster Newspapers. In addition, the file indicates the property was posted on March 18, 2004 with the date, time and place. The same notice was also placed in the lobby of the Municipal Building. Attorney James M. Strong from the Law Firm of Mette, Evans & Woodside, 3401 North Front Street, Harrisburg, presented the plan. Attorney Strong and four witnesses were sworn in by the Court Stenographer. Mr. Strong stated the property is located at 180 Shenks Lane just south of Millersville University. The property is owned by PP&L and sets back in off of Shenks Lane. There is an existing paved access road from Shenks Lane into the property. The property is currently improved with an existing PP&L substation. Behind the substation there are utility poles with transmission wires running away from the substation. There is another existing substation to the northeast of the property. There are three components to the application. The first is a request for a special exception. This property is located in the General Commercial District and a cell site antenna facility with a new tower is permitted by special exception. Mr. Strong stated they are requesting the Board approve the facility which would include a fence compound area, screening, proposed monopole tower, and equipment shelter. The plans show the monopole elevations. Mr. Strong stated at the top of the monopole is located two Verizon antennas. Mr. Strong stated another antenna is shown at a 130' elevation on the proposed pole and Mr. Strong stated it wanted to make it clear that AT&T Wireless has discussed with PP&L their desire to locate at this site on this pole if the plan is approved and the pole is constructed. Mr. Strong stated that even though

the proposed antenna is depicted, this plan is not being submitted for AT&T Wireless facilities for any type of approval. Mr. Strong stated there were two issues raised in discussions with Mr. Ott and Mr. Goodman. The first issues relates to Section 307 of the Zoning Ordinance which provides that there may be more than one principal use on a lot provided the additional principal uses comply with the minimal lot area, set back regulations, etc. The question that was raised and discussed was whether or not this proposed antenna facility implicated Section 307. The facility, as proposed, would be a lease hold area of approximately 50' x 50' beside the compound. It would utilize the existing paved access drive and it would be a minimal area required for leasing from PP&L. In discussing this issue with Mr. Ott, he stated they needed to look at Section 307 and determine whether or not it applies and if it does, can Verizon Wireless lease sufficient ground and orient its compound and improvements in such a way that it complies with Section 307? Mr. Strong stated they will be presenting the plan that was filed with the application. This plan is for a 50' x 50' compound area and it does not meet the 15,000 sq. ft. minimum lot area requirement in the General Commercial Zone. We are also submitting an alternate plan which provides a lease hold area that would exceed 15,000 sq. ft. Mr. Strong pointed out the area on the plan that would be leased by Verizon Wireless. Mr. Strong stated the tower would be located further away from the substation facility to comply with setbacks. Mr. Strong stated the orientation of the improvements within the facility would be changed and would require substantially more ground to be leased from PP&L including access drive issues would have to be worked out with PP&L as part of the leasing. Mr. Strong stated that they have a plan and it can be done, but the question is it really to anyone' s benefit going this extra step? We are providing an alternate plan and what we are requesting is that the Zoning Hearing Board look at Section 307 and arrive at a conclusion as to whether or not this is a second principal use. Mr. Strong submitted a letter to the Board from Mr. Goodman which indicated the existing PP&L substation is a public utility and those improvements are exempt from the Township' s zoning regulations so that the proposed cell site antenna facility would be the first principal use subject to zoning regulations on the property. Mr. Strong stated that the definition in the Zoning Ordinance looks at the principal use as what is the primary principal use of the property and Mr. Strong submitted that the primary use of the property is a PP&L substation. That is the use of the property as long as it has been there and the proposed facility you will often find is customarily incidental to a PP&L use. These types of facilities are attached to existing PP&L structures or built on PP&L property on their right-of-way. We feel this is more properly characterized in this instance as an accessory use. Mr. Strong stated the alternate plan would accomplish the same results but with increased difficulties and no real benefit to the Township. Mr. Strong stated another issues raised by Mr. Goodman was the existing access drive. Section 308 provides if you are building a new building or moving a building you have to have frontage to a road or access to an improved road. Mr. Goodman states in the letter Section 308 does not apply, because there is no proposed building, only a tower. However, Verizon Wireless does propose an equipment shelter. This was discussed with Mr. Goodman and he recognized that we should consider the shelter a building. Mr. Goodman stated this is an existing paved access drive which PP&L has used to gain access to this lot. In discussing this issue with Mr. Goodman and Mr. McManus, they felt it would be wise to bring this issue to the Board' s attention. The Board can determine if this is an existing access drive or whether a variance for Section 308 is needed, for Verizon Wireless to use the access drive to access the facility from Shenks Lane. These types of facilities are generally only visited one or two times a month by someone in a truck or sport utility vehicle, so any increased traffic burden on this access drive will be very minimal. Mr. McManus

asked Mr. Strong what the total lot area was. Mr. Strong stated the lot is 57,450 sq. ft. Mr. Strong stated he was presenting Applicant Exhibits #1-9. Mr. McManus marked the Application as Board Exhibit #1 and Proof of Publication as Exhibit B#2. Mr. Strong called Paul Blanker who stated his address was 321 Cedar Drive, Pittsburg, PA. Mr. Blanker stated he has been retained by Verizon Wireless as an independent consultant to locate and acquire wireless facility sites for them. Mr. Blanker stated he has been in this line of work for approximately 13 years. He is familiar with the property in this application which is owned by PP&L. Mr. Blanker stated PP&L has authorized a filing of the zoning application with a letter that has been marked Applicant's Exhibit A1. Verizon Wireless is licensed by the Federal Communications Commission to provide wireless services in this area and the license is marked as Applicant's Exhibit #A2. Mr. Blanker stated the proposed facility is located in the Township's General Commercial District and this type of facility is permitted by special exception. Mr. Blanker stated Heckles & McCoy was obtained by PP&L and Verizon Wireless to prepare the site plans that were submitted and marked as Applicant's Exhibit #A3. There are no lights or signs to be attached to the tower except what would be required by the FAA. Mr. Blanker described the property as a PP&L substation that is currently being used. The property is near Millersville University. East and south are open fields next to the substation. To the west is a structure that fronts on Shenks Lane. It is a house surrounded by dense foliage that offers a unique buffer approximately 30' to 40' in height. To the north is the Millersville University property as well as PP&L's easement continuing onto the east of the substation. Mr. Blanker stated Verizon Wireless made an effort to locate other tall structures within ¼ mile radius of this proposed site for purposes of co-locating their antennas on such structures. Mr. Blanker stated that there is one building to the north of this substation that Verizon Wireless notified Millersville University that they were not able to locate any space outside or inside for their radio equipment. A 12' x 30' area would be needed. Other than that building, there are no other structures high enough to allow for co-location. Mr. Blanker stated this proposed tower will be designed to accommodate additional uses if it is approved and constructed. Mr. Blanker stated AT&T has expressed interest in co-locating their antennas at this proposed site if the tower is approved and constructed. Mr. Blanker stated if the proposed facility becomes functionally obsolete or no longer in use, Verizon Wireless will remove the facility and restore the ground to its original condition. Mr. Blanker stated after construction the sites are visited several times a month and checked for periodic maintenance. Mr. Blanker stated the proposed facility would not detract from the use and enjoyment of adjoining properties. Mr. Blanker stated the proposed use is consistent with the purpose and intent of the Zoning Ordinance and the proposed use will not change the character of the neighborhood. Mr. Blanker stated this facility is unmanned and does not require sewer or water. In case of an emergency with the facility, the existing road makes it is very accessible. Mr. Granger asked Mr. Blanker if he had any documentation stating whether or not Verizon Wireless can locate on the existing buildings at the University and why. Mr. Blanker stated he only had verbal communication with the University. Mr. Granger asked if the facility could be on the ground or indoors. Mr. Blanker stated it depends on the load and design of the building. Mr. Granger stated the building is as tall as the 130' pole and that co-location sites are much better because the houses are facing in that direction and it is not the most pristine site to be looking at. Mr. Granger asked if the roof of the building had been considered. Mr. Blanker stated they had not checked that out. Mr. Granger asked if Verizon Wireless looked into adding onto the transmission pole instead of coming out from the substation and Mr. Blanker stated they had looked at the possibility. However, PP&L decided that given the design of the existing poles it was not feasible structurally. They directed

us to look at doing a new monopole. Mr. Granger asked how many other antennas could be co-located on the monopole. Mr. Blanker stated typically from his experience a monopole this size could easily have three carriers on it. Mr. Granger asked if there was a removal plan to submit to the Board as required by the Ordinance. Mr. Strong stated there was no formal removal plan but one could certainly be provided if it was a condition. Mr. Strong stated that as part of the leasing obligations Verizon Wireless generally must remove the pole within 90 days. Mr. Granger stated Item #12 under Section 454.3.2 does require a removal plan to be submitted. Ms. Douglas asked how many other people use the access drive and how often is it used. Mr. Strong stated he believes PP&L is the only one to use the drive. Mr. McManus asked for clarification on the area of the lease hold area. Mr. Blanker stated it is 50' x 50'. Mr. McManus asked if the monopole would be contained in that area. The height of the pole would be 150' and the actual height of the antenna is approximately 146'. An unmanned 12' x 30' equipment shelter to house the radio equipment and the entire area would be contained within a chain link fence barbed for security. Security maintained that the shelter notifies them if there is any breakage or entrance. Mr. McManus asked about the type of lighting and was informed that it is only security lighting. Since the tower is less than 200', it is not required to be lighted other than what is directed by the FAA. Mr. McManus asked if there would be lighting. Mr. Blanker stated there would be no illumination or glare at the lease hold boundaries or the boundary of the PP&L tract. Mr. Blanker stated even if it is lighted the lights are designed by the manufacturer to be vented upward and the light is vented to the ground to adjacent properties. Mr. McManus asked Mr. Blanker the condition of the access road. Mr. Blanker stated the drive is 12' wide, consisting of a paved surface in fairly good condition as an improved access road to that substation. Mr. McManus asked if there would be free and unobstructed access by virtue of the lease agreement. Mr. Blanker stated that was correct. Mr. McManus asked if they would also have a right-of-way over the access road as part of the agreement with PP&L. Mr. Blanker stated that is correct. We need to have ingress and egress to the lease hold area which is part of the lease agreement. Mr. McManus asked if there is a lease agreement in place conditioned upon Zoning Hearing Board approval. Mr. Strong stated a master lease agreement has been executed between PP&L and Verizon Wireless which contains all of the nuts and bolts of the arrangement between the two companies. For each individual approved site, we have an individual one page site agreement confirming the use. Mr. Strong stated we do have one agreement signed by PP&L but the agreement with Verizon Wireless has not yet been signed. They are waiting for approval of the site. Mr. McManus asked if the lease agreement either does or will contain the provisions for the site reclamation within 90 days or will that be in addition. Mr. Strong confirmed that the master agreement does in fact provide for a 90 day removal. We would accept it as a condition of approval even if it was above what is required by the lease. Mr. McManus stated that technically the Ordinance requires a plan and the Board may want to see the plan. If we condition this upon you providing a plan, the ability of the Board to evaluate that and have an effective decision would not be possible. Mr. Strong stated from their prospective, it is a lack of understanding of what is required in the plan. Mr. Strong stated that they can provide a plan in whatever level of detail is required. Mr. McManus verified that there is no plan available. Mr. Strong is representing to the Board that within 90 days from the disuse of this facility expiration of lease it would be disassembled and that the 50' x 50' area would be returned to the state it was in prior to the agreement with PP&L. Mr. Strong stated that was correct. Mr. McManus asked if they had successfully located tower facilities on roof tops of other buildings. Mr. Blanker stated that Verizon has been in business for over ten years and there are many facilities in downtown

locations. Mr. McManus asked if these facilities would also have equipment shelters approximately 12' x 30' in the area. Mr. Blanker stated typically with Verizon's equipment is larger than a PCS carrier, which consists of two to three cabinets that maybe three to five feet in height. These are much easier to locate than a carrier such as Verizon. Verizon's technology requires their amount of radios to be designed for today's purposes. Not many locations have the equipment on the roof because of loading capacity and the amount of equipment Verizon requires. Mr. McManus asked if the applicant would be able to locate the antenna on the roof top of a nearby building. Mr. Blanker stated that we still need additional room at grade level to provide for an equipment shelter approximately 12' x 30'. Mr. Blanker stated that it could also be inside. Mr. Blanker stated Millersville University advised them neither was available. Mr. McManus stated that you could attach the antenna to the building but you do not have a location for the equipment shelter. Mr. Blanker stated that was correct. Vladislav Tarasov, employed by Henkels & McCoy, 985 Jolly Road, Blue Bell, PA was called to testify. Mr. Tarasov stated that he is a registered professional engineer in the Commonwealth of Pennsylvania. Mr. Tarasov briefly described his education and experiences as related to his engineering background. Mr. Tarasov stated Henkels & McCoy prepared the zoning plan that was submitted with the zoning application and is marked Applicant's Exhibit #3. Mr. Tarasov proceeded to describe the existing conditions of the site and the proposed improvements that previously were described. Mr. Tarasov stated the site will be fenced in and the fence will match the elevation of the existing fence for the substation. The area will be stoned in the same way the area of the substation is stoned. The fence will be camouflaged with a row of trees which will hide the site from the view of the University and the street. The site will be blended into the same image as a continuation of the substation by the looks, the fence, the paving, the surface stone area and the monopole will look like the other poles. Mr. Tarasov stated the shelter will be plastic and can be of any color that blends into the area. Mr. Tarasov stated the site will not require any grading and most of the trees on the site will be saved. Mr. Strong presented Applicant's Exhibit #9, which is the alternate plan, and asked Mr. Tarasov to describe the differences between the two plans. Mr. Tarasov stated the difference is the corner of the property which is 21,830 sq. ft., becomes the subleased area and this was done for the purpose of satisfying all the setbacks. Some of the features of the site shifted in order to satisfy these conditions. One of the main shifts was made to the monopole which was moved from the property line to the required 30% of the height of the tower. The rest of the features did not change. Mr. Tarasov stated some of the improvements, including the tower, were moved away from the substation compound in order to comply with the setback issue. Mr. Tarasov stated Applicant's Exhibit A#4 is the agreement for the easement allowing access to the site. This recorded easement agreement grants and conveys to PP&L the right to the use of the private access drive. The Tower on both exhibits complies with the setback requirements for both proposals. The screening is depicted along two sides of the compound but, if required, Verizon Wireless could provide screening of all four sides of the compound. The proposed tower will not negatively affect the surrounding area in any way. The existing access drive is paved and would be maintained by PP&L. The parking area has two required parking spaces and approximately 40' x 60' area which is covered with crushed stone and graded. Both plans provide for the two vehicle parking spaces. Mr. Granger questioned the vegetation mentioned for screening stating there have been instances in the past where the vegetation is not replaced when it dies. He continued and asked what is proposed for making sure the vegetation is replaced? Mr. Strong stated that he thinks it would be fair for it to be added as a condition of approval that the screening be maintained. Mr. Gerlach asked if it is normal that the transformer

providing power to the complex is outside the fenced area. Mr. Tarasov stated it is normal for it to be placed outside. Mr. Gerlach asked what material the monopole is made of. Mr. Tarasov stated it is galvanized steel. Mr. Gerlach asked if there is two C2's and Mr. Gerlach was informed there is a C2 sheet in both Exhibits #3 and #9. Mr. McManus stated, for the record, Shens Lane is a public street and located in both the Township and the Borough and the access drives goes directly onto a public street. Joseph Zapituos, is employed by Verizon Wireless, located at 4642 Jonestown Road, Suite 200, Harrisburg, PA., and has been employed by Verizon Wireless for approximately 17 years. Mr. Zapituos is the senior engineer and picks the locations for the towers. Mr. Zapituos was involved in selecting the general location for the proposed facility. Mr. Zapituos reported the procedure that is used to pick a location for the facilities. Mr. Zapituos explained Applicant's Exhibits #5 and #6 to the Board that showed weak areas, the overloaded areas, and the areas that will be covered by this facility. Mr. Zapituos stated this site is needed to provide coverage in the area. The antenna is the minimum height required for the system to work properly and to maintain proper separation from other possible co-locators on the system. There is a minimum of 15' to 20' space needed between antenna rays depending on the frequency. With AT&T, the frequency is very close and about 20' is needed between the antennas. Mr. Granger asked where the Millersville site is located. Mr. Zapituos stated he believes it is on Charlestown Road. Paul Dugan, from Millenium Engineering PC, 418 Pleasant Valley Drive, Conshohocken, PA., stated that he is the owner and founder and is an independent consulting engineer for the Wireless Telecommunications Industry and is registered as a professional engineer in the Commonwealth of Pennsylvania. Mr. Dugan briefly described his educational background and professional experience as it relates to the wireless industry. Mr. Dugan stated he was retained by Verizon Wireless to determine whether the proposed antennas at this facility will comply with all the local standards established by the FCC governing exposure to micro magnetic radiation. Mr. Dugan stated Verizon Wireless engaged his services to perform a determination and certification that the site is in compliance with all Federal Regulations for the health, safety, and welfare of the public. Mr. Dugan stated that Verizon Wireless provides their antenna configuration and all their operating perimeters for this proposed facility. Mr. Dugan performs upper limit calculations based on future growth, additional radios, channel ads, and maximum power that Verizon could put out due to equipment limitations. They are proposing to perform an upper limit evaluation on what would be the upper limit ground level exposure anywhere in close proximity to this structure. The maximum ground level exposure will be far below 1% of the FCC exposure limits. If you were to take into account the fact that the adjacent building has upper floors which would be higher on the horizontal plane than the ground (300' to 400' ), it would still be substantially below 1% of all Federal regulations for people that may be in the building adjacent to this facility. Mr. Strong stated the proposed antennas and their emissions would be substantially below what the FCC guide lines permit and Mr. Dugan stated that was correct. Mr. Dugan stated you could essentially have hundreds of these facilities all co-located at the same place and you still would not exceed the exposure limits of what is considered safe on the ground or in the adjacent building. In doing his analysis, Mr. Dugan also considered the possibility of the AT&T Wireless antennas present at the proposed facility. Mr. Dugan identified Applicant's Exhibit #8 as a non-inference certification which basically provides an expert opinion that there will be no negative impact by Verizon Wireless. Mr. Strong requested that Exhibits A1 through A9 be admitted into the record. Mr. Strong requested that the Board consider this special exception application and grant that application as the issues of Section 307 and Section 308. We request that the Board determine

whether or not we are, in fact, a second principal use. If we are not, then Applicant's Exhibit #3 would be the acceptable plan. If the Board determines we are the second principal use, than the Applicant's Exhibit #9, the alternate plan, would be the plan we would be proposing to the Board. On Section 308 we would request that the Board find that the existing access drive is sufficient for access purposes under Section 308. Mr. Gerlach stated that Item 5 in the Zoning Code discusses the effect of the support structure or the monopole itself for failure. Mr. Gerlach was informed that the proposed monopole is a steel structure which is most modern structure for the height of a monopole up to 200'. This is the most appropriate structure which will be used for this site. These structures are designed in accordance with the code which is applicable to the electrical and electronic industries. It was stated the Township Ordinance has no design mentioned and the designer uses the minimum requirements, even though the minimum requirements are quite stringent. Mr. Gerlach stated no indications there are any guide wires so the pole itself is self supporting and Mr. Tarasov stated that is correct. Mr. Gerlach asked for an explanation as to why they kept repeating AT&T use is not here before us. Mr. Strong stated he did not want there to be any confusion that the Board would somehow approve the AT&T antennas and facilities without AT&T actually having filed a Zoning Application and come before this Board to present testimony addressing various criteria in the Ordinance. It was something I discussed with Mr. Ott prior to filing, we felt it would be beneficial to show what we understand will be ultimately the design and look of this pole with AT&T attaching. We did not want any implication that the Board would somehow be approving those AT&T facilities. Mr. Granger read from Section 4 regarding support structure. He asked what setback Verizon Wireless is using. Mr. Strong stated it was 45', or 30% of the height of the antenna. Mr. Granger asked what the failure mode of the pole was. Mr. Tarasov stated the failure mode is unpredictable, as they are not designed for any failure mode. If there would be some kind of deformation in the pole, it would lean a little and it would be very noticeable and the pole will not collapse in anyway. Mr. Granger asked about ice and other debris falling from the monopole. Mr. Tarasov stated monopoles are designed to be covered with 1/2" ice, but statistically there is no conclusive information that falling ice causes any serious damage anywhere. The ice normally falls one-third to one-half the height of the pole. In this case it will be from 50' – 75' and it is outside the areas of where people are. Mr. Kreider, 141 Supervisors Road, stated he is concerned that there would be interference with 911 GPS systems and the emergency vehicles. Mr. Dugan stated there will be no interference from Verizon Wireless or AT&T Wireless. Mr. Gerlach made a motion that the testimony is closed and a decision be rendered next month. The motion was seconded by Ms. Douglas and the motion carried unanimously.

There was a recess at 8:50. The meeting reconvened at 9:00 p.m.

Case #3-04 – The application of Robert A. & Jody L. Croft, property located at 442 Shultz Road, Washington Boro, PA. The Applicant is requesting a variance of Section 216.5.1 – Accessory Use Requirements Front yard Setbacks in accordance with Sec. 111 – Definitions Yard – Front. The applicant wishes to construct an accessory structure within the front yard. The property is located in the Village (V) Zoning District. Mr. McManus stated he has the file maintained by the Zoning Officer. Contained in the file is proof of publication of the notice of the time, date and place and subject matter of this hearing indicates those matters were published on March 24 and 31 in the Lancaster Newspapers. The file also indicates the property was posted with notice of reason for the hearing as well as the date, time, and place on March 18, 2004 and

on that same date the same notice was posted in the lobby of the Township Building that is available for public viewing. Bob Croft, 442 Shultz Road, was sworn in by the Court Stenographer. Mr. Croft stated he would like to construct a pole barn that will look like a three car garage with two garage doors facing the road. There will be a main door and a workshop in what would be considered the third bay. Mr. McManus asked if Mr. Croft was seeking relief from Section 216.5.1 – Accessory Use Requirements, which states no accessory structure except permitted signs shall be located within the front yard and your property is located in the Village Zone (V). Mr. Croft stated his property is located at 442 Shultz Road. Last year Mr. Croft stated he acquired another one-half acre and at that point decided he wanted to put a pole barn on the property. Mr. Croft stated after talking to Mr. Ott, he found out he needed to combine the deeds which he did. Mr. Croft stated Mr. Ott came to his property and explained how the front yard is determined. With the way Shultz Road curves and the position of the dwelling, the front yard is shortened as you proceed north. Mr. Croft stated he had planned to put the pole barn on a line that would be in line with the front of my existing house; however, when we measured from the center of the road there is approximately only 57' from centerline of the road. One of the big problems is right now is that Mr. Croft has a bid to take out about 30' of the tree line and that means going back into the tree line as far as is possible to get enough level ground to place this pole barn. Mr. Croft stated that he cannot go back any further due to the sheer steepness of the land. Mr. McManus asked Mr. Croft what the minimum front yard distance is. Mr. Croft stated his house now is 97' from the front of my house to the centerline of the road. Mr. McManus stated that you are before the Board not because you encroach on any minimum front yard but the front yard established from the location of your house is 97'. Mr. Croft stated that was correct. Mr. McManus stated that Mr. Croft's interpretation of the Ordinance in his request for a variance stems from the fact that his house is setback 97'. That is the front yard for the principal use of the property; therefore, all accessory uses have to be at least 97' back. Mr. Croft stated that is what he understood. Mr. McManus read from Section 216.4 Footnote 2 regarding minimum yard setback. Mr. McManus stated this district was designed for more intense uses and envision buildings that were fairly close. Mr. Granger stated Washington Boro was pretty well developed when it became part of Manor Township and it did not meet any of the Township Zoning requirements. The Village Zone was created so that existing buildings could meet the requirements of the zoning district. Mr. Gerlach stated that the plot plan submitted with Mr. Croft's application indicates buildings less than what he is asking for. Mr. Croft identified some of the buildings on the plot plan. Mr. Granger asked Mr. Croft what the road right-of-way was in his area. Mr. Croft stated he was not sure if it was 25 or 30'. Mr. Croft stated at his proposed building the minimum distance is 57' from the center of the road. There was lengthy discussion on front yard setbacks and whether the block was a developed block. Mr. McManus stated technically Mr. Croft was requesting a dimensional variance and that is how the Board should be looking at it. Mr. McManus stated the Board must also look at any public health or safety problem with granting the pole barn as it is located. There were also questions on the side yard setbacks. Mr. Gerlach verified with Mr. Croft that it is one lot and it would be a hardship to go back any further because of the extreme hillside. Mr. Croft stated that was correct. Mr. Croft stated that he will have at least a 5' to 8' embankment behind the pole barn. Mr. McManus asked how large the total lot was and Mr. Croft stated it was 44,382 sq. ft. Mr. Croft stated he has public sewer but well water. Mr. Croft stated he has a two story detached dwelling as well as a shed that is 10' x 16'. Mr. Croft stated that the house is approximately 28' x 44'. The proposal is for a pole barn 24' x 36' that would be the equivalent of a three bay garage for

storage of vehicles which will not be more than 15' in height. Access to the proposed pole barn will be directly onto Shultz Road by a 20' x 55' stone improved driveway. There will be approximately 50' between the proposed pole barn and the structure, which is a house, on the property to the north. Mr. Croft stated he did not want the pole barn closer to the house because his property is on a hill. When grading for the pole barn, he is going to take the earth forward and level the lot out for more of a recreational area. Mr. Croft stated if he moved the barn closer to the house he would be putting it right in the middle of the area he wants to have for recreation. Mr. Croft stated he has obtained the driveway permit from the Township for his proposed driveway. Mr. Gerlach moved that that the testimony is closed and a decision be rendered at next months meeting. Ms. Douglas seconded the motion and the motion carried unanimously.

The meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer  
Zoning Hearing Board Meeting  
05/05/04

Zoning Hearing Board Agenda Agenda

Wednesday, May 5, 2004 Time: 7:00 P.M.

1. Introduction
2. Pledge of Allegiance to the Flag
3. Approve April 7, 2004 Minutes
4. Old Business Case #2-04 - The application of Cello Partnership d/b/a Verizon Wireless, property located directly at 180 Shenks Lane Tax Map No. 15J-1-2A Account No. 410-53484-0-0000 Millersville, PA. The Applicant is requesting a special exception of Section 207.3.15 to erect a cell tower monopole in accordance with Section 453 – Cell Site Antenna and, if necessary, a variance of Section 308 – Required Vehicular Access. The property is located in the General Commercial (GC) Zoning District. A decision will be rendered.
- Case #3-04 – The application of Robert A. & Jody L. Croft, property located at 442 Shultz Road, Washington Boro, PA. The Applicant is requesting a variance of Section 216.5.1 – Accessory Use Requirements Front yard Setbacks in accordance with Sec. 111 – Definitions Yard – Front. The applicant wishes to construct an accessory structure within the front yard. The property is located in the Village (V) Zoning District. A decision will be rendered.

DRAFT MANOR TOWNSHIP ZONING HEARING BOARD MINUTES

Wednesday, May 5, 2004 Time: 7:00 P.M.

The Manor Township Zoning Hearing Board met on Wednesday, May 5, 2004 at 7:00 p.m. at the Manor Township Municipal Building, 950 West Fairway Drive, Lancaster, PA 17603. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, Chairman I. Norman Gerlach, Vice Chairman Barbara Douglas, Secretary Township Official Present: James R. McManus, ZHB Attorney Bruce Ott, Zoning Officer Visitors Present: Jody & Bob Croft, 442 Shultz Road John May, 100 Red Fox Road James Strong, 3401 N. Front Street, Harrisburg

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of the Zoning Hearing Board, the Zoning Officer, the Zoning Hearing Board Attorney, the Court Reporter and the Recording Secretary.

Mr. Gerlach moved the meeting minutes of April 7, 2004 be approved as submitted. Motion was seconded by Ms. Douglas and the motion carried.

Old Business Case #2-04 - The application of Cello Partnership d/b/a Verizon Wireless, property located directly at 180 Shenks Lane Tax Map No. 15J-1-2A Account No. 410-53484-0-0000 Millersville, PA. The Applicant is requesting a special exception of Section 207.3.15 to erect a cell tower monopole in accordance with Section 453 – Cell Site Antenna and, if necessary, a variance of Section 308 – Required Vehicular Access. The property is located in the General Commercial (GC) Zoning District. Mr. Granger stated testimony was closed at the last meeting and Mr. McManus contacted each Board Member individually for their opinions and drafted a decision that was give to each member. Mr. Granger stated at this time the Board would discuss the draft decision. Mr. Gerlach questioned Item #7 under the conditions of the decision and asked for any reasons for Item #7. Mr. McManus read Item #7 and stated the reasons for that condition is in the event that either the applicant' s lease expires or its ownership interest in the property expires, there is no guarantee that the Township requires under any permitting of that facility to insure that the tower is removed. Mr. McManus stated that this is a condition that would try to insure that the tower is removed as a condition of approval. There was further discussion on the testimony regarding the removal of the tower and what is required by the Township. John May, 100 Red Fox Road, stated that there was legal council at the Inter-Municipal meeting approximately one year ago discussing this very situation regarding cell towers and the fact that they will become obsolete and may not be taken down properly. Also the applicant, by merger or consolidation, may be someone totally different. It is becoming the practice that a suitable escrow account is established in an amount to satisfy the Township Engineer. This will assure that if it is not removed within a given period of time, that there would be money available to take care of the tower removal. Mr. May stated it is becoming a more important issue with cell towers because the current technology is going to be obsolete in relatively short period of time and the towers will be left standing and non-functional. They will become dangerous from the lack of maintenance and they are an eye sore. Mr. May strongly encouraged a financial security as a condition of approval. Mr. Granger read from the Zoning Ordinance the sections that apply to cell towers and the removal of the towers and stated that the ordinance did not state any means of obtaining funds for removal. James Strong, Attorney for the

applicant, stated at the hearing that they had discussed a plan for removal and the posting of some sort of security for removal would be an acceptable condition to the applicant. Mr. Strong stated that they had envisioned getting an estimate for the removal of the tower and providing that estimate to the Township. If that estimate is agreed upon, they would post a security deposit in that amount. Mr. Strong stated that he noticed in the draft minutes discussion regarding the 90 days for removal under the master lease with PP&L. Mr. Strong stated he pulled the master lease agreement out and noted it is 120 days for removal and restoration of the site. Mr. Strong stated a time frame less than that as an acceptable condition to the Applicant. Mr. Gerlach made a motion that the application of Cellco Partnership, d/b/a Verizon Wireless, with offices at 18 Abele Road, Bridgeville, Pennsylvania 17015, for a special exception to erect a cell site antenna and communications tower facility consisting of a self-supporting telecommunications tower, antennae and a prefabricated equipment shelter on a portion of the premises located at 180 Shenks Lane, Millersville, Pennsylvania 17551, Tax parcel no. 15J-1-2A is granted subject to the following conditions: 1) The cell site tower shall not exceed 150' in height. 2) The Applicant shall adhere to the facts and dimensional criteria contained in its application, plans prepared by Henkels & McCoy, Inc., project no. 06-012644-01, last revised 3-19-04 consisting of 12 sheets, and all other Exhibits of Applicant, as well as all testimony presented by the Applicant or presented on its behalf at the hearing held on April 7, 2004. 3) The cell site facility shall be enclosed by a fence of eight feet in height. 4) The cell site facility enclosure shall be provided with a vegetative screen on the north and west sides of the facility enclosure. Said screen shall consist of evergreens planted to an initial height of six (6) feet and comprised of such species and planted at such intervals so that at maturity the height of the vegetative screen shall not be less than fifteen (15) feet. 5) Applicant shall comply with all applicable Federal, State and local regulations regarding the construction, use and operation of the proposed cell site antenna. 6) Applicant shall obtain all approvals and permits required by all applicable State, County and Manor Township codes and ordinances. 7) Applicant shall provide a plan for the removal of the cell site facility when it shall become functionally obsolete or is no longer in use together with such financial security acceptable to Manor Township to cover the cost of the removal of the cell site facility. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies as set forth in the Pennsylvania Municipalities Planning Code. The motion was seconded by Barbara Douglas and the motion carried unanimously.

Case #3-04 – The application of Robert A. & Jody L. Croft, property located at 442 Shultz Road, Washington Boro, PA. The Applicant is requesting a variance of Section 216.5.1 – Accessory Use Requirements Front yard Setbacks in accordance with Sec. 111 – Definitions Yard – Front. The applicant wishes to construct an accessory structure within the front yard. The property is located in the Village (V) Zoning District. Mr. Granger stated that the testimony was closed at the last meeting and Mr. McManus contacted each Board Member individually for their opinions and drafted a decision that was given to each member. Mr. Granger stated at this time the Board would discuss the draft decision. Barbara Douglas made a motion that the application of Robert A. Croft and Jody L. Croft for variances to the provisions of Sections 216.4 and 216.5.1 of the Manor Township Zoning ordinance to enable the erection of a 24 by 36 foot pole barn on the Property to within 57 feet of the centerline of 442 Shultz Road as shown on a plan attached to their application on the property owned by Applicants at 442 Shultz Road, Washington Boro, Pennsylvania 17582, tax map parcel no. 14F11-4-7, is granted. The approval

of the aforesaid variances is subject to the following conditions: 1) the applicants shall at all times comply with and adhere to the plan and all other evidence presented to the Board by the Applicants at the hearing held on April 7, 2004. 2) Applicant shall obtain all approvals and permits required by all applicable State, County and Manor Township codes and ordinances. Any violation of the conditions contained in this Decision shall be a violation of the Zoning Ordinance and shall be subject to the penalties and remedies as set forth in the Pennsylvania Municipalities Planning Code. Norman Gerlach seconded the motion and the motion carried unanimously.

The meeting was adjourned at 7:25 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer  
Zoning Hearing Board Meeting  
06/16/04

DRAFT Manor Township Zoning Hearing Board Minutes

Wednesday, June 16, 2004 Time: 7:00 P.M.

The Manor Township Zoning Hearing Board met on Wednesday, June 16, 2004 at 7:00 p.m. at the Manor Township Municipal Building, 950 West Fairway Drive, Lancaster, PA 17603. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, I. Norman Gerlach and Barbara Douglas. Township Official Present: James R. McManus and Bill Laudien Visitors Present: Jay Hoke, York, PA Rod Lockard, York, PA Bill Sell, Light-Heigel Assoc.

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of the Zoning Hearing Board, the Assistant Zoning Officer, the Zoning Hearing Board Attorney, the Court Reporter and the Recording Secretary.

Mr. Gerlach made a motion to approve the meeting minutes of May 5, 2004 as circulated. The motion was seconded by Ms. Douglas and the motion carried unanimously.

New Business The application of Moove In Partners of Lancaster, property located at 103 Stonemill Road, Lancaster, PA, Account No. 410-03566-0-0000 and Account No. 410-05757-0-0000. The Applicant is requesting a special exception of Section 207.3.11 – Mini-warehouses in accordance with Section 437 and an interpretation, if necessary, of Section 437.6 – A Resident manager required to live on the site. The property is located in the General Commercial (GC) Zoning District. Mr. Granger turned the hearing over to Mr. McManus. The Court Reporter swore in Bill Laudien, Bill Sell, Jay Hoke and Rod Lockard. Mr. Laudien stated he received the Application before the Board and a notice of the time, date and place of the hearing was

published in the Lancaster Newspapers on June 2 and June 9, 2004. Mr. Laudien provided proof of publication. The property was posted with notice of the time, date and place on May 21, 2004 and there was a noticed placed in the lobby of the Municipal Building on May 21. Mr. Laudien stated the application received consisted of two application forms one indicating a request for a special exception and the second a request for a variance. Mr. McManus had the Application and its subparts marked Exhibit #1. Proof of publication was marked as Exhibit #2. Mr. McManus stated the application was accompanied by a project narrative and plans. Bill Sell, from Light – Heigel Associates, who represented Moove In Partners, presented the plan. The narrative was marked as Exhibit #3; Existing Condition Plan Page 2 of 12 was marked Exhibit #4; Landscape Plan Sheet 11 of 12 was marked Exhibit #5; Land Development Plan Sheet 4 of 12 was marked Exhibit #6 and 3 sheets of the architectural plans were marked Exhibit #7 a, b, and c. Mr. Sell stated that the interpretation that was being asked for was not for the resident manager but for a variance of the resident manager requirement. The interpretation referred to the requirement of Section 436.8 of the Zoning Ordinance that requires the fact that no doorways shall be facing a residential zoned property. Mr. Granger made a correction in the section. Mr. Sell stated there is two versions of the ordinance one being the codified ordinance is one digit off from the one used by Mr. Sell which is the ordinance as printed. Mr. Ott advised Mr. Sell of the difference in the numbering and Mr. Ott changed the Section for the advertisement but Mr. Sell’s copy had a different section number. Mr. Sell stated the mini-warehouse requirement is located in Section 436. Mr. McManus stated for the record all references will be made to the printed Ordinance and that reflects Sections 436; 207.3.11; 436.6; and 436.8. Mr. Sell stated that Moove In Partners owns two tracts of land; one tract is a flag lot. The lot contains three mini-warehouse buildings and detention basin which was part of the land development plan some years ago. This acreage is 2.191 acres and has 371 rental storage units. It is served with public sewer and water and has an office. The second parcel, which was more recently purchased, encompasses a square tract of land .791 acres in size. It is basically fallow at this point with grass and no improvements upon it. It is not served with sanitary sewer or public water. The total parcel is surrounded by Temple Avenue to the south, Stonemill Road to the east, commercial property on the north, and residential properties on the west. There is an unopened 14’ wide alley at the rear of the residential properties which is currently grass. The site improvements on the current tract include parking, macadam access, and existing landscaping. The property of Horace King is adjacent to the property on the south and east. This business is currently a towing service and garage. Currently, the two tracts are separate deeds. A part of the project includes the joining of the two tracts of land, so that there is only one tract. Then the tract can be developed without regard to the center property line which will disappear. Mr. Sell stated that the proposal is for the improvement of the property which is on the .791 acre tract. There will be no change in the existing buildings or access. A proposed mini-warehouse building, which is entirely within the .791 acre tract of land, is what is proposed. The only construction anticipated within the existing developed area would be some grading and ties along the access as well as along the north side of the .791 acre tract where the two developed areas will come together. There will possibly be some repaving of any areas where there is any disturbance. The proposed mini-storage warehouse will be two stories with the access to the storage units along the lower side. There will be four pedestrian doors along the east side. There is parking proposed to the east of the building and stormwater management will be to the east of the proposed parking. No disturbance will occur to the existing stormwater management system. The sewer and water will be rerouted from the southeast corner of building #3 to an office which is proposed at the southwest corner of the

proposed building. New landscaping will consist of heavily landscaped areas along Temple Avenue to the south and the towing service on the east side. The existing landscaping will meet the Ordinance as it grows along the western property line and along the access drive. The proposed unit will hold a maximum of 229 storage units; the entire site will contain a total of 600 units. The special exception being requested under Section 207.3.11 has six criteria: 1) The proposed use is consistent with the General Commercial Zone. The expansion of the existing facility does not change the intent of the previous approval which was granted for the original improvements. 2) The incorporation of the proposed buffer landscaping and the proposed use does not detract from the use and enjoyment of the adjoining nearby properties. Because of the sparse and intermittent usage of the facility by its renters, no heavy traffic volumes occur as a result of this usage. 3) The expansion of the existing facility will not change the character of the neighborhood. The other commercial uses, as well as the existing mini-warehouse buildings are typical to the commercial portion of the neighborhood. The residential neighborhood will not be affected due to the prominence of landscaping and buffer plantings, both existing and proposed. 4) All public facilities including emergency services, utilities, and infrastructure are adequate to serve the site. Existing sewer and water services will be utilized, police and fire protection capabilities are well within the needs of this facility and services such as schools, hospitals, etc. are not an issue with this type of facility. 5) There is no 100 years floodplain within the development site. The 500 year floodplain encroaches into a small portion of the eastern corner of the property; however, it does not encroach into the building or parking area. 6) The criteria specified in Section 436 of the Manor Township Zoning Ordinance are met as follows: 1) The application for a Special Exception to permit a mini-warehouse is subject to the criteria set forth in Sections 436.2 and 436.9. 2) The application provides off-street parking spaces which will permit a maximum of 600 rental storage units and 2 spaces for the office area of 400 sq. ft. Included in the count, is 2 spaces for accessible parking. This is in accord with Section 311.19 of the Manor Township Zoning Ordinance. The total parking is 27 spaces. 3) The parking spaces are provided by parking/driving lanes which are at least 26 feet wide where cubicles open onto one side of the lane and 30 feet wide where spaces open on both sides of the lane. 4) No parking spaces are being offered for rent. No privately owned vehicles will be stored external to the enclosed storage areas. 5) The owner acknowledges that no flammable, highly combustible, explosive, or hazardous chemicals are permitted to be stored within the enclosed building. 6) A variance of Section 436.6 is being requested as part of this application. That would be the manager requirement. 7) The owner acknowledges that repair, construction, reconstruction of motors or motor vehicles, or furniture is prohibited. 8) The west side of the proposed building faces residentially-zoned properties. The proposed building has four 36" pedestrian doors which lead into a hall servicing the upper floor of the building. None of these doors open directly into or service storage units. As part of this application, the applicant is requesting an interpretation of this section of the Ordinance, and if necessary a variance to permit such openings. 9) The owner acknowledges that the rental units shall be used solely for the dead storage of property and that the requirement of this section shall be met at all times. Due to the zoning of the property and the character of the surrounding uses, there is no impact on the integrity of the Township's Comprehensive Plan. The request for the variance is for Section 436.6 which is that of a resident manager. The property is basically remnant commercial land and is the only vacant land in this block of commercial property. It is limited by the surrounding properties and its use should be limited to commercial usage. A manager is on duty the hours of 9:30 a.m. to 5:30 p.m. on weekdays and 9:00 a.m. to 2:00 p.m. on Saturdays. The gate hours are from 6:00 a.m. to 10:00

p.m. The gate is automatically operated through the use of entrance cards. The proposal will utilize the same arrangement having an office within the proposed building and parking for the management being provided in the area of the office. The sewer and water laterals for the office will be relocated. The square footage of the proposed office is 400 sq. ft. The variance, if authorized, will not alter the essential character of the neighborhood because commercial use is permitted and does exist around this project. The variance is the minimum that will afford relief. All other aspects of the zoning ordinance are being met and will be demonstrated on these plans as well as the plans produced for the planning process. The owner understands and acknowledges that the Zoning Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Ordinance. The request for the interpretation is for the usage of four 36" wide pedestrian type doors on the west side shown on Exhibit #7a. This is a first level floor plan showing internal hallways to gain access to the internal storage units. It is our interpretation that the way the wording is in the Ordinance, it was written with the intent of not providing the 8' bay doors and, therefore, the noise and activities associated with the 8' loading doors to be facing the residential properties. Residential properties to the west are separated from the building by our own access drive, a landscape buffer provided by the existing development, and a 14' wide common alley. The rear yards of the properties which front on Cornell Avenue include garages, storage sheds, and other typical rear yard usages. The doorways facing the residential properties are intended for pedestrian use and carrying small items in. They are not intended for large items or truck unloading. There will also be a door to enter the office on the south wall of the same building as shown on the layout plan which is Exhibit #6. The applicant would like an interpretation as it applies to this situation from your Ordinance and, if it is felt necessary, a variance of that to permit 36" wide doors instead of 8' wide bay doors. Mr. Granger asked if any sidewalks are being proposed on the south side. Mr. Sell stated not at this time. Mr. Granger asked if they Applicant would note that sidewalks would be provided when sidewalks are in the area. Mr. Sell stated that could be put on the plan. Mr. Granger verified that the property is fully fenced and that access is through the gate during the hours of operation. Mr. Granger asked if anyone is able to gain access after 10:00 p.m. and he was informed that no one would be able to enter from 10:00 p.m. to 6:00 a.m. Mr. Granger asked if the Applicant had checked with West Lancaster Fire Company as far as access ability for their equipment. Mr. Sell advised Mr. Granger that accessibility for fire equipment would be reviewed as part of the planning process. The Applicant must send the fire company a copy of the plan. Mr. Sell stated that the fire company has access at the present time. Mr. Granger was advised that the driveways are wide enough for the fire equipment. Mr. Granger asked Mr. Sell to again state the variance that is being requested. Mr. Granger asked Mr. Laudien if there had been any complaints since the facility has been in existence and Mr. Laudien stated he is not aware of any complaints. The applicant stated that they are not aware of any complaints from the neighbors. Mr. Granger verified that the proposed doors open into a passageway and not a storage unit. Mr. Granger read from Section 436.8 and stated they had to determine if the storage unit is the whole building or an individual unit within the building. Mr. Sell stated when he went over the application with Mr. Ott, he felt when this was originally written that it meant direct access into a storage unit i.e. the bay door situation. Mr. Granger asked if there were units on the exterior of the building that would have overhead doors and Mr. Sell stated those units would be facing Cabbage Hill Towing. Mr. Granger asked Mr. Sell if they had to go through Labor and Industry and questioned if L & I would approve the proposed doors. Mr. Lockard stated that they have never had a problem getting approval previously. Mr. Granger stated that

the fence will be very close to the building on Cabbage Hill property. Mr. Granger stated presently Cabbage Hill has two rows of vehicles towards the applicant's property and asked if they were on their property. The applicant stated they have been informed that the vehicles are on their property. Mr. Sell stated that one of the reasons for putting the fence up at the proposed location is to stop the parking of the vehicles. Mr. Gerlach asked if it is correct that they are positioning their fence adjacent to an existing property line that is in existence for the parcel being discussed. Mr. Sell stated that is correct. Mr. Granger asked if the storm detention on the new property is being taken care of on the east side and then tied into the remaining stormwater management on the existing property. Mr. Sell showed on the plan where the connection will occur on the existing inlet at the south end of the improved portion of the existing property. Mr. Sell stated that there will be a retention pond with underground infiltration, which will meet the new Phase II Soil Conservation Service Requirements. Mr. Granger asked Mr. Sell to show him on the plan where the 500 year flood plain was located on the property. Ms. Douglas asked what type of lighting would be used. Mr. Sell stated the lighting would be in accordance with the planning regulations and it would be identical to the lighting now on the existing buildings. Mr. Granger asked if the lighting would be shielded so it does not go onto the residential area. Mr. Sell stated it will be glare shielded. Mr. Gerlach asked if the new tract is separated from the residential area by commercially zoned land. Mr. Sell stated that was correct. Mr. Gerlach stated the new piece of property is bounded on the western side by commercially zoned property. Mr. Gerlach stated that a 20' setback is required. Mr. Gerlach stated that the residentially zoned property is on the southern most borders of the tract and the only door showing on that side would be the door going into the office. Mr. Sell stated that was correct. Mr. Gerlach verified the existing units and the proposed units which would make 600 storage units. Mr. Gerlach asked for information regarding the manager on site. Mr. Hoke stated the manager currently operates out of an office in one of the buildings and basically is there during the office hours and does not live on site. Mr. Hoke stated the managers hours is 9:30 a.m. to 5:30 Monday thru Friday and 9:00 a.m. to 2:00 p.m. on Saturday and during that time she would issue new card keys which gives the storage unit renter access until 10:00 p.m. Mr. Gerlach asked if this was a customary operation for storage units and Mr. Hoke stated it is. Mr. Granger asked Mr. Laudien if he had the original application and decision. Mr. Granger was advised it could not be located but would be provided to the Board. Mr. McManus asked Mr. Sell to trace the flag lot and the lot being discussed on the plan for the Board. Mr. McManus asked the width of the flag lot portion of the parent tract that has frontage onto Temple Avenue. Mr. Sell stated it is 60' within which there is a landscaping buffer. Mr. Sell stated there is existing access to the tract in this area and parking. Mr. McManus asked if the existing access to the tract will change with the proposed development and Mr. Sell stated it would not change. Mr. McManus asked Mr. Sell to trace on the plan how the traffic will circulate through the tract when the tract is developed in its entirety. Mr. Sell stated that the access drive will be from Temple Avenue. The main access drive goes back to the front of storage building #1. This drive has side accesses and circulation around building #2 and building #3. There is no access to the building for pedestrian or vehicular access along the west side of building #3. The access for the proposed units will be the same way. It will be simply a side access off the main access drive which will have a turn around. Mr. McManus asked if there is any plan for access onto Stonemill Road and Mr. Sell stated there are no plans. Mr. McManus asked if each owner would be able to drive up to their individual unit and Mr. Sell stated they could not. Mr. Sell stated there is room for parallel parking along the west side of the proposed building so someone could take something out of their trunk and carry

it in. Mr. McManus stated that until the two tracts are combined into one deed, the plan may not meet the zoning requirements of the General Commercial district. Mr. Sell stated that the plan would not meet the requirements. Mr. McManus asked if the proposed tract combined met all the area and regulations of the General Commercial Zone. Mr. Sell stated it meets the requirements. Mr. McManus asked if the required setbacks including front yard, side yard, rear yard, and residential buffer strips will be met. Mr. Sell stated it meets the requirements. Mr. McManus asked Mr. Sell to identify the residential buffer strips on the plan and their width. Mr. Sell stated that there would be a buffer strip along Temple Avenue for a distance of about 25' from the right-of-way line, approximately 15' wide and along the adjacent property of Horace King. The buffer planting is already in place along the other perimeter lines as required. Mr. McManus stated the Ordinance requires that any lot adjoining land within a residential zone shall require a 25' residential buffer setback. Mr. Sell stated that the zoning line for the residential zoning is down the center line of Temple Avenue and along the property line to the west side of the Applicant's property and that the Applicant will meet the Ordinance requirements. Mr. McManus asked what the lot coverage of the entire tract will be. Mr. Sell stated it will be 67%. Mr. McManus stated the 67% requires the combination of the two lots into one tract and Mr. Sell stated that was correct. The Board had some discussion on the interpretation of the sections of the Ordinance regarding the placement of the doors and on the intent of the Ordinance regarding a manager on site. Mr. Gerlach made a motion that the testimony be closed and Ms. Douglas seconded the motion. The motion carried unanimously. Mr. Granger stated the testimony is closed and a decision will be rendered at the next meeting July 7, 2004 at 7:00 p.m. in this room.

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer  
Zoning Hearing Board Meeting  
06/16/04

DRAFT Manor Township Zoning Hearing Board Minutes

Wednesday, June 16, 2004 Time: 7:00 P.M.

The Manor Township Zoning Hearing Board met on Wednesday, June 16, 2004 at 7:00 p.m. at the Manor Township Municipal Building, 950 West Fairway Drive, Lancaster, PA 17603. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, I. Norman Gerlach and Barbara Douglas. Township Official Present: James R. McManus and Bill Laudien Visitors Present: Jay Hoke, York, PA Rod Lockard, York, PA Bill Sell, Light-Heigel Assoc.

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of the Zoning Hearing Board, the Assistant Zoning Officer, the Zoning Hearing Board Attorney, the

Court Reporter and the Recording Secretary.

Mr. Gerlach made a motion to approve the meeting minutes of May 5, 2004 as circulated. The motion was seconded by Ms. Douglas and the motion carried unanimously.

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tracts of land, so that there is only one tract. Then the tract can be developed without regard to the center property line which will disappear. Mr. Sell stated that the proposal is for the improvement of the property which is on the .791 acre tract. There will be no change in the existing buildings or access. A proposed mini-warehouse building, which is entirely within the .791 acre tract of land, is what is proposed. The only construction anticipated within the existing developed area would be some grading and ties along the access as well as along the north side of the .791 acre tract where the two developed areas will come together. There will possibly be some repaving of any areas where there is any disturbance. The proposed mini-storage warehouse will be two stories with the access to the storage units along the lower side. There will be four pedestrian doors along the east side. There is parking proposed to the east of the building and stormwater management will be to the east of the proposed parking. No disturbance will occur to the existing stormwater management system. The sewer and water will be rerouted from the southeast corner of building #3 to an office which is proposed at the southwest corner of the proposed building. New landscaping will consist of heavily landscaped areas along Temple Avenue to the south and the towing service on the east side. The existing landscaping will meet the Ordinance as it grows along the western property line and along the access drive. The proposed unit will hold a maximum of 229 storage units; the entire site will contain a total of 600 units. The special exception being requested under Section 207.3.11 has six criteria: 1) The proposed use is consistent with the General Commercial Zone. The expansion of the existing facility does not change the intent of the previous approval which was granted for the original improvements. 2) The incorporation of the proposed buffer landscaping and the proposed use does not detract from the use and enjoyment of the adjoining nearby properties. Because of the sparse and intermittent usage of the facility by its renters, no heavy traffic volumes occur as a result of this usage. 3) The expansion of the existing facility will not change the character of the neighborhood. The other commercial uses, as well as the existing mini-warehouse buildings are typical to the commercial portion of the neighborhood. The residential neighborhood will not be affected due to the prominence of landscaping and buffer plantings, both existing and proposed. 4) All public facilities including emergency services, utilities, and infrastructure are adequate to serve the site. Existing sewer and water services will be utilized, police and fire protection capabilities are well within the needs of this facility and services such as schools, hospitals, etc. are not an issue with this type of facility. 5) There is no 100 years floodplain within the development site. The 500 year floodplain encroaches into a small portion of the eastern corner of the property; however, it does not encroach into the building or parking area. 6) The criteria specified in Section 436 of the Manor Township Zoning Ordinance are met as follows: 1) The application for a Special Exception to permit a mini-warehouse is subject to the criteria set forth in Sections 436.2 and 436.9. 2) The application provides off-street parking spaces which will permit a maximum of 600 rental storage units and 2 spaces for the office area of 400 sq. ft. Included in the count, is 2 spaces for accessible parking. This is in accord with Section 311.19 of the Manor Township Zoning Ordinance. The total parking is 27 spaces. 3) The parking spaces are provided by parking/driving lanes which are at least 26 feet wide where cubicles open onto one side of the lane and 30 feet wide where spaces open on both sides of the lane. 4) No parking spaces are being offered for rent. No privately owned vehicles will be stored external to the enclosed storage areas. 5) The owner acknowledges that no flammable, highly combustible, explosive, or hazardous chemicals are permitted to be stored within the enclosed building. 6) A variance of Section 436.6 is being requested as part of this application. That would be the manager requirement. 7) The owner acknowledges that repair, construction, reconstruction of

motors or motor vehicles, or furniture is prohibited. 8) The west side of the proposed building faces residentially-zoned properties. The proposed building has four 36" pedestrian doors which lead into a hall servicing the upper floor of the building. None of these doors open directly into or service storage units. As part of this application, the applicant is requesting an interpretation of this section of the Ordinance, and if necessary a variance to permit such openings. 9) The owner acknowledges that the rental units shall be used solely for the dead storage of property and that the requirement of this section shall be met at all times. Due to the zoning of the property and the character of the surrounding uses, there is no impact on the integrity of the Township's Comprehensive Plan. The request for the variance is for Section 436.6 which is that of a resident manager. The property is basically remnant commercial land and is the only vacant land in this block of commercial property. It is limited by the surrounding properties and its use should be limited to commercial usage. A manager is on duty the hours of 9:30 a.m. to 5:30 p.m. on weekdays and 9:00 a.m. to 2:00 p.m. on Saturdays. The gate hours are from 6:00 a.m. to 10:00 p.m. The gate is automatically operated through the use of entrance cards. The proposal will utilize the same arrangement having an office within the proposed building and parking for the management being provided in the area of the office. The sewer and water laterals for the office will be relocated. The square footage of the proposed office is 400 sq. ft. The variance, if authorized, will not alter the essential character of the neighborhood because commercial use is permitted and does exist around this project. The variance is the minimum that will afford relief. All other aspects of the zoning ordinance are being met and will be demonstrated on these plans as well as the plans produced for the planning process. The owner understands and acknowledges that the Zoning Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the Ordinance. The request for the interpretation is for the usage of four 36" wide pedestrian type doors on the west side shown on Exhibit #7a. This is a first level floor plan showing internal hallways to gain access to the internal storage units. It is our interpretation that the way the wording is in the Ordinance, it was written with the intent of not providing the 8' bay doors and, therefore, the noise and activities associated with the 8' loading doors to be facing the residential properties. Residential properties to the west are separated from the building by our own access drive, a landscape buffer provided by the existing development, and a 14' wide common alley. The rear yards of the properties which front on Cornell Avenue include garages, storage sheds, and other typical rear yard usages. The doorways facing the residential properties are intended for pedestrian use and carrying small items in. They are not intended for large items or truck unloading. There will also be a door to enter the office on the south wall of the same building as shown on the layout plan which is Exhibit #6. The applicant would like an interpretation as it applies to this situation from your Ordinance and, if it is felt necessary, a variance of that to permit 36" wide doors instead of 8' wide bay doors. Mr. Granger asked if any sidewalks are being proposed on the south side. Mr. Sell stated not at this time. Mr. Granger asked if they Applicant would note that sidewalks would be provided when sidewalks are in the area. Mr. Sell stated that could be put on the plan. Mr. Granger verified that the property is fully fenced and that access is through the gate during the hours of operation. Mr. Granger asked if anyone is able to gain access after 10:00 p.m. and he was informed that no one would be able to enter from 10:00 p.m. to 6:00 a.m. Mr. Granger asked if the Applicant had checked with West Lancaster Fire Company as far as access ability for their equipment. Mr. Sell advised Mr. Granger that accessibility for fire equipment would be reviewed as part of the planning process. The Applicant must send the fire company a copy of the plan. Mr. Sell stated that the fire company has access at the present time. Mr.

Granger was advised that the driveways are wide enough for the fire equipment. Mr. Granger asked Mr. Sell to again state the variance that is being requested. Mr. Granger asked Mr. Laudien if there had been any complaints since the facility has been in existence and Mr. Laudien stated he is not aware of any complaints. The applicant stated that they are not aware of any complaints from the neighbors. Mr. Granger verified that the proposed doors open into a passageway and not a storage unit. Mr. Granger read from Section 436.8 and stated they had to determine if the storage unit is the whole building or an individual unit within the building. Mr. Sell stated when he went over the application with Mr. Ott, he felt when this was originally written that it meant direct access into a storage unit i.e. the bay door situation. Mr. Granger asked if there were units on the exterior of the building that would have overhead doors and Mr. Sell stated those units would be facing Cabbage Hill Towing. Mr. Granger asked Mr. Sell if they had to go through Labor and Industry and questioned if L & I would approve the proposed doors. Mr. Lockard stated that they have never had a problem getting approval previously. Mr. Granger stated that the fence will be very close to the building on Cabbage Hill property. Mr. Granger stated presently Cabbage Hill has two rows of vehicles towards the applicant's property and asked if they were on their property. The applicant stated they have been informed that the vehicles are on their property. Mr. Sell stated that one of the reasons for putting the fence up at the proposed location is to stop the parking of the vehicles. Mr. Gerlach asked if it is correct that they are positioning their fence adjacent to an existing property line that is in existence for the parcel being discussed. Mr. Sell stated that is correct. Mr. Granger asked if the storm detention on the new property is being taken care of on the east side and then tied into the remaining stormwater management on the existing property. Mr. Sell showed on the plan where the connection will occur on the existing inlet at the south end of the improved portion of the existing property. Mr. Sell stated that there will be a retention pond with underground infiltration, which will meet the new Phase II Soil Conservation Service Requirements. Mr. Granger asked Mr. Sell to show him on the plan where the 500 year flood plain was located on the property. Ms. Douglas asked what type of lighting would be used. Mr. Sell stated the lighting would be in accordance with the planning regulations and it would be identical to the lighting now on the existing buildings. Mr. Granger asked if the lighting would be shielded so it does not go onto the residential area. Mr. Sell stated it will be glare shielded. Mr. Gerlach asked if the new tract is separated from the residential area by commercially zoned land. Mr. Sell stated that was correct. Mr. Gerlach stated the new piece of property is bounded on the western side by commercially zoned property. Mr. Gerlach stated that a 20' setback is required. Mr. Gerlach stated that the residentially zoned property is on the southern most borders of the tract and the only door showing on that side would be the door going into the office. Mr. Sell stated that was correct. Mr. Gerlach verified the existing units and the proposed units which would make 600 storage units. Mr. Gerlach asked for information regarding the manager on site. Mr. Hoke stated the manager currently operates out of an office in one of the buildings and basically is there during the office hours and does not live on site. Mr. Hoke stated the managers hours is 9:30 a.m. to 5:30 Monday thru Friday and 9:00 a.m. to 2:00 p.m. on Saturday and during that time she would issue new card keys which gives the storage unit renter access until 10:00 p.m. Mr. Gerlach asked if this was a customary operation for storage units and Mr. Hoke stated it is. Mr. Granger asked Mr. Laudien if he had the original application and decision. Mr. Granger was advised it could not be located but would be provided to the Board. Mr. McManus asked Mr. Sell to trace the flag lot and the lot being discussed on the plan for the Board. Mr. McManus asked the width of the flag lot portion of the parent tract that has frontage onto Temple Avenue. Mr. Sell stated it is 60' within which there is

a landscaping buffer. Mr. Sell stated there is existing access to the tract in this area and parking. Mr. McManus asked if the existing access to the tract will change with the proposed development and Mr. Sell stated it would not change. Mr. McManus asked Mr. Sell to trace on the plan how the traffic will circulate through the tract when the tract is developed in its entirety. Mr. Sell stated that the access drive will be from Temple Avenue. The main access drive goes back to the front of storage building #1. This drive has side accesses and circulation around building #2 and building #3. There is no access to the building for pedestrian or vehicular access along the west side of building #3. The access for the proposed units will be the same way. It will be simply a side access off the main access drive which will have a turn around. Mr. McManus asked if there is any plan for access onto Stonemill Road and Mr. Sell stated there are no plans. Mr. McManus asked if each owner would be able to drive up to their individual unit and Mr. Sell stated they could not. Mr. Sell stated there is room for parallel parking along the west side of the proposed building so someone could take something out of their trunk and carry it in. Mr. McManus stated that until the two tracts are combined into one deed, the plan may not meet the zoning requirements of the General Commercial district. Mr. Sell stated that the plan would not meet the requirements. Mr. McManus asked if the proposed tract combined met all the area and regulations of the General Commercial Zone. Mr. Sell stated it meets the requirements. Mr. McManus asked if the required setbacks including front yard, side yard, rear yard, and residential buffer strips will be met. Mr. Sell stated it meets the requirements. Mr. McManus asked Mr. Sell to identify the residential buffer strips on the plan and their width. Mr. Sell stated that there would be a buffer strip along Temple Avenue for a distance of about 25' from the right-of-way line, approximately 15' wide and along the adjacent property of Horace King. The buffer planting is already in place along the other perimeter lines as required. Mr. McManus stated the Ordinance requires that any lot adjoining land within a residential zone shall require a 25' residential buffer setback. Mr. Sell stated that the zoning line for the residential zoning is down the center line of Temple Avenue and along the property line to the west side of the Applicant's property and that the Applicant will meet the Ordinance requirements. Mr. McManus asked what the lot coverage of the entire tract will be. Mr. Sell stated it will be 67%. Mr. McManus stated the 67% requires the combination of the two lots into one tract and Mr. Sell stated that was correct. The Board had some discussion on the interpretation of the sections of the Ordinance regarding the placement of the doors and on the intent of the Ordinance regarding a manager on site. Mr. Gerlach made a motion that the testimony be closed and Ms. Douglas seconded the motion. The motion carried unanimously. Mr. Granger stated the testimony is closed and a decision will be rendered at the next meeting July 7, 2004 at 7:00 p.m. in this room.

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer  
Zoning Hearing Board Meeting - WalMart  
10/05/04

DRAFT

## Manor Township Zoning Hearing Board Minutes

Tuesday, October 5, 2004 Time: 7:00 P.M.

The Manor Township Zoning Hearing Board met on Tuesday, October 5, 2004 at 7:00 p.m. in the Manor Middle School located at 2950 Charlestown Road, Lancaster, PA 17603. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, Walt Schlemmer and Barbara Douglas Township Officials Present: James R. McManus, Bruce Ott and Barry Smith Visitors Present: See attached list.

Mr. Granger advised that Norman Gerlach had resigned from the Zoning Hearing Board and Walt Schlemmer was appointed to complete the term for Mr. Gerlach. Mr. Schlemmer would also have the position of Vice Chairman. Mr. Granger stated Mr. Gerlach was a member of the Zoning Hearing Board for a number of years and thanked Mr. Gerlach for his service and wished him well. Mr. Granger proceeded to introduce the Zoning Hearing Board, the Zoning Hearing Board Attorney, Court Report and the Recording Secretary.

New Business Case #7-04 – The Application of Wal-Mart Stores. The application of Wal-Mart Stores, Inc. for a special exception pursuant to Section 207.3.14 of the Manor Township Zoning Ordinance. The property is located south of Columbia Avenue and east of South Centerville Road at 235 South Centerville Road, Lancaster, PA. The applicant is requesting permission to build a Wal-Mart Store on the Property. The property is located in the (GC) General Commercial Zoning District. Mr. Granger advised testimony would not be received past 10:00 p.m. Mr. Granger turned the hearing over to McManus and stated in doing that the Board is giving Mr. McManus the authority to make the rulings on objections, etc. Mr. McManus stated the Board did not write the Zoning Ordinance. That is a legislative function that the Supervisors have taken time to perform. Mr. McManus described that the function of the Zoning Hearing Board is to hear and consider testimony to see whether or not the testimony satisfies the requirements of the Township Zoning Ordinance. If the testimony and evidence does show compliance, the Board is compelled to grant an application. If the Board finds the applicant does not demonstrate compliance, then it may reject an application before it. Mr. McManus explained party status and described the procedure that would be followed for the hearing. Mr. McManus stated the Application that was submitted references sections of the Ordinance that has been in publication from quite some time. That Ordinance was adopted May 7, 2001, Ordinance #3 of 2001 that we will at all times make reference to. The reason for stating this is because since that adoption the Ordinance has been codified and commencing with Article 3 of the Zoning Ordinance the numbering is off by one. In an effort to avoid any confusion all references at this hearing will be to the non-codified version of the Ordinance which in all respects is identical to the codified version. Mr. McManus asked if there were any questions concerning the procedures that will be followed. Lee Karin asked what was different from the original application and this one and why another hearing was being held. Mr. McManus stated the applicant submitted a new application for a special exception and the prior application was also for a special exception. Mr. McManus stated the Ordinance provisions have not changed effecting this particular land use. Mr. McManus began identifying parties to the application stating the applicant is always a party and the applicant is represented by Marc Kaplin. Mr. McManus stated the Township is a party to the

application and is represented by John Kenneff, 246 B Manor Avenue, Millersville, PA 17551. George Cook with the Law Firm of Blakinger Byler & Thomas, 28 Penn Square, Lancaster, PA 17063 asked for party status on behalf of the Woods Edge Homeowners Association. Susan Smith with the Law Firm of Reager & Adler, 2331 Market Street, Camp Hill, PA 17011 requested party status on behalf of F.A.I.D. (Friends Against Irresponsible Development) and David & Cindy Bachman, 2737 Kimberly Road; Kelly L. Sumpter, 2735 Kimblery Road and Floris A. & Clifford E. Sisler, 316 Stone Creek Road. Charles E. Zaleski with the Law Firm of Reager & Adler, 2331 Market Street, Camp Hill, PA 17011 asked for party status on behalf of East Hempfield Township. The Zoning Hearing Board accepted the individuals requesting party status. John Kenneff on behalf of Manor Township presented a petition to deny the application on the basis that the 2001 application and the 2004 application are the same, the other parties granted party status are the same namely civil groups and individuals having an interest in the land adjacent to the proposed tract of land. The tract of land in both applications is the same as well as the zoning district and zoning ordinance are the same. The relief sought in both applications, special exception, is the same. The proposed retail building are substantially similar in that the size of the proposed building is 213,000 sq. ft. in 2001 and 229,000 sq. ft. in 2004 and situated in similar location on the land. There has been no substantial change in the circumstances related to the land itself. In paragraph #15 of its written description of the proposed use, Wal-Mart asserts that the site plan and traffic impact study is submitted to address the alleged deficiencies identified by the Board in its Decision rendered June 27, 2002. Wal-Mart then remunerates the revisions. None of the revisions set forth in paragraph #15 nor elsewhere in the plan are substantial change in circumstances related to the land itself. Mr. Kenneff stated Wal-Mart did not fulfill its obligation to present adequate testimony in 2001 and we are asking the Board not allow them to do this at this point. Mr. Kaplin stated he filed this application six weeks ago and to spring this on him at the last moment and expect him to respond was unfair. Mr. Kaplin asked to reserve the right to respond, however, he stated this application is different. Mr. Kaplin stated this application is different in that they believe it complies with all the items sited and in addition this building is approximately 14 or 15,000 sq. ft. larger and it has some different attributes. Mr. Kaplin asked that they be allowed to proceed with their application to demonstrate that this application is different from the application submitted in 2001. Mr. Cook stated he joins in the position of the Township. Ms. Smith and Mr. Zaleski were in agreement with the argument from Mr. Kenneff. Mr. McManus asked council and the applicant to submit legal memorandum to address this issue and Mr. McManus recommended to the Board to proceed with testimony and if this matter is appropriate and accurately reflects the application it is appropriately addressed by an appellate court and not by this Board. Mr. McManus stated they would reserve that opinion based on research and memorandum of council. Mr. Kenneff stated he had no objection to the Board proceeding at the very least to take testimony as to whether there are differences between the application in 2001 and the application in 2004. Mr. McManus called Bruce Ott as the Board's witness. Mr. Ott was sworn in by the Court Reporter. Bruce Ott is the Zoning Officer for Manor Township and stated he received the Application of Wal-Mart Store indexed #7-04 and its attachments by cover letter dated August 20, 2004. The application and attachments were marked as Board's Exhibit #1. Mr. Ott stated the Exhibit #1 contains the application, cover letter, written description of the proposed use, site plan, landscaping, lighting, elevation and floor plans. Mr. Ott stated there were six notebooks containing the traffic study. Mr. Ott stated the Township determined it was a complete application. As a result of receiving the application, Mr. Ott scheduled the hearing. Mr. Ott stated the time, date, location and subject

matter was advertised in the Lancaster Newspapers on Tuesday the 21st and Tuesday the 28th of September. The proof of publication was marked as Board' s Exhibit #2. Mr. Ott stated the property was posted with notice of the time, date, place and subject matter with a zoning notice on September 21. There was three signs placed on S. Centerville and one on the access drive on Columbia Avenue and a notice was posted on the board in the Township Municipal Office. Ms. Smith asked Mr. Ott whether the names and addresses of the adjoining property owners were provided as required by the Ordinance under Section 604.3 and Mr. Ott stated there was a list of adjoining property owners with the application. Mr. Ott stated he went through the list and there were some changes in the tax records and we made those changes on notifications that were sent out. Ms. Smith asked Mr. Ott if he had the revised list and Mr. Ott stated he did not have it with him. Mr. Ott stated there may have been approximately six or so that were changed. Ms. Smith asked Mr. Ott if he is aware of the condominium project that lies to the west of the site and north of Stone Creek Road and S. Centerville Road. Mr. Ott advised he was not sure what she was referring to at that location. Ms. Smith stated the street address was 293 Columbia Avenue. Mr. Ott was unable to determine the area that was referred to by Ms. Smith. Ms. Smith asked if the Township supplemented the listed provided by the application. Mr. Ott stated Langley Square addresses were on the list. Ms. Smith stated she has reason to believe the 32 properties referenced as 293 Columbia Avenue condominium project at the northwest corner of Stone Creek and S. Centerville were not listed in the application as adjoining property owners and may not have been notified. Ms. Smith asked that the revised listing of property owners be made available. Mr. Ott stated the revised list would be available in the morning. Mr. Kaplin gave an opening statement regarding the Wal-Mart Application. Mr. Kaplin asked that the Decision that rejected the first application marked as Applicant' s Exhibit #1 which identified certain alleged deficiencies in Wal-Mart' s first application a majority which pertains to Wal-Mart' s traffic impact study for the proposed store. A new application has been submitted which addresses the alleged deficiencies identified in the Board' s Decision rejecting Wal-Mart' s first special exception application. Mr. Kaplin stated Wal-Mart is now the legal owner of the property in question and the deed evidencing conveyance of the property from Murry/Sher-Wal marked Applicant' s Exhibit #2. Mr. Kaplin called his first witness, Robert James McHale, who was sworn in by the Court Reporter. Mr. McHale gave his educational background and indicated he is a licensed professional engineer in the state of Pennsylvania since 1993 and is also licensed in the state of Arkansas. Mr. McHale listed his employment background and his qualifications. Mr. McHale indicated he supervised the design of the plan. Mr. Kaplin offered Mr. McHale as a licensed, qualified engineer to express engineering opinions. Mr. McManus stated the Board has accepted Mr. McHale on prior occasions and Mr. McHale was accepted. The Site Plan was marked as Applicant' s Exhibit #3. The landscaping plan was marked Applicant' s Exhibit #4 and the lighting plan marked Applicant' s Exhibit #5. Mr. Kaplin stated Ms. Smith pointed out to him that the copy of the deed appears to be missing Page 2 and will supply Page 2 if anything is on it. Mr. McHale stated the property is located southeast of the intersection of Columbia Avenue and S. Centerville Road and consist of 29.6 acres. The property is a separate subdivided lot and was recorded in October 1, 2003. The subdivision plan was marked as Applicant' s Exhibit #6. Mr. McHale supervised and participated in the subdivision plan. The property is located in the General Commercial Zoning District. The Zoning Ordinance in effect when this application was filed was Ordinance #3-2001 Adopted May 7, 2001 as Amended by Ordinance #5-2003 which was adopted on October 6, 2003. Mr. McHale stated the Zoning Ordinance contains a description of the purpose of the General Commercial District in Section 207.1. Mr.

McHale proceeded to read Section 207.1. Mr. Mchale listed permitted uses as listed in Section 207.2. Mr. Mchale listed permitted uses by special exception in the General Commercial District. Mr. Mchale stated Wal-Mart is proposing retail sales of goods and services in a retail store. Mr. Mchale stated the store is a larger scale retail use and the proposed store is a highway oriented retail use as referred to in the provisions of the Ordinance. The retail store facility is positioned on an arterial and collector road and is established to provide retail sale of goods not only to local residents but also bypassing motorists through the Township. The access from Columbia Avenue is a shared access for two out parcels (Lot #1 and 2) as well as the Wal-Mart facility. The southwest corner of the facility aligns with existing Stone Creek Drive and the access would be shared with Lot #3 which is a 6 1/2 acre parcel. There is a series of easements that were created when the subdivision plan was approved. Easements with Covenants and Restriction Affecting Land was marked Applicant's Exhibit #7. This document was recorded at the time the subdivision plan was recorded to create the various easements between the various lots that are included on the subdivision plan. The subdivision plan provides for shared stormwater management with regard to the four lots. Mr. Mchale described the shared stormwater management facility provided for by the subdivision plan and the easement agreement.

Mr. Mchale stated ultimately the stormwater will continue through a stormwater easement along S. Centerville Road to be discharged below the Woods Edge Subdivision Stormwater Management Facility. Mr. Kaplin stated there are two law suits by the Woods Edge Homeowner's Association against Wal-Mart and Murry /Sher-Wal Companies challenging the right to discharge water from the Wal-Mart into the Woods Edge Homeowners Association. That issue will ultimately be resolved by the courts. Mr. Mchale stated the site plan proposes a 229,690 sq. ft. facility and stated the majority of the field of parking is to the west of the site and provides for over 1,000 spaces. There is also a small field of parking to the north of the building and a small field to the south of the building. The facility is set up with two main entrances and one is primarily for groceries and the other is for general merchandise. There is two access points of major high volume drive off Columbia Ave. and also S. Centerville Road. Mr. Mchale stated a there is six bay docking facility for trucks that will face to the north. Mr. Mchale described how the trucks would enter the site and travel to and maneuver at the docking area. Mr. Mchale described the stormwater management plan and stated the stormwater plan was reviewed by the Township engineer and approved as part of the subdivision plan. The lighting plan was described and Mr. Mchale stated the criteria stated in the Ordinance has been met. Mr. Mchale described the buffering and landscaping that is shown on the plan. Mr. Mchale reviewed Section 207.3 Item #14 which also refers to Section 448. Section 448 has a list of specific criteria which governs shopping centers. Mr. Mchale stated a retail store in excess of 100,000 sq. ft. is described in the Zoning Ordinance under Shopping Center which is located in Article I under definitions. Mr. Mchale proceeded to read the definition. Mr. Kaplin stated there are dimensional regulations listed in Section 207 which governs uses in the General Commercial District. Not all regulations in 448 are applicable to the proposed Wal-Mart. Mr. Kaplin stated the specific provisions applicable would be Section 448.1 through 448.15. Mr. Mchale stated an analysis has been performed to determine whether the proposed store complies with all the Zoning Ordinance Requirements that are applicable to the proposed Wal-Mart Store. Mr. Mchale stated the proposed plan complies with all the Zoning Ordinances that are applicable. Mr. Mchale had prepared an affidavit in detail which the proposed store complies with all the

Zoning Ordinances requirements applicable to the retail store and shopping center in excess of 100,000 sq. ft. and the affidavit was marked Applicant' s Exhibit #8. Mr. Kaplin questioned Mr. McHale on sections of the Zoning Ordinance that were applicable. Mr. McHale stated public utilities are existing along Columbia Avenue and S. Centerville Road and Mr. McHale presented intent to serve letters from LASA and Lancaster City Water. Applicant' s Exhibit #9 is the water letter from the City of Lancaster indicating water service is available. Applicant' s Exhibit #10 is a letter from LASA in response to a request to sewer capacity request and LASA states there is sufficient capacity. Mr. McHale stated there would be a positive impact on the schools in that the store would add tax revenue. Mr. McHale stated the proposed development would not require any greater degree of fire or ambulance service than another retail store in excess of 100,000 sq. ft. Mr. McHale stated the proposed facility provides fire suppression

system and automatic sprinkler system in side the buildings. Mr. McHale was involved in the prior special exception application that the Zoning Hearing Board denied on June 27, 2002. Mr. McHale stated he is familiar with the Zoning Hearing Board' s written specifics of the decision on the prior application which has been marked Applicant' s Exhibit #1. There were items in the decision that were alleged as deficient and in preparing the plans for this new application we attempted to rectify the alleged errors. Mr. McHale went over the listed deficiencies in the previous decision one by one and explained how they were corrected in this application.

At 8:50 p.m. there was a break. The Hearing reconvened at 9:00 p.m.

Mr. Kaplin and Mr. McHale continued with their presentation. Mr. Kaplin presented Applicant' s Exhibit #11 which is a plan to clarify interpretation of the Ordinance Section 312.15 Subsection 2A. Mr. McHale the plan outlines the parking area and there was several things Mr. McHale found that were not conveyed onto the final plan before it was submitted. Mr. McHale read the section from the Ordinance and described the plan. Mr. Kaplin' s and Mr. McHale' s testimony and any objections were recorded by the Court Stenographer.

Ms. Smith proceeded with cross-examination of Mr. McHale. Ms. Smith stated she heard Mr. McHale testify that the standards and requirements that this application must satisfy appear in Articles 2, 3, 4 and 6 of the Ordinance. With respect to Article 6 regarding Section 605.3 application for special exception Ms. Smith asked Mr. McHale to read a portion of the section regarding building permits and asked if they complied with that section. Mr. McHale stated a building permit was not applied for. Ms. Smith asked if Mr. McHale agreed that Section 702 also applied to the application. Mr. Kaplin objected to this question and Ms. Smith continued. Ms. Smith asked numerous questions on the plans. Ms. Smith also had questions on topography and if this was shown on the plans. Ms. Smith had Mr. McHale read each sub section in Section 702.3.3 to 702.3.10 and after each one asked Mr. McHale if they had shown compliance. Ms. Smith requested Mr. McHale read Section 605.3.2F and questioned him with regards to that section. Ms. Smith asked if any part of the application contained geotechnical information for the site. Ms. Smith also questioned Mr. McHale regarding the access drives, the parking areas and movements within the parking areas, hours of operation, walkways for pedestrians, stormwater, the letter from LASA, fire protection and how the equipment would be able to access the building through the parking areas, and questions on the proposed berms. Ms. Smith' s cross-examination of Mr. McHale as well as any objections were recorded by the Court Stenographer.

Ms. Smith will continue her cross-examination at the next meeting.

Mr. McManus announced the hearing will be continued on Monday, October 25, 2004 at 7:00 p.m. at the same location and the second date set is Tuesday, November 30, at 7:00 p.m. The hearing was adjourned at 10:00 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer  
Zoning Hearing Board Meeting  
10/06/04

Zoning Hearing Board Agenda

Wednesday, October 6, 2004 Time: 7:00 P.M.

1. Introduction of Board Members

2. Pledge of Allegiance to the Flag

3. Approve August 4, 2004 Minutes

4. New Business Case No. #6-04 -The application of Nextel Partners, property located at 2595 River Road Tax Map No. 16G-5-1, Account No. 410-88622-0-0000, Washington Boro, PA. The Applicant is requesting a special exception of Section 202.3.15 to erect a cell Tower monopole in accordance with Section 454 – Cell Site Antenna and, if necessary, a variance of Section 308 – Required Vehicular Access. The property is located in the Rural (R) Zoning District.

Case No. #8-04 - The application of MBI Development Company, Inc., property owned by DDP Enterprises, Inc. is located adjacent to and south of Columbia Avenue and adjacent to and west of Hershey Mill Road Account #410-18431-0- 0000 Tax Map #13G-6-3 and Account #410-72859-0-0000 Tax Map #13G-6-6B. The applicant is requesting a special exception use – Section 211.6.1.B (1)(2) to install utilities in the Floodplain Zone (FP) and Section 211.6.1.D to install culvert and approaches in the Floodplain Zone (FP). The properties are located in the High Density Residential Flex (RH1) Zoning District.

5. Adjourn

DRAFT Zoning Hearing Board Minutes

Wednesday, October 6, 2004 Time: 7:00 P.M.

The Manor Township Zoning Hearing Board met on Wednesday, October 6, 2004 at 7:00 p.m. at the Manor Township Municipal Building, 950 West Fairway Drive, Lancaster, PA 17603. The

meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, Walter Schlemmer and Barbara Douglas Township Officials Present: James R. McManus and Bruce Ott. Visitors Present: Ann Roberts, 241 Langley Square Tucker Lahr Jesse Hernandez Michael Grab, 327 Locust Street Michael Zumber, 124 Shannon Drive Joanne Matos, 3888 Columbia Ave. Roger Johnson, 1300 Horizon Drive Cheryl Desmond, 423 Rabbit Hill Lane Amanda & Phil Cobb, 329 Hershey Mill Road Mary Witmer, 200 Oakridge Drive

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of the Zoning Hearing Board, the Assistant Zoning Hearing Officer, the Zoning Hearing Board Attorney, the Court Reporter and the Recording Secretary.

Ms. Douglas made a motion to approve the meeting minutes of August 4, 2004. The motion was seconded by Allan Granger and the motion carried with Mr. Schlemmer abstaining.

New Business Case No. #8-04 - The application of MBI Development Company, Inc., property owned by DDP Enterprises, Inc. is located adjacent to and south of Columbia Avenue and adjacent to and west of Hershey Mill Road Account #410-18431-0- 0000 Tax Map #13G-6-3 and Account #410-72859-0-0000 Tax Map #13G-6-6B. The applicant is requesting a special exception use – Section 211.6.1.B (1)(2) to install utilities in the Floodplain Zone (FP) and Section 211.6.1.D to install culvert and approaches in the Floodplain Zone (FP). The properties are located in the High Density Residential Flex (RH1) Zoning District. Mr. Granger stated the Zoning Hearing Board received a letter from Attorney Stacey L. Morgan from Hartman Underhill & Brubaker, who represents the applicant which reads “ The purpose of this letter is to respectfully request that the hearing on the above referenced special exception application scheduled for the October 6, 2004 meeting of the Zoning Hearing Board be postponed until the Board’ s next meeting date on November 3, 2004. The Applicant is presently considering making some changes to the residential development on the subject property which could impact the design of the culvert in the floodplain. If the Applicant decides to adopt a new plan for the site which impacts the information set forth in the special application before the Board, Applicant will submit an amended special exception application to you on or before October 13, 2004. Please let me know if you have any questions or need additional information from me with respect to the request.” Mr. Granger stated the Board will accept the request to defer this application until next month. Individuals present asked if there was any information available regarding this plan for residents to look at before the next meeting. Mr. McManus stated the application is on file at the office and can be looked at. Mr. McManus stated it may change but you can see what is submitted to date.

Case No. #6-04 -The application of Nextel Partners, property located at 2595River Road Tax Map No. 16G-5-1, Account No. 410-88622-0-0000, Washington Boro, PA. The Applicant is requesting a special exception of Section 202.3.15 to erect a cell Tower monopole in accordance with Section 454 – Cell Site Antenna and, if necessary, a variance of Section 308 – Required Vehicular Access. The property is located in the Rural (R) Zoning District. The meeting was turned over to Jim McManus. Mr. McManus asked that Bruce Ott be sworn in. Mr. Ott stated he received Application #6-04 for Nextel Partners on August 17, 2004 and scheduled the hearing

for this evening. Mr. Ott published notice of the time, place, date and subject matter of the application in the Lancaster Newspapers on September 22 and 29 and provided proof of publication which was marked Exhibit #2. The application and attachments were marked Exhibit #1. The property was posted with the date, time, place and subject matter of the hearing on September 16 and also posted a similar notice in the Township Lobby on September 16. Mike Grab, Attorney with Nikoulas Hohenadel, representing Nextel Partners presented the plan. Mr. Grab stated this is a special exception application for a cellular communications tower installation consistently 195' lapse tower in the proposed place of Frey Dairy Farms property that is located at 2595 River Road which is in the far Rural District. There are specific criteria in the ordinance specifically Section 454 that deals with this use and because it is special exception the Applicant has to demonstrate compliance with each of those criteria. Tucker Lahr, Roger Johnson, Jesse Hernandez were sworn by the Court Reporter. Mr. Grab called Tucker Lahr as his first witness. Mr. Lahr is with a company called Watch Wireless with business address of 1104C Trindle Road, Carlisle. Mr. Lahr stated that he performs the site acquisition duties, which means identifying potential locations for cell sites such as the application and then is responsible for getting the necessary permit to build the tower. Mr. Lahr stated Nextel Partners, which is his client, engineering department will identify general locations where they need a site to improve their existing coverage areas of network and the first step would then be to go out into that area and look for any existing structures that might suit to locate antennas on to support their coverage needs. Nextel is a licensed wireless communications carrier by the FCC. There were no existing structures in the area and the utility transmission lines in the area would not give adequate coverage from the site. At that point, Mr. Lahr stated that he reviewed the Manor Township Zoning Ordinance to see the areas where the best locations would be to site a new tower and he identified several properties in the area. The latitude and longitude co-ordinate was submitted to Nextel and they analyzed those locations. Mr. Lahr stated that this site proved to be the best sited of the sites looked at and afforded the ability to build the tower at a somewhat lower height than some of the other properties. Mr. Lahr stated that they entered into an option lease agreement with an initial term of five years with automatic renewals of five years. There are provisions for removal of the tower. The property is in the Rural Zoning District adjacent to two existing dairy farms; one property is operated as a dairy farm and the other property to the east of this parcel is operated by the Turkey Hill plant. To the south of the parcel is the Lancaster County Solid Waste Authority Landfill, to the west is the river, and to the north is another agriculture property. This property is used as farm land and nothing else. The tower will not be required to be lit by the FAA. Because of the topography of this property, we are able to build the tower at a height that is under the height required for lighting by the FAA. The proposed tower will be 195' and to the top of the antenna will be 199' allowing for some columns to 200' . The construction is lattice type self supported tower built on standard concrete foundation inside a fenced compound that will be a gravel area with a minimally approved gravel road. Allan Granger asked if they considered using one or both of the transmission lines at the same time. Mr. Lahr said they looked at the lines individually as a site not combines because they are 500 to 600' apart. Walt Schlemmer questioned the statement that it could be built lower and was that because it was on a hill. Mr. Lahr stated that was correct because it has a natural tower. Mr. Schlemmer asked if the rules for lighting were the height of the tower not the total height and Mr. Lahr stated that was correct. Mr. Lahr stated anything over 200' regardless of the ground elevation is required to be lit by the FAA. Mr. Grab called Jesse Hernandez as his next witness. Mr. Hernandez stated he is a radio frequency engineer with a business address of 4000

Cressville Road, Suite 111, Harrisburg, PA 17410. Mr. Hernandez stated one of his duties includes the design and implementation of cell site towers within their network. When the need for a site is identified, it is usually determined on 1) a quality issue- this may be an area where coverage is not good but within our network 2) capacity issue – an area like a city area where we do have coverage but the existing sites can not meet the demand of the number of subscribers in that area 3) an expansion area – just outside of our existing network where we do not have coverage and we are trying to expand and fill in those areas. When we determine a need for a site it usually falls into one of the three criteria mentioned. In this case, this site falls into an expansion criteria. Currently, the surrounding sites in this area that we are targeting are Route 30, Millersville, Hellem, Columbia, Route 441 towards Washington Boro, Route 999 towards Turkey Hill, and Lancaster and Waste Management Facility in that portion of Lancaster. Currently, there is a gap in coverage in the mentioned areas. The gap in coverage is determined with a propagation tool which gives us the ability to use propagation modeling that takes things into account such as the topography, height of the tower, antenna to be used, power used and gives us the ability to project what we anticipate an area will cover. We want to provide coverage where there is none at this time but also maintain our connectivity with our existing sites. The propagation tool produces a map that is used to show the current gap in coverage and the proposed coverage for this site. The propagation map was marked Exhibit #3. The map is essentially a six page document and Mr. Hernandez went over each page and explained the areas shown on the map. Mr. Hernandez stated one of the requirements of the FCC is that Nextel is required to provide what is called reasonably reliable coverage. That means they own a geographic area and as Nextel Partners, it is their responsibility to provide reasonable coverage within this geographic area. Mr. Schlemmer asked if the tower located in Letort on the Henry Barley farm was considered. Mr. Hernandez stated there would be a change in coverage to use the Barley site because there is elevation change and it would make a dramatic effect to the coverage. Mr. Grab called Roger Johnson, 1300 Horizon Drive, Suite 108, Chalfont, PA who is a licensed professional engineer employed by the firm who prepared the plans for this application. A display version of what is referred to as the site plan was marked Exhibit #4. Mr. Johnson stated that Nextel Partners is proposing to install a telecommunications facility on the southern portion of the lot with the access coming off of River Road. There is an existing access to this lot as well as the rest of the property. Nextel Partners is proposing to upgrade the existing access drive, as needed, for good access to the site. There is a building setback line of 200' indicated on the plan. The tower will be roughly 241' from the property setback line. The utilities for the proposed site will come from the adjacent property. There are existing overhead utilities that run to the south and west of the property near the landfill. They are proposing to drop an additional new overhead line inside the property and then run the utilities underground into the site. The proposed compound of Nextel Partners will be a 100 x 100' leased area with a 70 x 70' fenced compound within that area. They are proposing a landscape buffer around the outside of the compound within the leased area. The compound itself will be a gravel surface. The proposed equipment Nextel Partners use for their facilities is an equipment shelter. There will be a 10 x 20' enclosed shelter. The shelter is uninhabited and does not have water and there is no need for sewer lines. A six gang meter indicates they are designing and anticipating the tower for future co-location from other carriers. This tower will be designed and built to accommodate other co-locators. The fenced area itself will be a eight foot chain linked fence with one foot barb wire on top which they are directed within the Ordinance. There will be two parking spaces in the proposed leased area to the south of the compound which will also be accessed from the gravel

driveway. The access into the compound will be a gate which will be chained shut with a lock. A geotechnical study will be done to identify the geological soil and the conditions after which the foundation will be designed based on the results of that study. Typically there is two types of foundations that will be used one which will be basically an individual concrete column for each leg or a pier which is a large slab with individual legs standing up underneath. At this point, the foundation has not been designed. The tower is designed according to the current governing bodies and the current code is TIAEIA 222 Version F which is the Telecommunications Industry Association Electronics Industry Association. Within that code, there are guide lines for the tower and the supporting members of them. The site is visited one time a month normally or one time every two or three months. The worker or technician' s vehicle is a typical SUV type vehicle. Mr. Granger asked if there is an agreement for access easement. Mr. Granger was advised it was part of the lease agreement. Mr. Granger asked if there would be any problem getting a construction vehicle into the site and he was advised that there would be no problem. Mr. Granger asked if the interior lot has access and Mr. Granger was advised there is no separate access. Mr. Granger asked if the lot has a separate deed. Mr. Grab stated the lot is covered under one deed. Mr. Grab stated this is a separate legally described lot which may be contained on the same deed as the dairy farm. There will be a leased area within the area. This lot has its own tax map number. Mr. Granger asked how many co-locators could be accepted on the tower. Mr. Grab stated that the tower could be designed for however many is desired but at this time a six gang meter bank is being considered. Mr. Granger stated he is disappointed with the landscaping at many of these tower facilities and asked if the landscaping would be inspected and replaced if needed. Mr. Grab stated that they would have no problem agreeing to that condition. Mr. Granger stated that for the last cell tower, the Supervisors required a bond for the removal and asked if that would be required for all towers. Mr. Ott stated it was his understanding it would be required for all towers. Mr. Grab stated that they would have no objection to posting a bond. Mr. McManus asked what the lot area was and the account number. Mr. Johnson stated the lot area is approximately 50 acres and the account number is 410-88622-0-0000. Mr. McManus asked if there would be any security lighting. Mr. Grab stated the carriers would put in lighting for their own equipment. Generally lighting is placed on the shelter. There would be no illumination from a base light. The plan does not show any lighting at this stage. Mr. Schlemmer asked if the only utility services would be electric and telephone. Mr. Grab stated that was correct. Ms. Douglas asked if the compound will be locked. Mr. Grab stated the gate will be locked. Ms. Douglas made a motion that the testimony be closed and that they take it under consideration for the next meeting. The motion was seconded by Mr. Schlemmer and the motion carried unanimously. Mr. Granger stated a decision will be rendered at the next meeting on November 3 at 7:00 p.m. in this room. There being no further business the meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer

Wal-Mart Zoning Hearing Board

10/25/04

DRAFT

## Manor Township Zoning Hearing Board Minutes

Monday, October 25, 2004 Time: 7:00 P.M.

The Manor Township Zoning Hearing Board met on Monday, October 25, 2004 at 7:00 p.m. in the Manor Middle School located at 2950 Charlestown Road, Lancaster, PA. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, Walt Schlemmer and Barbara Douglas Township Officials Present: James R. McManus, Bruce Ott and Barry Smith Visitors Present: See attached list.

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of the Zoning Hearing Board, the Zoning Officer, the Zoning Hearing Board Attorney, the Court Reporter and the Recording Secretary.

Mr. Schlemmer moved the meeting minutes of October 5, 2004 be approved as submitted. The motion was seconded by Ms. Douglas and the motion carried unanimously.

Old Business Case #7-04 – The Application of Wal-Mart Stores. The application of Wal-Mart Stores, Inc. for a special exception pursuant to Section 207.3.14 of the Manor Township Zoning Ordinance. The property is located south of Columbia Avenue and east of South Centerville Road at 235 South Centerville Road, Lancaster, PA. The applicant is requesting permission to build a Wal-Mart Store on the property. The property is located in the (GC) General Commercial Zoning District. This hearing is continued from the October 5th meeting. Mr. Granger turned the meeting over to Mr. McManus. Mr. McManus stated the date, time and place of this evening's hearing was set and announced on record at the initial hearing on October 2, 2004. The October 2, 2004 hearing concluded with Ms. Smith cross-examining Mr. McHale. Mr. Kenneff stated he had presented an objection to holding the hearing and there was concern indicated whether the Zoning Hearing Board was authorized to hear the objection. Mr. Kenneff presented the Board with two cases that provided the Board with the authority to make a decision. Mr. Kenneff stated the Board has decided to hold the hearing and Mr. Kenneff was making an objection. Mr. McManus stated Mr. Kenneff's objection was noted. Ms. Smith stated she had questioned the list of people that notices of the hearing were mailed to and the Township had agreed to give her a copy of the list but she has not received that list. Ms. Smith continued with her cross examination of Mr. McHale. Ms. Smith asked Mr. McHale if he agreed he had a professional relationship to this site since the early 1990's and Mr. McHale stated since the mid 1990's. Ms. Smith asked Mr. McHale if during the course of the last hearing for the application for a special exception filed by Wal-Mart was he charged with responsibility of reviewing the plan to ensure the requirements of the Ordinance were met and Mr. McHale stated he had that responsibility. Ms. Smith stated during the course of the previous hearing it was evident that there were deficiencies with the application. Ms. Smith reviewed the testimony that was given by Mr. McHale at the October 5 meeting regarding the application's compliance with the Zoning Ordinance. Ms. Smith referred to Exhibit #3 and questioned Mr. McHale on the size of the handicapped parking spaces on the plan and asked Mr. McHale to refer to Section 312.8 of the Zoning Ordinance regarding handicapped parking spaces. Mr. McHale read the section. Ms. Smith referred to Exhibit #5 regarding lighting standards and questioned Mr. McHale on the

height of the lighting standards. Ms. Smith referred to Section 311.3 of the codified version of the Zoning Ordinance regarding clear site triangle and the height of the proposed plantings. Ms. Smith asked Mr. McHale to refer to the Landscape Plan Exhibit #11 and questioned him on the height of the plantings. Mr. McHale was questioned by Ms. Smith regarding the differences in the written information in the planting list and the graphic drawing and scale on the landscape plan. Mr. McHale was asked if he went line by line and compared the written information to information depicted graphically and Mr. McHale stated that he went through in detail the notes of everything referenced in the drawings including the general notes. Mr. McHale stated that as far as the inconsistency of the comment section of the plant schedule with the drawing, he stated that he did not compare written information to what is depicted graphically. Ms. Smith referred to Exhibit #11 and questioned Mr. McHale regarding the plantings on the berm and the mature plant height and stated the berm was pointed. Mr. McHale informed Ms. Smith the berm was not pointed but rounded. Ms. Smith asked what ground cover was proposed and Mr. McHale stated there is a variety of ground cover such as grass, mulch and periwinkle. Mr. McHale stated that the periwinkle planting is not shown on the plan. Ms. Smith referred to Section 315.5 regarding sign standards Table #1 & 2 and asked Mr. McHale to identify the maximum square footage of signage in the Zoning District that the site is located. Mr. McHale read 280 sq. ft. Ms. Smith questioned Mr. McHale on the information in the application regarding signage. Mr. McHale stated he did not feel comfortable commenting on a drawing he was not involved in. Ms. Smith stated she had concluded her cross-examination. Mr. Cook proceeded to cross-examine Mr. McHale. Mr. Cook asked Mr. McHale to refer to Site Plan Exhibit A# 3. Mr. Cook stated that there were two bus stops on the plan and asked why there are two. Mr. McHale stated the two bus stops were there for convenience. Mr. Cook asked why the stops were located at the proposed location. Mr. McHale stated they are near the perimeter of the parking area for the convenience of the buses to drive in and around the perimeter and exit the parking lot. Mr. Cook asked if there could be access easements for Lot 3 & 5 from Royal Road. Mr. McHale stated he had not evaluated the access to those lots from Royal Road. Mr. Cook referred to Exhibit A#11 the Revised Landscape Plan concerning the tree height at the time of planting and asked if there was any information of the plant heights after 2 to 3 years. Mr. Cook stated that the Ordinance requires full screening two years after the planting takes place. Mr. McHale stated he had no knowledge of the plant heights after several years. Mr. Cook referred to Applicant' s Exhibit #7 and the existing trees. Mr. Cook asked if Wal-Mart had plans to save the existing trees and Mr. McHale stated he did not know. Mr. McHale indicated that the existing trees are not being relied upon for a barrier. Mr. Cook questioned Mr. McHale regarding the area outlined in orange on the plan and asked what it depicted. Mr. McHale stated that the outlined area depicts the total area of the parking lot, which is 649,458 sq. ft. Mr. Cook stated the size of the retail store is indicated at 229,699 sq. ft. and asked what comprises this area. Mr. McHale indicated the area includes a kiosk, garden center, chain linked areas, vestibule area and the tire and lube center. Mr. McHale indicated there will be a roof over the garden center at the northern area. Mr. Cook asked who signed and sealed the Lighting Plan Applicant' s Exhibit #5. Mr. Cook asked questions regarding light loss that is depicted. Mr. Cook asked if there were any plans to lower light levels based on operational needs. Mr. McHale stated it was not proposed to lower light levels. Applicant' s Exhibit #7, page 3, at the end of paragraph #1, Mr. Cook asked what the term seasonal sales structures mean? Mr. McHale stated he can not answer the question without speculating. Mr. Cook also questioned Page #3; paragraph #2 of the document which stated grocery stores, etc. can not be put on the out parcels. Mr. Cook asked who the owners of several

lots depicted on Applicant' s Exhibit #6 was. Mr. McHale stated that he was not aware of the current ownership of the lots. Mr. Cook reviewed how Wal-Mart proposes to discharge stormwater. Mr. Cook had excerpts from the conceptual stormwater calculations which showed three different ways to discharge stormwater and Mr. Cook had questions on the pipe discharge. Mr. Cook had numerous questions on the subdivision plan, the site data, lot coverage and questions on the detention basins shown on the plans. Mr. Cook also asked questions on Applicant' s Exhibit #3. Mr. Cook concluded his cross-examination.

At 8:45 p.m. there was a break. The Hearing reconvened at 9:00 p.m.

Mr. Kenneff proceeded with his cross-examination of Mr. McHale. Mr. Kenneff asked if the plan showed that the access drive from Columbia Avenue to the site was not owned by Wal-Mart but an easement was granted to Wal-Mart by the owner of the property. Mr. McHale stated that was correct. Mr. Kenneff stated that the Ordinance requires Wal-Mart to own frontage on Columbia Avenue to use that access. Mr. Kaplin objected. Mr. McHale read Section 448.10 regarding access. Mr. Kenneff referred to Exhibit #8, Paragraph W, on Page 5/6. Mr. Kenneff said in that exhibit you rendered an opinion that all access drives were set back at least 200' from the intersection of any street right-of-way and at least 100' from any property line as required by Section 448.15.4. Mr. Kenneff questioned the width of the access drive from Columbia Avenue. Mr. Kenneff asked who owns the property immediately to the east and west of the access drive. Mr. McHale stated they are not owned by Wal-Mart. Mr. Kenneff asked if at any point the access drive is 100' from the property line to the east or west. Mr. McHale stated that the drive is in excess of 139' to the east and in excess of 108' to the west. Mr. Kenneff stated during the course of Mr. McHale' s direct testimony he rendered an opinion that adequate public facilities are available to serve the proposed use with reference to emergency services or ambulance services. Mr. Kenneff asked Mr. McHale if he had an opinion with any reasonable degree of certainty in your field as to whether adequate public facilities are available to serve the proposed use with regard to emergency services. Section 605.3.2.D. of the Ordinance related to Mr. Kenneff' s question regarding emergency services. Mr. McHale stated that he gave testimony in regard to the Comprehensive Plan which indicates areas which this particular property would be served by fire department and other services. Mr. Kenneff asked in regards to ambulance services, did you go to any other source other than the Comprehensive Plan. Mr. McHale stated he did not use any other source. An excerpt marked Township' s Exhibit #1 from the Comprehensive Plan with reference to ambulance services was presented. Mr. Kenneff read from the Comprehensive Plan and asked if that is what Mr. McHale relied upon when giving testimony at the last hearing. Mr. McHale stated the Comprehensive Plan is what he relied upon. Mr. Kenneff stated Mr. McHale gave testimony stating he believed there was adequate public facility available to serve the proposed use with regard to fire services. Mr. McHale stated he gave testimony to that fact. Mr. McHale agreed the only document he relied upon for the information regarding fire services was the Comprehensive Plan. Mr. Kenneff presented Township' s Exhibit #2, an excerpt from Page 75 of the Comprehensive Plan relating to fire service. Mr. Kenneff read the excerpt from Page 75 of the Comprehensive Plan. Mr. Kenneff asked Mr. McHale if he had contacted the Fire Chief of the company who would be responsible to service the Wal-Mart site and Mr. McHale stated he had not. Mr. Kenneff asked Mr. McHale if it would not have been more professional to have consulted with others who had expertise in those areas you lacked before giving the testimony you gave at the last hearing. Mr. Kaplin

objected to Mr. Kenneff's question and Mr. Kaplin was overruled. Mr. McHale stated Wal-Mart is going to have its own sprinkler system and these items appear to be more than the service in the Comprehensive Plan. Mr. Kenneff stated that Mr. McHale was not asked about police protection and its adequacy. Mr. Kenneff asked if Mr. McHale was instructed not to investigate the police protection adequacy. Mr. McHale stated he was not instructed not to investigate police protection adequacy. He relied solely on the Comprehensive Plan. Mr. Kenneff stated that in giving your testimony regarding various topics in Section 605.3.2.D, you relied solely on the Comprehensive Plan and Mr. McHale stated that was correct. Mr. McHale was asked if he took into consideration the impact the traffic generated by the Wal-Mart store would have on the ability of the public facilities to service the store and Mr. McHale stated a detailed analysis was not performed. Mr. Kenneff asked if he was correct in saying that Mr. McHale did not take into consideration in giving testimony the impact the additional vehicular traffic would have nor did Mr. McHale consult with any third party regarding their opinions and Mr. McHale stated that was correct. Mr. Kenneff stated Mr. McHale testified to numerous corrections that were made to various plans presented by Wal-Mart the last meeting and this evening which were made since 2001 hearing. Mr. Kenneff asked if there was any impediment in 2001 and 2002 to preparing those plans in the same way as this Application. Mr. McHale stated he did not recall. Mr. Kenneff read Item #37 from the Board's Decision under Findings of Fact which stated Wal-Mart's proposed access drive to Columbia is located nearer than 100' to the property lines of both properties identified as certain tax parcel numbers. Mr. Kenneff asked Mr. McHale what was done in response to the Board's Findings. Mr. McHale stated the tax parcels referred to no longer exist. Mr. Kenneff asked Mr. McHale if it was his testimony that he does not recall what he did in response to the Board's Findings in Item #37. Mr. McHale stated Item #37 required that the accesses be a minimum of 100' from the property line and that is what we have shown. Mr. Kenneff again asked the question what did you do in response to the Board's Finding #37 that is different in the plans presented in 2004 from the plans presented in 2002. Mr. McHale stated the properties have subsequently been subdivided and, therefore, these parcels came away and are shown today as the existing parcels. With regard to the Board's Findings #38 and #35, which pertains to width of lanes, Mr. Kenneff asked Mr. McHale what he did that was different in this Application from the 2001 application. Mr. McHale stated that the site plan shows 12' wide lanes. Mr. Kenneff asked why that correction was not made in 2001 or 2002. Mr. McHale stated he did not recall. Mr. Kenneff read Finding #50 which stated the Wal-Mart Site Plan does not provide for pedestrian linkage to the adjacent properties and Mr. Kenneff asked what changes were made in the 2004 plan from the 2001 and 2002 plan in response to that Finding. Mr. McHale pointed out sidewalks on the site plan. Mr. Kenneff then referred to Finding of Fact #84; Wal-Mart failed to provide a schedule for roadway and traffic improvements and he asked Mr. McHale what was done in 2004 in response to that Finding. Mr. McHale pointed out on the site plan what was done. Mr. Kenneff asked if the schedule is required by Section 448.11.22.C of the Ordinance. Mr. McHale read the section from the Ordinance and stated a schedule was provided for the improvements. Mr. McHale read the schedule. Mr. Kenneff asked if any traffic signal plans and roadway improvement plans have been submitted to the governing authority. Mr. Kaplin objected. Mr. Kenneff asked Mr. McHale if he considered the traffic signal plan and roadway improvement plan placed on the exhibit to be a good faith effort to comply with the Ordinance since the October 2004 date obviously could not be met. Mr. Kenneff read in the Conclusion of Law #12 in the Board's Decision it states Wal-Mart has failed to comply with the requirements of Section 311.13 of the Zoning Ordinance by proposing lighting structures in

excess of 25' . Mr. McHale stated the lighting standards are 25' which meets the requirement of the Ordinance. Mr. Kenneff asked if Mr. McHale knows that if Wal-Mart chooses the option to convey stormwater parallel on South Centerville Road to the stream crossing, will it require additional right of way from the Armstrong tract? Mr. McHale stated he did not recall. Mr. Kenneff concluded his cross-examination. The cross-examination of Mr. McHale and Mr. Kaplin' s objections were recorded by the Court Reporter.

Mr. McManus asked if the Board had any questions. Mr. Granger had questions regarding the stormwater plan and the underground piping. Mr. Granger asked questions for his clarification on the proposed stormwater. Mr. Schlemmer asked if they were discharging 50% less water than what comes off the property now. Mr. Kaplin stated that it is a 50% rate not volume. Mr. Schlemmer also asked if Mr. McHale had checked the volume of water going into the stream for flooding purposes. Mr. McHale stated that there was no analysis performed because the collection of the waters from the development that currently goes through these culverts will also go into the same tributary.

Mr. McHale will be available on November 30 for continued cross-examination.

The hearing was concluded at 9:55 p.m. and the hearing will continue on November 30, 2004 at 7:00 p.m. at the same location. There has also been a date set for Tuesday, December 14, 2004 at 7:30 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer

Wal-Mart Zoning Hearing Board

10/25/04

DRAFT

Manor Township Zoning Hearing Board Minutes

Monday, October 25, 2004 Time: 7:00 P.M.

The Manor Township Zoning Hearing Board met on Monday, October 25, 2004 at 7:00 p.m. in the Manor Middle School located at 2950 Charlestown Road, Lancaster, PA. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, Walt Schlemmer and Barbara Douglas Township Officials Present: James R. McManus, Bruce Ott and Barry Smith Visitors Present: See attached list.

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of the Zoning Hearing Board, the Zoning Officer, the Zoning Hearing Board Attorney, the Court

Reporter and the Recording Secretary.

Mr. Schlemmer moved the meeting minutes of October 5, 2004 be approved as submitted. The motion was seconded by Ms. Douglas and the motion carried unanimously.

Old Business Case #7-04 – The Application of Wal-Mart Stores. The application of Wal-Mart Stores, Inc. for a special exception pursuant to Section 207.3.14 of the Manor Township Zoning Ordinance. The property is located south of Columbia Avenue and east of South Centerville Road at 235 South Centerville Road, Lancaster, PA. The applicant is requesting permission to build a Wal-Mart Store on the property. The property is located in the (GC) General Commercial Zoning District. This hearing is continued from the October 5th meeting. Mr. Granger turned the meeting over to Mr. McManus. Mr. McManus stated the date, time and place of this evening's hearing was set and announced on record at the initial hearing on October 2, 2004. The October 2, 2004 hearing concluded with Ms. Smith cross-examining Mr. McHale. Mr. Kenneff stated he had presented an objection to holding the hearing and there was concern indicated whether the Zoning Hearing Board was authorized to hear the objection. Mr. Kenneff presented the Board with two cases that provided the Board with the authority to make a decision. Mr. Kenneff stated the Board has decided to hold the hearing and Mr. Kenneff was making an objection. Mr. McManus stated Mr. Kenneff's objection was noted. Ms. Smith stated she had questioned the list of people that notices of the hearing were mailed to and the Township had agreed to give her a copy of the list but she has not received that list. Ms. Smith continued with her cross examination of Mr. McHale. Ms. Smith asked Mr. McHale if he agreed he had a professional relationship to this site since the early 1990's and Mr. McHale stated since the mid 1990's. Ms. Smith asked Mr. McHale if during the course of the last hearing for the application for a special exception filed by Wal-Mart was he charged with responsibility of reviewing the plan to ensure the requirements of the Ordinance were met and Mr. McHale stated he had that responsibility. Ms. Smith stated during the course of the previous hearing it was evident that there were deficiencies with the application. Ms. Smith reviewed the testimony that was given by Mr. McHale at the October 5 meeting regarding the application's compliance with the Zoning Ordinance. Ms. Smith referred to Exhibit #3 and questioned Mr. McHale on the size of the handicapped parking spaces on the plan and asked Mr. McHale to refer to Section 312.8 of the Zoning Ordinance regarding handicapped parking spaces. Mr. McHale read the section. Ms. Smith referred to Exhibit #5 regarding lighting standards and questioned Mr. McHale on the height of the lighting standards. Ms. Smith referred to Section 311.3 of the codified version of the Zoning Ordinance regarding clear site triangle and the height of the proposed plantings. Ms. Smith asked Mr. McHale to refer to the Landscape Plan Exhibit #11 and questioned him on the height of the plantings. Mr. McHale was questioned by Ms. Smith regarding the differences in the written information in the planting list and the graphic drawing and scale on the landscape plan. Mr. McHale was asked if he went line by line and compared the written information to information depicted graphically and Mr. McHale stated that he went through in detail the notes of everything referenced in the drawings including the general notes. Mr. McHale stated that as far as the inconsistency of the comment section of the plant schedule with the drawing, he stated that he did not compare written information to what is depicted graphically. Ms. Smith referred to Exhibit #11 and questioned Mr. McHale regarding the plantings on the berm and the mature plant height and stated the berm was pointed. Mr. McHale informed Ms. Smith the berm was not pointed but rounded. Ms. Smith asked what ground cover was proposed and Mr. McHale stated

there is a variety of ground cover such as grass, mulch and periwinkle. Mr. McHale stated that the periwinkle planting is not shown on the plan. Ms. Smith referred to Section 315.5 regarding sign standards Table #1 & 2 and asked Mr. McHale to identify the maximum square footage of signage in the Zoning District that the site is located. Mr. McHale read 280 sq. ft. Ms. Smith questioned Mr. McHale on the information in the application regarding signage. Mr. McHale stated he did not feel comfortable commenting on a drawing he was not involved in. Ms. Smith stated she had concluded her cross-examination. Mr. Cook proceeded to cross-examine Mr. McHale. Mr. Cook asked Mr. McHale to refer to Site Plan Exhibit A# 3. Mr. Cook stated that there were two bus stops on the plan and asked why there are two. Mr. McHale stated the two bus stops were there for convenience. Mr. Cook asked why the stops were located at the proposed location. Mr. McHale stated they are near the perimeter of the parking area for the convenience of the buses to drive in and around the perimeter and exit the parking lot. Mr. Cook asked if there could be access easements for Lot 3 & 5 from Royal Road. Mr. McHale stated he had not evaluated the access to those lots from Royal Road. Mr. Cook referred to Exhibit A#11 the Revised Landscape Plan concerning the tree height at the time of planting and asked if there was any information of the plant heights after 2 to 3 years. Mr. Cook stated that the Ordinance requires full screening two years after the planting takes place. Mr. McHale stated he had no knowledge of the plant heights after several years. Mr. Cook referred to Applicant' s Exhibit #7 and the existing trees. Mr. Cook asked if Wal-Mart had plans to save the existing trees and Mr. McHale stated he did not know. Mr. McHale indicated that the existing trees are not being relied upon for a barrier. Mr. Cook questioned Mr. McHale regarding the area outlined in orange on the plan and asked what it depicted. Mr. McHale stated that the outlined area depicts the total area of the parking lot, which is 649,458 sq. ft. Mr. Cook stated the size of the retail store is indicated at 229,699 sq. ft. and asked what comprises this area. Mr. McHale indicated the area includes a kiosk, garden center, chain linked areas, vestibule area and the tire and lube center. Mr. McHale indicated there will be a roof over the garden center at the northern area. Mr. Cook asked who signed and sealed the Lighting Plan Applicant' s Exhibit #5. Mr. Cook asked questions regarding light loss that is depicted. Mr. Cook asked if there were any plans to lower light levels based on operational needs. Mr. McHale stated it was not proposed to lower light levels. Applicant' s Exhibit #7, page 3, at the end of paragraph #1, Mr. Cook asked what the term seasonal sales structures mean? Mr. McHale stated he can not answer the question without speculating. Mr. Cook also questioned Page #3; paragraph #2 of the document which stated grocery stores, etc. can not be put on the out parcels. Mr. Cook asked who the owners of several lots depicted on Applicant' s Exhibit #6 was. Mr. McHale stated that he was not aware of the current ownership of the lots. Mr. Cook reviewed how Wal-Mart proposes to discharge stormwater. Mr. Cook had excerpts from the conceptual stormwater calculations which showed three different ways to discharge stormwater and Mr. Cook had questions on the pipe discharge. Mr. Cook had numerous questions on the subdivision plan, the site data, lot coverage and questions on the detention basins shown on the plans. Mr. Cook also asked questions on Applicant' s Exhibit #3. Mr. Cook concluded his cross-examination.

At 8:45 p.m. there was a break. The Hearing reconvened at 9:00 p.m.

Mr. Kenneff proceeded with his cross-examination of Mr. McHale. Mr. Kenneff asked if the plan showed that the access drive from Columbia Avenue to the site was not owned by Wal-Mart but an easement was granted to Wal-Mart by the owner of the property. Mr. McHale stated that was

correct. Mr. Kenneff stated that the Ordinance requires Wal-Mart to own frontage on Columbia Avenue to use that access. Mr. Kaplin objected. Mr. McHale read Section 448.10 regarding access. Mr. Kenneff referred to Exhibit #8, Paragraph W, on Page 5/6. Mr. Kenneff said in that exhibit you rendered an opinion that all access drives were set back at least 200' from the intersection of any street right-of-way and at least 100' from any property line as required by Section 448.15.4. Mr. Kenneff questioned the width of the access drive from Columbia Avenue. Mr. Kenneff asked who owns the property immediately to the east and west of the access drive. Mr. McHale stated they are not owned by Wal-Mart. Mr. Kenneff asked if at any point the access drive is 100' from the property line to the east or west. Mr. McHale stated that the drive is in excess of 139' to the east and in excess of 108' to the west. Mr. Kenneff stated during the course of Mr. McHale's direct testimony he rendered an opinion that adequate public facilities are available to serve the proposed use with reference to emergency services or ambulance services. Mr. Kenneff asked Mr. McHale if he had an opinion with any reasonable degree of certainty in your field as to whether adequate public facilities are available to serve the proposed use with regard to emergency services. Section 605.3.2.D. of the Ordinance related to Mr. Kenneff's question regarding emergency services. Mr. McHale stated that he gave testimony in regard to the Comprehensive Plan which indicates areas which this particular property would be served by fire department and other services. Mr. Kenneff asked in regards to ambulance services, did you go to any other source other than the Comprehensive Plan. Mr. McHale stated he did not use any other source. An excerpt marked Township's Exhibit #1 from the Comprehensive Plan with reference to ambulance services was presented. Mr. Kenneff read from the Comprehensive Plan and asked if that is what Mr. McHale relied upon when giving testimony at the last hearing. Mr. McHale stated the Comprehensive Plan is what he relied upon. Mr. Kenneff stated Mr. McHale gave testimony stating he believed there was adequate public facility available to serve the proposed use with regard to fire services. Mr. McHale stated he gave testimony to that fact. Mr. McHale agreed the only document he relied upon for the information regarding fire services was the Comprehensive Plan. Mr. Kenneff presented Township's Exhibit #2, an excerpt from Page 75 of the Comprehensive Plan relating to fire service. Mr. Kenneff read the excerpt from Page 75 of the Comprehensive Plan. Mr. Kenneff asked Mr. McHale if he had contacted the Fire Chief of the company who would be responsible to service the Wal-Mart site and Mr. McHale stated he had not. Mr. Kenneff asked Mr. McHale if it would not have been more professional to have consulted with others who had expertise in those areas you lacked before giving the testimony you gave at the last hearing. Mr. Kaplin objected to Mr. Kenneff's question and Mr. Kaplin was overruled. Mr. McHale stated Wal-Mart is going to have its own sprinkler system and these items appear to be more than the service in the Comprehensive Plan. Mr. Kenneff stated that Mr. McHale was not asked about police protection and its adequacy. Mr. Kenneff asked if Mr. McHale was instructed not to investigate the police protection adequacy. Mr. McHale stated he was not instructed not to investigate police protection adequacy. He relied solely on the Comprehensive Plan. Mr. Kenneff stated that in giving your testimony regarding various topics in Section 605.3.2.D. you relied solely on the Comprehensive Plan and Mr. McHale stated that was correct. Mr. McHale was asked if he took into consideration the impact the traffic generated by the Wal-Mart store would have on the ability of the public facilities to service the store and Mr. McHale stated a detailed analysis was not performed. Mr. Kenneff asked if he was correct in saying that Mr. McHale did not take into consideration in giving testimony the impact the additional vehicular traffic would have nor did Mr. McHale consult with any third party regarding their opinions and Mr. McHale stated that

was correct. Mr. Kenneff stated Mr. McHale testified to numerous corrections that were made to various plans presented by Wal-Mart the last meeting and this evening which were made since 2001 hearing. Mr. Kenneff asked if there was any impediment in 2001 and 2002 to preparing those plans in the same way as this Application. Mr. McHale stated he did not recall. Mr. Kenneff read Item #37 from the Board' s Decision under Findings of Fact which stated Wal-Mart' s proposed access drive to Columbia is located nearer than 100' to the property lines of both properties identified as certain tax parcel numbers. Mr. Kenneff asked Mr. McHale what was done in response to the Board' s Findings. Mr. McHale stated the tax parcels referred to no longer exist. Mr. Kenneff asked Mr. McHale if it was his testimony that he does not recall what he did in response to the Board' s Findings in Item #37. Mr. McHale stated Item #37 required that the accesses be a minimum of 100' from the property line and that is what we have shown. Mr. Kenneff again asked the question what did you do in response to the Board' s Finding #37 that is different in the plans presented in 2004 from the plans presented in 2002. Mr. McHale stated the properties have subsequently been subdivided and, therefore, these parcels came away and are shown today as the existing parcels. With regard to the Board' s Findings #38 and #35, which pertains to width of lanes, Mr. Kenneff asked Mr. McHale what he did that was different in this Application from the 2001 application. Mr. McHale stated that the site plan shows 12' wide lanes. Mr. Kenneff asked why that correction was not made in 2001 or 2002. Mr. McHale stated he did not recall. Mr. Kenneff read Finding #50 which stated the Wal-Mart Site Plan does not provide for pedestrian linkage to the adjacent properties and Mr. Kenneff asked what changes were made in the 2004 plan from the 2001 and 2002 plan in response to that Finding. Mr. McHale pointed out sidewalks on the site plan. Mr. Kenneff then referred to Finding of Fact #84; Wal-Mart failed to provide a schedule for roadway and traffic improvements and he asked Mr. McHale what was done in 2004 in response to that Finding. Mr. McHale pointed out on the site plan what was done. Mr. Kenneff asked if the schedule is required by Section 448.11.22.C of the Ordinance. Mr. McHale read the section from the Ordinance and stated a schedule was provided for the improvements. Mr. McHale read the schedule. Mr. Kenneff asked if any traffic signal plans and roadway improvement plans have been submitted to the governing authority. Mr. Kaplin objected. Mr. Kenneff asked Mr. McHale if he considered the traffic signal plan and roadway improvement plan placed on the exhibit to be a good faith effort to comply with the Ordinance since the October 2004 date obviously could not be met. Mr. Kenneff read in the Conclusion of Law #12 in the Board' s Decision it states Wal-Mart has failed to comply with the requirements of Section 311.13 of the Zoning Ordinance by proposing lighting structures in excess of 25' . Mr. McHale stated the lighting standards are 25' which meets the requirement of the Ordinance. Mr. Kenneff asked if Mr. McHale knows that if Wal-Mart chooses the option to convey stormwater parallel on South Centerville Road to the stream crossing, will it require additional right of way from the Armstrong tract? Mr. McHale stated he did not recall. Mr. Kenneff concluded his cross-examination. The cross-examination of Mr. McHale and Mr. Kaplin' s objections were recorded by the Court Reporter.

Mr. McManus asked if the Board had any questions. Mr. Granger had questions regarding the stormwater plan and the underground piping. Mr. Granger asked questions for his clarification on the proposed stormwater. Mr. Schlemmer asked if they were discharging 50% less water than what comes off the property now. Mr. Kaplin stated that it is a 50% rate not volume. Mr. Schlemmer also asked if Mr. McHale had checked the volume of water going into the stream for flooding purposes. Mr. McHale stated that there was no analysis performed because the

collection of the waters from the development that currently goes through these culverts will also go into the same tributary.

Mr. McHale will be available on November 30 for continued cross-examination.

The hearing was concluded at 9:55 p.m. and the hearing will continue on November 30, 2004 at 7:00 p.m. at the same location. There has also been a date set for Tuesday, December 14, 2004 at 7:30 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer  
Wal-Mart Zoning Hearing Board  
11/30/04

Zoning Hearing Board Agenda

November 30, 2004 Time: 7:00 P.M.

1. Introduction of Board Members
2. Pledge of Allegiance to the Flag
3. Approve Minutes from October 25, 2004 Meeting
4. Case #7-04 – The Application of Wal-Mart Stores. The application of Wal-Mart Stores, Inc. for a special exception pursuant to Section 207.3.14 of the Manor Township Zoning Ordinance. The property is located south of Columbia Avenue and east of South Centerville Road at 235 South Centerville Road, Lancaster, PA. The applicant is requesting permission to build a Wal-Mart Store on the property. The property is located in the (GC) General Commercial Zoning District. This hearing is continued from the October 25th meeting.

DRAFT Manor Township Zoning Hearing Board Minutes

Tuesday, November 30, 2004 Time: 7:00 P.M.

The Manor Township Zoning Hearing Board met on Tuesday, November 30, 2004 at 7:00 p.m. in the Manor Middle School located at 2950 Charlestown Road, Lancaster, PA. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, Walt Schlemmer and Barbara Douglas Township Officials Present: James R. McManus, Bruce Ott and Barry Smith Visitors Present: See attached list.

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of

the Zoning Hearing Board, the Zoning Officer, the Zoning Hearing Board Attorney, the Court Reporter and the Recording Secretary.

Ms. Douglas moved the meeting minutes be approved as presented. The motion was seconded by Mr. Schlemmer and the motion carried unanimously.

Old Business Case #7-04 The Application of Wal-Mart Stores. The application of Wal-Mart Stores, Inc. for a special exception pursuant to Section 207.3.14 of the Manor Township Zoning Ordinance. The property is located south of Columbia Avenue and east of South Centerville Road at 235 South Centerville Road, Lancaster, PA. The applicant is requesting permission to build a Wal-Mart Store on the property. The property is located in the (GC) General Commercial Zoning District. This hearing is continued from October 25, 2004. Mr. McManus stated the date, time and place of this evenings hearing was announced at the conclusion of the hearing on October 25th. An additional hearing date and time was announced for December 14 at 7:30 p.m. in the Manor Middle School from 7:30 p.m. to 10:00 p.m. Mr. McManus stated the October 25th hearing concluded during the course of testimony from Mr. McHale. Mr. Cooke wished to introduce an exhibit through Mr. McHale. Mr. McManus stated in addition the public may ask questions and asked that each individual announce their name and address. Mr. McManus stated Mr. McHale was still under oath. Mr. Cooke stated that in the previous hearing he was questioning Mr. McHale regarding an exhibit regarding Table of Contents May 6, 2003 Stormwater Drainage Report prepared for the subdivision of the property. Mr. Cooke presented Exhibit #1, which was the Table of Contents May 6, 2003 Stormwater Drainage Report; Exhibit #2 was the subdivision plan recorded in J Book -191-72 and Exhibit #3 which was the subdivision plans recording J Book #192690. Mr. Cooke stated Exhibit #1 was a portion of the Stormwater Drainage Report prepared prior to tonight. Mr. Cooke questioned Mr. McHale regarding Page #3 referencing the stormwater calculations pertaining to the impervious surface coverage. Mr. McHale explained the proposed plans for the stormwater. Mr. Cooke had questions regarding the Applicants Exhibit #6 reference to J Book #19290 and Applicants Exhibit #3 which was the final subdivision plans and the alterations that were noted regarding the size of the pipe. Mr. Cooke also had questions on the Applicants Exhibit #11 regarding the landscaping. Mr. Cooke asked questions about the number of evergreen trees and the type of screening being proposed. Mr. Schlemmer had questions regarding the stormwater and whether there would be a problem with stream flooding. Mr. Schlemmer also expressed concerns as to whether Wal-Marts proposed stormwater was in compliance with Manor Townships Stormwater Ordinance. Mr. Kaplin stated the stormwater management plan was reviewed and approved by Manor Townships Engineer. Mr. McHale stated that under the land development phase, they will be required to submit another set of stormwater plans and they will need to comply with Manor Townships Stormwater Ordinance. Mr. Kaplin stated that he wished to follow up on Mr. Schlemmers question. Mr. Kaplin stated that when the subdivision plan Applicants Exhibit #6 was approved it had to be approved by the LCPC and before the LCPC would approve the subdivision plan, the LCPC required the plan comply with the Townships Stormwater Ordinance. Ms. Smith stated on several occasions Mr. McHale testified that the Stormwater Management Plan was approved by the Township for the subdivision and the Stormwater Management Plan submitted met all information and procedures in the Ordinance. Ms. Smith asked Mr. McHale if the plans met all of Manor Townships Stormwater Ordinance and procedures. Mr. McHale stated that he could not answer Ms. Smiths question without reviewing

what had been submitted. Ms. Smith asked if the Lancaster County Conservation District was given a copy of the report and Mr. McHale stated he did not recall that happening. Ms. Smith went over the requirements of the Ordinance and asked Mr. McHale if they met the requirements. Mr. McHale stated approval was issued for subdivision. Lee Karon, 321 Post Oak Road, asked Mr. McHale his job title and asked Mr. McHale to review what duties he performed for his company. Mr. Karon had questions on the main sign, the type of road Wal-Mart is proposing to build on, the change in store size from the last application, how the industrial waste would be taken care of and the pipe under Centerville Road. George Nagel, 587 Woodbine Blvd., had questions on the impervious coverage and the amount of rainfall that would cause an overflow of the basin. Mr. McHale stated that they did stormwater studies up to 100 year storm events. Paul Rossi, 312 Bent Tree Drive, state he is not happy regarding the proposed Wal-Mart Store. Mr. Rossi would like to know what Wal-Mart proposes for a good neighbor policy in regards to cut through traffic in their development. Mr. McHale stated Mr. Plourde would address this issue in his testimony. Laurie Haverstick, 449 Stone Creek Road, questioned the plan and the depiction of the curves in the S. Centerville Road. She did not feel they were an accurate depiction of the actual road and asked if the drawing was to scale. Mike Zuber, 124 Shannon Drive, questioned the lighting and the amount of candle wattage that will be put out. George Nagel, 587 Woodbine Blvd, asked how many years will it be before the landscaping provides effective screening. Mr. McHale stated the Ordinance allows up to two years for vegetation to create a screen. Ann Roberts, 142 Langley Square, verified the stormwater management plan was submitted to Manor Township and approved and that the County approved the subdivision. Ms. Roberts asked Mr. McHale if he was aware that the Township recommended against the subdivision. Mr. McHale stated he did not recall the specifics. George Elko, 3126 Windon Avenue, questioned the capacity of a 42pipe versus an 18 pipe. Ann Roberts, 142 Langley Square, asked if it was possible for Mr. Kaplin not to prompt his witness. Don Eckert, 3116 Windon Avenue, asked where the increased square footage of the store would be. Mr. Granger asked if Wal-Mart was doing anything to provide a night sky for the area. Mr. McHale stated he is not sure what Mr. Granger was asking and Mr. Kaplin stated this would be considered during the land development process. Robert Walsh, 400 Stone Creek Road, questioned why the water runoff could not be kept on the east side of S. Centerville Road and therefore eliminating the need to transfer the stormwater from one side of the road to the other. Mr. McHale stated it could be an option.

Mr. Kaplin called Rodney P. Plourde from McMahan and Associates and Mr. Plourde was sworn in by the Court Stenographer. Mr. Plourde described his educational background, his employment background and stated he is a licensed traffic engineer. Mr. Plourde described his position with McMahan Associates and the type of clients the firm has. Mr. Plourde also listed the professional organizations he belongs to. Mr. Plourde stated he has been involved in this project as the traffic engineer since 1996. Mr. Plourde was accepted as an expert witness in traffic engineering. Mr. Plourde has prepared five traffic impact studies since 1996. The five studies were submitted as Applicants Exhibit #12 Traffic Impact Study prepared in July 1996; Exhibit #13 Traffic Impact Study prepared in March 1997; Exhibit #14 Traffic Impact Study prepared in May 1997; Exhibit #15 Traffic Impact Study prepared in July 1997 and Exhibit #16 Traffic Impact Study prepared in November 1997. Applicants Exhibit #17 is the Traffic Impact Study prepared in connection for a special exception application in June 2001, which was before this Board in the previous application. Mr. Plourde stated he is familiar with the area and the

traffic conditions and prepared the Traffic Study submitted with the prior Application and this current Application. The new Traffic Study was prepared using the most updated data available. The alleged deficiencies in the prior decision were addresses in this new study and the study area was expanded to include 27 intersections, included potential development of the out parcels, included tables detailing trip generated, included Queuing analysis at all intersections, capacity analysis all major intersections, expand the number of major roadway segments, evaluate internal vehicle traffic, evaluate internal truck circulation, expand peak hours of travel from 4 to 6 hours, include the expansion of the Lowes store, assume full occupancy of Western Corners, consider the railroad crossing on Centerville Road, and study the effects of cut through traffic in the Woods Edge Development. Applicants Exhibit #18-1 is the Traffic Study submitted with the current special exception application of May 2004. There are six volumes to the Traffic Study and they were marked Applicants Exhibit #18-2 for Volume 2; Exhibit #18-3 for Volume 3; Exhibit #18-4 for Volume 4; Exhibit #18-5 for Volume 5, and Exhibit #18-6 for Volume 6.

At 8:30 p.m. there was a break. The Hearing reconvened at 8:40 p.m.

Mr. Plourde stated Section 448.11 of the Ordinance contains the Traffic Study Requirements. The study includes an area 1 ½ miles around the property. A majority of the major intersections are outside of Manor Township. Applicants Exhibit #19 Figure 2 from the Traffic Report Volume 1 Study Area Map showed the study area and the intersections evaluated located in Manor Township. It also showed the intersections outside of Manor Township that were evaluated. The scope of study was approved by Manor Township before the study was started. At a meeting involving the Township Traffic Engineer, the proposed scope of study was reviewed. The scope of study was also confirmed with PennDot District 8 and East Hempfield Township. The study used 24 hour and peak hour traffic counts that were taken in April, May and September 2003. 2005 was used as the design year. Also, to be on the conservative side, the future conditions were accessed without the proposed Wal-Mart and we added background growth in, which is a standard practice. Information involving the developments that were included was obtained from Manor Township and East Hempfield Township. Mr. Plourde explained how the traffic study was completed with/without the proposed Wal-Mart and the ITE Trip Generation #6 & #7 Editions were used. Traffic analysis was conducted for internalization traffic as well as pass by trips. Mr. Plourde also explained how traffic was assigned to the roadway for the study. Section 448.11.21 of the Zoning Ordinance was read. Proposed improvements by Wal-Mart were shown on Applicants Exhibit #20 and Applicants Exhibit #21 #1-4 are segments of Exhibit #20. Mr. Plourde described the improvements in detail. Exhibit A#21-1 is Wal-Marts proposed Columbia Avenue access and improvements on Columbia Avenue. Exhibit A#21-2 is Columbia Avenue and intersections west of the Wal-Mart access on Columbia Avenue. Exhibit A#21-4 is the concept drawing of S. Centerville Road access to Columbia Avenue, and Columbia Avenue and S. Centerville Road to Industry Drive. Mr. Plourde went over improvements that are proposed for Columbia Avenue and Centerville Road. The levels of service described in the Ordinance were given. Wal-Mart proposes to construct improvements that are shown on the exhibits. Mr. Plourde gave examples of improvements that could be done but are not proposed by Wal-Mart and gave reasons these improvements are not being considered. Mr. Plourde stated that they analyzed the internal intersections on the site, truck loading and unloading, circulating within the site, and the potential for cut through traffic through Woods Edge Development. Mr. Plourde

concluded his testimony. The hearing was recorded by the Court Reporter.

The hearing is continued to December 14, 2004 at 7:30 p.m. at the same location. A date has also been set for January 25, 2005 at 7:00 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer

Zoning Hearing Board Meeting

12/01/04

DRAFT Zoning Hearing Board Minutes

Wednesday, December 1, 2004 Time: 7:00 P.M.

The Manor Township Zoning Hearing Board met on Wednesday, December 1, 2004 at 7:00 p.m. at the Manor Township Municipal Building, 950 West Fairway Drive, Lancaster, PA 17603. The meeting was called to order by Chairman Allan Granger.

Members Present: Allan Granger, Walter Schlemmer and Barbara Douglas Township Officials Present: James R. McManus and Bruce Ott Visitors Present: Matthew Crème Jr., 212 N. Queen Street, Lancaster Wayne Hershey, 1170 Breneman Rd., Conestoga John Randolph, 1100 Pennsylvania Ave., Ste. 700, Wilmington, DE Tony & Judy Haverstick, 35 Highville Rd., Millersville Nancy Geib, 1157 Indian Marker Rd., Conestoga Kathy Guidos, 1172 Indian Marker Rd., Conestoga

Everyone stated the Pledge of Allegiance to the Flag. Mr. Granger introduced the members of the Zoning Hearing Board, the Zoning Officer, The Zoning Hearing Board Attorney, the Court Reporter and the Recording Secretary.

Ms. Douglas made a motion to approve the meeting minutes of November 3, 2004 as presented. The motion was seconded by Mr. Schlemmer and the motion carried unanimously.

Old Business Case No. #8-04 - The application of MBI Development Company, Inc., property owned by DDP Enterprises, Inc. is located adjacent to and south of Columbia Avenue and adjacent to and west of Hershey Mill Road Account #410-18431-0-0000 Tax Map #13G-6-3 and Account #410-72859-0-0000 Tax Map #13G-6-6B. The applicant is requesting a special exception use Section 211.6.1.B (1)(2) to install utilities in the Floodplain Zone (FP) and Section 211.6.1.D to install culvert and approaches in the Floodplain Zone (FP). The properties are located in the High Density Residential Flex (RH1) Zoning District. This case is continued from the October 6, 2004 meeting. A decision will be rendered. Mr. Granger stated that the testimony was concluded at the last meeting and Mr. McManus had contacted each Board Member individually for their opinion and then drafted a decision which will be discussed at this time. After discussion, Ms. Douglas made a motion that the application of MBI Development

Company, Inc., for special exceptions to construct sub-surface public utilities and a culvert together with approaches within the (FP) Floodplain zoning district on tracts located on the south side of Columbia Avenue (SR-462) and Hershey Mill Road (T-599), Mountville, Pennsylvania 17554 (Parcel Account N0s. 410-18431-0-0000 and 410-72859-0-0000) pursuant to the provisions of Sections 211.6.1.B.1 and 2; 211.6.1.D. and 604 of the Manor Township Zoning Ordinance is hereby granted subject to the following conditions which the Board deems the minimum necessary to adequately protect adjoining properties and preserve the character of the neighborhood within which the Property is located: 1) Applicant shall adhere to the plan consisting of four sheets, entitled Manor Heights, prepared by David Miller/Associates, Inc., drawing no. 04-179.1, dated 9/15/04 for the number, kind and location and installation of sub-surface public utilities and a culvert together with approaches as set forth in Exhibit No. 3. 2) Applicant shall comply with all testimony as well as all supporting documentation presented by the Applicant or presented on its behalf at the hearings held on November 3, 2004. 3) Applicant shall comply with all applicable provisions of the Lancaster County Subdivision and Land Development Ordinance regulating the design of the development and the installation of the improvements and utilities. 4) Applicant shall comply with all applicable State and local regulations regarding the construction and use the proposed facilities. 5) Applicant shall comply with all design criteria as set forth in the latest edition of LASAs Specifications for Additions and Extensions to the Sewer System for the construction, maintenance and use the proposed sewer facilities. 6) Applicant shall comply with all applicable design criteria of the Columbia Water Company for the construction, maintenance and use the proposed water line improvements. The board additionally grants a 12 month extension of time within which Applicant shall complete all permitted work pursuant to the provisions of Section 604.11 of the Zoning Ordinance. Any violation of the conditions contained in this Decision shall be considered a violation of the Zoning Ordinance and shall be subject to the penalties and remedies as set forth in the Pennsylvania Municipalities Planning Code. The foregoing Decision shall be binding upon the Applicant, its successors in interest and assigns. The motion was seconded by Mr. Schlemmer and the motion carried unanimously.

New Business Case No. 9-04 The application of Wayne L. & Maryanne W. Hershey, property located at 1170 Breneman Road, Conestoga, PA 17516. The applicant is requesting a special exception use of Section 201.3.7 Temporary farm employee housing in accordance with Section 451 of the Manor Township Zoning Ordinance. The property is located in the Agricultural (A) Zoning District. Mr. Granger turned the hearing over to Mr. McManus. Bruce Ott was sworn in and stated that he is the Zoning Officer for Manor Township and received the Application #9-04 of Wayne L. & Maryanne W. Hershey. Mr. Ott stated the notice of the date, time and place of the hearing was published in the Lancaster Newspapers on November 17 and 24, 2004. Mr. Ott stated the property was posted with notice of the date, time and place on November 11, 2004 and notice of the date, time and place was posted in the lobby of the Municipal Office on November 11, 2004. The application was marked Exhibit #1 and Proof of Publication was marked Exhibit #2. Mr. McManus explained party status and asked if there was anyone in attendance requesting party status. The following individuals requested party status: Tony Haverstick, 35 Highville Road, Millersville, who is an adjoining property owner; Nancy Geib, 1157 Indian Marker Road, Conestoga, who is an adjoining property owner and Kathy Guidos, 1172 Indian Marker Road, Conestoga who lives across the road from Applicant. There were no objections to the individuals having party status. Attorney Matthew Crème, Jr. and the applicant Wayne L. Hershey were

sworn in by the Court Reporter. The drawing being presented by the Applicant was marked Exhibit #3. Mr. Crème stated Wayne L. Hershey, 1170 Breneman Road, Conestoga together with his wife are the owners of the farm. Mr. Hershey raises poultry and lives on the property. There is no other business on the property. There is one parcel and the dimensional requirements are met. The Applicant is not asking for any variances. There is one driveway on the property that serves all uses. The drawing presented was done by Mr. Smith who is a draftsman for Hershey Equipment. The drawing shows the driveway coming off Breneman Road and also shows the barn, mobile home and house which exists on the property. The mobile home has two parking spaces and there is room for more parking if it would be necessary. The mobile home was approved through the LCPC as a granny flat and had been occupied by Mrs. Hersheys mother. Mrs. Hersheys mother had to be moved into a home and no one has been living in the mobile home for approximately one year. Mr. Hershey is requesting to use the mobile home for temporary farm help. Mr. Hershey raises day old chicks to 18 weeks then the chicks are moved to another location. Mr. Hershey stated several times a year he restocks his chicken houses with chicks. Each of these clean out/restock phases takes approximately 4-5 weeks. The residents of the temporary farm housing would assist with these operations in the chicken farms and at other times, they might assist with general farm maintenance. It is proposed that the mobile home will be occupied for in excess of 30 days per year as required by Section 451.5 of the ordinance. All the setbacks for the mobile home are met. The mobile home is located at least 50 feet from the property lines. The mobile home is securely anchored on pillars at strategic points. There is no slab beneath the mobile home. Water is supplied from wells on the property and there is a septic system which was redone several years ago. The septic system was approved through the Township Sewage Enforcement Officer. There is sufficient electric service and it is the same as the main house. The Agriculture Zoning allows for 20% impervious surface and this coverage is under that. The driveway meets Section 309 requirements of the Ordinance. The mobile home has three bedrooms and is fully equipped as a single family dwelling. Kathy Giodus, 1172 Indian Marker Road, asked if that is the only mobile home anticipated. Mr. Hershey stated it would be the only one and it was pointed out the zoning does not allow for any other mobile homes on the property. Nancy Geib, 1157 Indian Marker Road, asked if the family employed would be American or Mexican. Mr. Hershey stated he did not know at this time. Mr. Schlemmer questioned how many people Mr. Hershey would have in the home at one time. Mr. Hershey stated, if unrelated, there would be only three since there are only three bedrooms. If it was a family, Mr. Hershey would probably consider no more than 2-3 children. Mr. Schlemmer asked how long the mobile home was vacant and Mr. Hershey stated approximately one year. Mr. Schlemmer asked the number of people the septic system was designed for. Mr. Hershey stated he does not remember but he did make it larger than required. Mr. Schlemmer asked if the power comes from one meter and Mr. Hershey stated yes. Mr. Schlemmer asked if the drawing was to scale and Mr. Hershey stated it was. Ms. Douglas asked if a family moved in would it be one worker. Mr. Hershey stated there may be more than one person in the family who would work for him. It would depend on the ages of the children. Mr. Granger verified the Echo Housing was put in and approved by the County. Mr. Hershey stated that was correct. Mr. Granger asked if the County asked for removal criteria and Mr. Hershey stated the County did not require any removal information. Mr. Granger asked if a letter was required by the County from the Sewage Enforcement Officer. Mr. Hershey stated he believed that was required. Mr. Granger asked stated the Ordinance requires a mobile unit be on a slab and anchored. Mr. Hershey stated he would not object to putting a slab under the mobile home. Mr. Granger asked for a more exact

figure for the impervious coverage. Mr. Hershey estimated between 10 and 11% impervious coverage. Mr. McManus asked if Mr. Hershey had written permission from sewage enforcement officer to expand his drainage field in 1997. Mr. Hershey stated he had an approved plan. Mr. McManus asked if one septic system services both the main house and the mobile home. Mr. Hershey stated it is the same system. Mr. McManus asked how many bedrooms are in the mobile home. Mr. Hershey stated the main farm house had 4 bedrooms and the mobile home had 3 bedrooms. Mr. McManus asked if the septic system was designed and function properly for the number of bedrooms indicated. Mr. Hershey stated the system was designed for both homes. Mr. Ott supplied Mr. Crème with a copy of the paper work requesting from the Hersheys that a letter from the Township SEO be sent to the LCPC along with a letter for approval for the granny flat from the LCPC. Mr. Crème asked that the letter from the Sewage Enforcement Officer in that Application be marked as Exhibit #4. Mr. McManus asked the location of the well be pointed out. Mr. Hershey stated he actually had two wells on the property and pointed them out on the drawing for the Board. Mr. McManus asked if one or the other serves as the primary source of drinking water. Mr. Hershey stated he could switch from one well to the other. Mr. McManus asked what the distance was between the well and the septic system. Mr. Hershey stated 300 400. Mr. McManus asked if the quality of water was tested in the last 3-4 years. Mr. Hershey stated it was tested approximately 5 years ago. Mr. McManus asked what the maximum number of people would be permitted to occupy the mobile home. Mr. Hershey stated, if single individuals, not more than three and a family would be not more than six individuals. Mr. McManus asked if each person residing in the mobile home would work on the farm. Mr. Hershey stated that is what he would prefer. Mr. McManus asked if this mobile home would be occupied year round and Mr. Hershey stated it would be. Mr. McManus asked if the employees would be permanent or temporary. Mr. Hershey stated he is looking for permanent employees. Mr. Schlemmer made a motion to take the testimony received under advisement and render a decision on January 5, 2005. The motion was seconded by Ms. Douglas and the motion carried unanimously.

Meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Evelyn Rineer  
Zoning Hearing Board Meeting , Wal-Mart  
12/14/04

The other Wal-Mart meetings have started at 7:00pm, this one starts at 7:30 pm.

Zoning Hearing Board Agenda

December 14, 2004 Time: 7:30 P.M.

1. Introduction of Board Members

2. Pledge of Allegiance to the Flag

3. Approve Minutes from November 30, 2004 Meeting

4. Case #7-04 The Application of Wal-Mart Stores. The application of Wal-Mart Stores, Inc. for a special exception pursuant to Section 207.3.14 of the Manor Township Zoning Ordinance. The property is located south of Columbia Avenue and east of South Centerville Road at 235 South Centerville Road, Lancaster, PA. The applicant is requesting permission to build a Wal-Mart Store on the property. The property is located in the (GC) General Commercial Zoning District. This hearing is continued from the November 30th.

DRAFT

Manor Township Zoning Hearing Board Minutes

Tuesday, December 14, 2004 Time: 7:30 pm

The Manor Township Zoning Hearing Board met on Tuesday, December 14, 2004 at 7:30 pm in the Manor Middle School located at 2950 Charlestown Road, Lancaster, PA. Chairman Allan Granger called the meeting to order.

Members Present: Allan Granger, Walt Schlemmer and Barbara Douglas. Township Officials Present: James R. McManus and Bill Laudien. Visitors Present: See attached list.

Chairman Allan Granger led those in attendance in the Pledge of Allegiance. Mr. Granger introduced the members of the Zoning Hearing Board, the Zoning Hearing Board Attorney, the Township Assistant Manager, the Court Reporter and the Recording Secretary.

Chairman Allan Granger stated that he would like to have a moment of silence in honor of Mr. Donald Smith. He noted Mr. Smith was a past member of this board serving this Township for many years and passed away last Thursday. Everyone took a moment of silence in thanks for his service.

Mr. Granger asked the Board if there were any changes or corrections to the minutes from November 30, 2004. There being none, Mr. Granger stated the minutes will stand approved as posted.

Old Business Case #7-04 - The Application of Wal-Mart Stores. The application of Wal-Mart Stores, Inc. for a special exception pursuant to Section 207.3.14 of the Manor Township Zoning Ordinance. The property is located south of Columbia Avenue and east of South Centerville Road at 235 South Centerville Road, Lancaster, PA. The applicant is requesting permission to build a Wal-Mart Store on the property. The property is located in the (GC) General Commercial Zoning District. This hearing is continued from the November 30th, 2004 meeting. Mr. McManus stated the date, time and place of this evenings hearing and noted that it was announced at the conclusion of the last hearing held November 30th, 2004. Notes indicated that the direct testimony of the applicant, Dr. Plourde, was concluded. Mr. Kaplin noted for the

record that at the end of the last hearing, he was asked by the members of the board to compile copies of all the exhibits that had been submitted. He provided each member of the board with a copy of the exhibits. He also gave the solicitor a copy of all of the exhibits with one exception; he did not copy the six or seven binders of appendices of the latest traffic study. If anyone should need that, they may contact him and the study will be provided. Mr. Granger stated that Mr. Kenneff will now begin to cross examine Dr. Plourde. Mr. Kenneff started his cross-examination of Dr. Plourde by asking if Section 448.11 and 448.21 of the Zoning Ordinance, is correct by stating that the level of service for C & D must be maintained and not deteriorate to a level worse than C. Mr. Plourde stated that is correct. Mr. Kenneff asked if there are any intersections which have turning movements where deterioration occurs and is not permitted by the ordinance Mr. Kaplin objected to the form of the question, stating the Ordinance does not prohibit deterioration, it only requires we make recommendations. Mr. Kenneff asked if there are movements within the intersection where it deteriorates even with the proposed improvements. Mr. Plourde stated the only intersections, where that occurs were identified in his testimony. He went over those intersections. Mr. Kenneff asked several questions about the ramps located on Centerville Road at Route 30 and the turning lanes at those locations along with the time of day for peak traffic. He noted the intersection of Cornerstone and South Centerville along with several other intersections. Mr. Kenneff stated Section 448.11, D or F, improvement to D is recommended. Mr. Plourde stated that was incorrect. It would be if it were D or F, improvements to D or better are preferred. Mr. Kenneff read Section 448.11.19, the overall level of service ratings, that A, B, C, and D would be acceptable to signalize intersections. He asked Mr. Plourde if that was correct. Mr. Plourde stated that if you read further it explains it. Mr. Kenneff asked if there were instances where E or F, might not be improved to D. Mr. Plourde stated there are. Mr. Kenneff referred to the traffic study, Table 22 and discussed some locations and intersections in reference to the levels of service. He discussed 14 signalized intersections and 5 un-signalized intersections that have E or F movement. Mr. Plourde agreed with his statements. Mr. Kenneff referred to the traffic study, Table 23, the summarization of the levels of services for the Centerville corridor and questioned if those levels of service listed are correct. Mr. Plourde stated yes. Mr. Kenneff stated those levels of service are based on the assumption that all these road improvements are going to be made. Mr. Plourde agreed. Mr. Kenneff asked if all the listed improvements will be completed. Mr. Plourde stated that is correct if the Wal-Mart Development is completed. Mr. Kenneff asked if the improvements are not made, then the calculations were wrong. Mr. Plourde stated not wrong, if the corrections are not made they are not warranted. Mr. Kenneff went over the most congested areas and intersections and how they calculated the delays. They discussed the possibility of condemnation of property to achieve some right of ways. Mr. Kenneff asked if any funding has been approved. Mr. Plourde stated their understanding through East Hempfield Township is that PennDot has authorized \$500,000. for engineering and environmental studies, and also construction money. Mr. Kenneff asked has funding also been appropriated for property acquisition. Mr. Plourde stated he did not know. Mr. Kenneff asked about the funding for construction. Mr. Plourde stated it was his understanding that PennDot and Federal Highways will provide construction funding for interchange improvements and not Centerville Road. Mr. Kenneff stated that there is no funding approved for property acquisition or the construction of the two additional lanes between US Route 30 and Columbia Avenue. Mr. Kaplin objected, noting approved by whom. Mr. Kenneff stated that it has been his understanding that no one has approved any funding for the property acquisition or the construction of an additional two lanes between Route 30 and Columbia Avenue. He asked Mr. Plourde if that was his understanding.

He answered that he is not aware of any funding that has been approved. Mr. Kenneff stated that the improvements you are talking about, could take ten years to complete. Mr. Plourde stated that Wal-Mart proposes to construct part of those improvements, but Wal-Mart cannot condemn right of ways. Mr. Kenneff again asked Mr. Plourde if it is true then that no funding has been definitely approved, these improvements could take as long as ten years to complete and in fact, these improvements may never take place. Mr. Plourde stated that he did not know and could not answer that question. Mr. Kaplin objected to the form of the question. Mr. Kenneff asked Mr. Plourde if the assumption is that these improvements will only be made if the funding is provided. Mr. Plourde stated that the Ordinance requires only that we recommend what improvements should be made and it does not require that Wal-Mart be the one that makes them. Mr. Plourde noted that Wal-Mart has offered to make improvements for a portion of Centerville Road, which is not required, but it would be on right-of-way availability. Mr. Kenneff went over what impact there will be if the proposed improvements are never made. He discussed the funding, the right of way, and discussed the possibility of gridlock traffic on Centerville Road. Mr. Kenneff asked if Mr. Plourdes recommendations call for improvements for widening Centerville Road after it crosses Columbia Avenue Southbound. Mr. Plourde stated yes. Mr. Kenneff asked if there was sufficient right-of-way to accomplish this. Mr. Plourde stated it may be necessary to acquire land for the right-of-ways. Mr. Kenneff asked several questions on the effects on the properties that are affected and if land is taken from parcels, will it make them non-conforming. Mr. Plourde stated he was not sure but it may. Mr. Kenneff went over several intersections on diagrams and discussed the accesses from Stone Creek Road and Cornerstone Road. He referred to Exhibits #20, #21.1, #21.2, #21.3, and #21.4. in reference to the number of lanes for traffic. Mr. Plourde noted the businesses they studies for that information. Mr. Kenneff asked several questions about the study with the impact of traffic from the business in that location. Mr. Plourde noted the study was conducted on roadway information. Mr. Kenneff discussed two tables from the traffic impact study, noting Exhibit # 9 and Exhibit # 58, showing the weekday, afternoon peak hour traffic volume for the Centerville Corridor. He went over the number of cars and the turning lanes and asked Mr. Plourde several questions about how they determined the number of cars for turns or going a certain direction. They discussed the impact of driveways and a turning lane for Woods Edge for safety reasons. Mr. Plourde stated that all their calculations and determinations were done by PennDot standard practice. Mr. Kenneff discussed what the impact on traffic will be due to the size of the store and talked about the effects of Land Use Code 820 in determining the amount of cars that are quoted. Mr. Plourde stated there were many conditions figured into the number of cars and he talked about internalization. He noted the surrounding businesses, the number of homes, and single trips verses someone stopping at several locations, such as shopping, go to the bank and then go to a restaurant. Mr. Kenneff asked several questions on how they determined the number of cars listed and deductions that were taken. They discussed how the numbers would be changed if the deductions were not taken. Mr. Plourde stated it was done by a valid and proper procedure. Mr. Kenneff asked if studies were conducted to determine the number of uses and shared trips. Mr. Plourde stated no. They discussed the railroad tracks that are located on Centerville Road and the impact that they might have on traffic. Mr. Kenneff asked several questions on traffic congestion and discussed added lanes for turning. Mr. Kenneff asked if they were recommending removal of the right turn lanes at BJS on Centerville Road and Columbia Avenue at Industry Drive. Mr. Plourde stated yes, they are recommending that. They discussed the safety issue of removing those lanes and if removal of those lanes will increase accidents. Mr. Kenneff asked what the

standard left turn lane width is. Mr. Plourde stated there is no standard width and they vary from 9 to 12 feet. Mr. Kenneff asked if the 12 ft lane is the usual recommendation. Mr. Plourde stated that 12 ft is desirable but 9 ft is acceptable. Mr. Kenneff asked how many proposed number of new trips per day, might be generated by Wal-Mart. Mr. Plourde went over Table #23 stating, 12, 537 for weekdays and weekends were Saturday 14,672 and Sunday 14,071. Mr. Kenneff asked if the analysis was based on a 2005 opening year proposal and how realistic that date might be. Mr. Plourde stated it was based on 2005 but to open in future you would have to adjust all the estimates because even PennDot estimates would be changed and new developments and stores might have to be included. He noted that they did do a traffic count 18 months after the one from 2003 and found the count to basically be flat. Mr. Kenneff asked what standards were used to establish the traffic impact study. Mr. Plourde stated the HCM Syncro, explained the software, and noted that they used the Webster method that has been approved by PennDot and the Manor Township engineers. Mr. Kenneff asked if there were issues, which arise do to the configuration of Centerville Road between Route 30 and Columbia Avenue, which limits the effectiveness of HCM Syncro. Mr. Plourde stated this software cannot measure repetitive signal backups to adjacent intersections that may occur. Mr. Kenneff asked what steps were taken to account for the limitations on the HCM Syncro. Mr. Plourde stated there are no steps that you could take, but explained the method in which they achieve their numbers, which is what the ordinance requires. Mr. Kenneff asked if actual demand had been used, would the levels of service have been worse. Mr. Plourde stated yes, probably in some cases. Mr. Kenneff asked if they added the number of vehicles generated by Wal-Mart to the number of vehicles actually going through the intersection, rather than the number of vehicles actually there. Mr. Plourde answered that is correct. Mr. Kenneff asked if the traffic study was changed from the one submitted in 2001, after the Board raised a number of issues, to the one presented now which accommodates certain findings. Mr. Plourde stated that is correct. Mr. Kenneff asked several questions about the intersections and they discussed the changes. Mr. Kaplin objected to the line of questioning on the 2001 traffic study noting that it should be about the study submitted now. Mr. Kenneff stated that his questioning is discussing how the traffic study from 2001 was remedied, so he feels the witness can respond to this. Mr. Plourde answered that we have addressed the findings and facts in this traffic study, we addressed the 27 major intersections in this traffic study, we addressed two additional peak hours, not required in the original ordinance, we addressed the railroad crossing, and the Woods Edge, cut through traffic. Mr. Kenneff asked if they agree that all those issues should have been addressed in the 2001 study. Mr. Plourde stated that we do not agree that all the finding of facts needed to be addressed in 2001. Mr. Kenneff stated that this concludes his cross examination. Mr. McManus stated there will be a break for 10 minutes. The meeting reconvened at 9:10 pm, and Mr. McManus stated that Mr. George Cooke, on behalf of Woods Edge, will ask questions of Mr. Plourde. Mr. Cooke asked Mr. Plourde if he would clarify the improvements, marked in yellow, that Wal-Mart is proposing to do on Exhibit 21, and asked if they were proposing to do any other improvements. Mr. Plourde stated Wal-Mart is only proposing the improvements shown on the exhibits. Mr. Cooke questioned the expression with improvements and asked if that referrers to those improvements shown on Exhibit 21. Mr. Plourde stated it is not only on Exhibit 21 but also improvements recommended at the other intersections such as table 28, and improvements on pages 59 thru 62. Mr. Cooke asked several questions on the measures taken to address the Woods Edge cut thru traffic and questioned Appendix P and Appendix Q. He went over information on how Wal-Mart completed the traffic time measurements. Mr. Plourde stated they had people drive several routes

and two cut through routes where they began and ended at the same points and were timed. Mr. Cooke asked several questions about left turns, the routes that were chosen and the way the routes were timed and what other possibilities there were for other alternative cut through routes. Mr. Cooke asked questions about table 30 and if it was correct that they studied 27 intersections. Mr. Plourde stated yes and went over the intersections in reference to proposed Wal-Mart traffic. They discussed the routes taken, the peak traffic, the time each would take and which routes would be faster, noting these are all field observations. Mr. Cooke asked if Wal-Mart had asked Manor Township and East Hempfield Township, which intersections they felt should be studied. Mr. Plourde stated they studied the 27 intersections identified and did confirm that with Manor Township. Mr. Cooke asked if they confirmed this with the Woods Edge Homeowners Association. Mr. Plourde stated no. Mr. Cooke asked several questions about a hypothetical trip from Lancaster to Columbia and pass by trips. Mr. Plourde explained how they determined a pass by trip and the manner in which they calculate them. Mr. Cooke asked if the Wal-Mart traffic study was done based on the Wal-Mart store having two entrances. Mr. Plourde stated yes. Mr. Cooke stated in the case that there would only be one entrance, then the study would have to be redone. Mr. Plourde stated yes, at least the immediate area. Mr. Cooke discussed the size of stores that were listed in past testimony and asked Mr. Plourde if he has any data on a 229,000 sq. foot store that is proposed. Mr. Plourde stated he does not. Mr. Cooke asked if this store that is proposed is larger than the first proposal for this site. Mr. Plourde stated yes. Mr. Cooke asked several questions on the type of proposed businesses that are to be located on the out parcels, listing a bank and a restaurant and asked if these were the actual uses that the Murry Company was planning. Mr. Plourde explained that the plan, showing the out parcels for this site, was developed by the Wal-Mart engineers. It was a proposal of the most logical uses for that site. They discussed and compared several of the tables in the traffic study, the nature of the uses, and the impact that it will have on traffic. Mr. McManus asked Mr. Cook if he had any more questions. Mr. Cook stated that he completed his questioning. Mr. McManus stated that it is 10:00 pm and we would conclude the questioning for tonight. He stated that the next scheduled hearing has been set for January 25, 2005, 7:00 pm, at the Manor Middle School. Mr. Kenneff noted for the record that the January 25th date is over the 100 days after the required time. Mr. Kaplin stated he is aware of that. Mr. Kenneff stated he is assuming that both the applicant and the Township will waive any conditions, which restrict the length of this hearing. Mr. Kaplin stated he is in agreement with that.

Chairman Allan Granger stated this hearing is concluded for this evening. The hearing was recorded by the Court Reporter.

The hearing is continued to January 25, 2005 at 7:00 p.m. at the same location. A date has also been set for the February meeting for Monday, February 28, 2005 at 7:00 p.m.

Respectfully submitted,

Barbara Douglas Secretary

Recording Secretary Rita J. Young