

**TOWN OF SOUTHEAST  
ZONING BOARD OF APPEALS  
CIVIC CENTER  
67 MAIN STREET  
BREWSTER, NY 10509  
DECEMBER 19, 2005**

**Board Members**

<b>Edward Colello</b>	Chairman	Absent
<b>Thomas Costello</b>	Acting Chairman	Present
<b>Timothy Froessel</b>		Present
<b>Kevin Sheil</b>		Present
<b>John Gallagher</b>		Present
<b>Joseph Castellano</b>		Present
<b>Paul Vink</b>		Present
<b>Willis Stephens</b>	Town Attorney	Present
<b>Richard Honeck</b>	Town Board Liaison	Present
<b>Linda M. Stec</b>	Administrative Assistant	Present

**Tom Costello** – Let’s stand for the Pledge of Allegiance. Pledge of Allegiance said. This is the last Zoning Board of Appeals of the 2005 year of the Town of Southeast. I would like to introduce our members. Members introduced. Ed Colello, our chairman is on his way we don’t know if he is going to make it on time. We will get started without him. We have six out of seven Board members. We have five items on the agenda. The items on the agenda are Marcellus and Decker, number one, Wohlers, number two, Gravinese, number three, Curry, number four, Estate of David Dann, number five.

**1) Kenneth Marcellus and Nancy Decker  
37 Turk Hill Road  
TM# 67.12-1-1**

**Tom Costello** – I want to remind you that you are still under oath from last month’s meeting. I think we left it open in case there is any other information and we wanted to take a look at the property. Is there any other information you wanted to provide?

**Kenneth Marcellus** – Yes, during the last meeting you asked a question whether I needed to do any excavation and I said no. I went back and I checked and I was mistaken I do need to excavate for the support beam that would be underneath the extension. There would be two pilings that would be put in the ground 5 1/2 inch beams side by side. I would have to excavate for that portion.

**Tom Costello** – Are there any other questions for the Board?

**Tim Froessel** – I did go take a look and it looks like what you are proposing is pretty reasonable and fits in with the character of the neighborhood.

**Tom Costello** – We got a reply from the County Department of Planning regarding this application it is signed by John Lynch, Commissioner, “the above referenced application

was received please be advised that the requested variance is approved there is no adverse county wide impact.” You should be happy to hear that. Will you just refresh us on the dimensions that you need to get approved?

**Kenneth Marcellus** – What I proposed to do is install an approximately 11 foot wide by 2 1/2 deep extension on the rear end of my garage to allow an oversized to be parked inside. At issue is the proximity of this addition to the corner of the property. The garage is 2.78 feet from the corner of the property. The garage is pre-existing building and the extension itself will be within the setbacks.

**Tom Costello** – And this zone R60 requires 20 feet on the side setback.

**Tim Froessel** – And I think it is 20 feet from the side yard setback for an accessory structure.

**Tom Costello** – Any other questions of the Board? Any questions of the audience? Do you have any other information you want to provide us?

**Kenneth Marcellus** – As long as all your questions have been answered.

**Tom Costello** – Do you think you have had a fair and adequate opportunity to state your case?

**Kenneth Marcellus** – Yes.

**Tom Costello** – You can take your seat we will close the hearing and we will deliberate. Public hearing closed.

**Tom Costello** – Anyone have any comments on this one? There are looking for a 17 foot variance where 20 is required. They are encroaching no closer than the existing structure.

**Tim Froessel** – I will make a motion to grant the application a variance of 3 feet from the side yard set back requirement for the garage extension depicted in the application.

**Tom Costello** – Second?

**Kevin Sheil** – Second.

**Tom Costello** – Address the criteria.

**Tim Froessel** –

1. Whether an undesirable change will be produced in the character of the neighborhood, (or a detriment to nearby properties will be created by the grant of the variance).

No, this is a very, very small extension of the garage just to accommodate the applicant’s vehicle it is not going to change the character of the neighborhood or be a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

I don’t think it can at all the way the way this property and the garage is located, the jog in the property line I really don’t think there is anything at all that he can do.

3. Whether the requested variance is substantial.

On the face of it it seems substantial because it is 17 feet of the 20 feet requirement but garage is already within 18 feet and he is not going any closer I think that mitigates the fact.

4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.

We haven't heard anything to that effect.

5. Whether the alleged difficulty was self created.

I guess it was self created to the extent that the applicant bought a truck that couldn't fit in his garage I am married to so I will give him a pass on that I know what I would hear from my wife if I did something like that.

**Roll Call Vote:**

**Joseph Castellano** – In favor

**Kevin Sheil** – In favor

**Jack Gallagher** – In favor

**Tim Froessel** – In favor

**Paul Vink** – In favor

**Tom Costello** – In favor

The variance was approved by a vote of 6-0, 1 absent.

**Linda Stec** – I am a little confused what is the variance?

**Tim Froessel** – It is a 17 foot variance to the side yard.

**2) John Wahlers**

**40 Tonetta Lake Way**

**TM# 56.12-3-45**

**Tom Costello** – We were discussing before the meeting that we still don't have our new zoning ordinances now tape is running I would like to get in the minutes and I would like to put on so the Town Board reads that we still don't have our new zoning ordinances and it is really imperative that we get the latest ordinance to be effective at doing our job.

OK, next up is John Wahlers. You were here last month so you remember you were sworn in if you could just remind us of where you were you with your application. The public hearing was left open.

**John Wahlers** – You wanted to go see where the location of the shed was. Basically I am looking for a variance to keep the existing shed in its current location. The way the property lays out the only other place I could put it where I wouldn't require a variance is right in the center of the yard. I think you have letters from the adjacent property owners saying they don't have any concerns with the shed staying where it is. It is very close to the back property line, within inches in fact. But there is a big drop off right after that too. So it was the logical place to put it. I didn't understand that the property line was quite that close when I did it. It didn't show up until the survey was taken. So if you guys have any more questions I have a survey and all that stuff here.

**Tom Costello** – Why don't you show us.

**John Wahlers** – I have the large tax map if anybody would like to see the adjacent property. This is the back, this is the adjacent property, I am 18 feet.

**Tom Costello** – OK, are there any questions of Mr. Wahlers from the Board?

**Paul Vink** – How long has the shed been there?

**John Wahlers** – A little over a year.

**Tom Costello** – What caused this to be noticed by the Building Inspector?

**John Wahlers** – I had another tent like thing up near the road and I thought this was the better way to go. The other one was temporary. I actually had a tree fall on my house a year ago last September that hurricane that came through and I was doing the construction stuff myself and I needed someplace to put construction materials and furniture and stuff like that. Mr. Harper got very upset with that temporary structure and put this one up instead. I thought I could put this shed in that spot and it wouldn't be a problem. He told me later I was wrong so here I am.

**Tom Costello** – Did you get a letter from the owner of the property formerly Ross?

**John Wahlers** – Yes.

**Tom Costello** – What about the property on this side?

**John Wahlers** – Yes.

**Tom Costello** – Are there any questions of the applicant from the audience? Do you have any other information you would like to give us?

**John Wahlers** – Not unless you have any questions.

**Tom Costello** – Do you think you have had a fair and adequate opportunity to state your case?

**John Wahlers** – Yes.

**Tom Costello** – You can take a seat. Any comments? Would anyone like to make a motion?

**Tim Froessel** – I will make a motion to grant the applicant a two foot variance on the side yard setback and a 19 feet 11 inches from the rear yard setback requirement for the accessory structure a shed as depicted on the survey that was submitted to the Board with the application.

**Paul Vink** – Second.

**Tom Costello** – Could you say that the side yard is on the north side of the property and the rear yard is on the east side. Will you address the criteria.

**Tim Froessel** –

1. Whether an undesirable change will be produced in the character of the neighborhood, (or a detriment to nearby properties will be created by the grant of the variance).

No, it is a shed. I went by and there is a few other houses that have sheds and most importantly the neighbors that are adjacent on the two property lines that are affected don't believe that there is an undesirable change in the character of the neighborhood.

2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.

I think the applicant demonstrated to us that there was no other place on his property where he could put other than in the middle of the property without a variance.

3. Whether the requested variance is substantial.

No question I don't think we have granted anyone a inch of clearance it is substantial but the fact that the land behind him is not developed and the owner doesn't have objection mitigates that somewhat.

4. Whether the proposed variance will have an adverse effect or impact on the environmental conditions in the neighborhood or district.

We haven't heard any evidence of that.

5. Whether the alleged difficulty was self created.

To some extent it was self created but I think the dimensions of his property pretty much mandate that any shed he would have to put would have to go within the yard setbacks at some point so I think that mitigates that as well.

**Roll Call Vote:**

**Paul Vink** – In favor

**Joseph Castellano** – In favor

**Tim Froessel** – In favor

**Kevin Sheil** – In favor

**Jack Gallagher** – In favor

**Tom Costello** – In favor

**Tom Costello** – So your requested variance is granted by 6-0, 1 absent.

**3) Robert and Deborah Gravinese**

**16 Reynwood Drive**

**TM# 69.-1-1.4**

**Tom Costello** – Do you have your mailings?

**Deborah Gravinese** – Yes. I just wanted you to know that this person no longer lives there and this one came back return to sender. You want the receipts.

**Tom Costello** – You did your best effort. That is all that is required. Are you both going to be testifying? If you could raise your right hands.

Robert and Deborah Gravinese were sworn in by **Tom Costello**.

**Tom Costello** – We will get starting so you can explain what you are applying for.

**Robert Gravinese** – There is various other information in the application there is the topography there is the positioning of the garage that we are proposing to build. I drew a little map so you can have an idea of what the area looks. The piece of property is 14 acres the actually buildable envelope is pretty much what you see right here. And it built on a rock hill.

**Deborah Gravinese** – Included in your package is the original topography maps from when the development was done. This is where we were proposing the garage over in

this area in here. On Reynwood Drive where this is situated it is a very heavily wooded area it is not going to impact any of the various neighbors and all of the people that live on Reynwood we have gotten their approval for the garage they have seen the plans. Actually the only one that is impacted or would potentially impact is Cathy McWilliams who has Eastwood Farms and she didn't have a problem with it after showing her all the information. And even at best it is quite a ways from her piece of property from her driveway.

**Deborah Gravinese** – Where we are proposing is the flattest piece of property in that area.

**Robert Gravinese** – Based on that particular one that you are looking at here there appears to be a huge amount of property but this in the front here is a feeder stream apparently that goes right through a lot of these properties I believe it goes down to the reservoir and this house when it was built I believe was only built within the 50 foot setbacks before they made the changes so it is back right on the line within the previous setbacks. So this all slopes off. This is a huge transition from up here to down this level here. So this is actually deceiving because this is not all flat. And when I originally to the Assessor's office they said for an accessory building they said 20 feet they said it was revised to 100 feet they lead me to believe we could build this building without even applying for a variance. I guess there was a call made and they said there was a 100 foot setback. So I am not really sure. I assume it is a 100 foot setback.

**Tom Costello** – This is the R160 zone? That is what it says in the letter.

**Robert Gravinese** – I am not particularly familiar with the zones. This is abutting our property. This is the Liebowitz property, the Ellis property and just some pictures showing how wooded it is and their particular houses. This is Cathy McWilliams property. The house is put back on the one corner of the property. This is pretty much the back line here where this wood line ends and this is the property over and it shoots off here. Here are pictures of what is currently around it.

**Tom Costello** – If I could just read into the minutes I have a letter from Catherine Georges on 14 Reynwood and it says:

“We are neighbors of Deborah and Robert who reside at 16 Reynwood Drive and are fully aware of the variance they are seeking from the town to construct a garage on their property. Please consider this letter as confirmation and support of the proposed garage addition on their property. Should you need any further information we can be reached at the number below.”

And there is the same letter from Catherine McWilliams, Eastwood Farms, 28 Reynwood. And Michael Liebowitz, 33, Reynwood.

**Robert Gravinese** – I only got the letter signed from those people right on Reynwood Drive. I didn't do people on Joe's Hill like Jonke and Highland, although I did speak to Mr. Highland and he would sign the letter so if you would like a letter I could certainly get that for you. But I didn't pursue that. I focused on the people on Reynwood Drive. This is before the house was sited here. This is the Harold Lepler subdivision.

**Deborah Gravinese** – The other one shows where the house is actually.

**Robert Gravinese** – The drive is here and it snakes up. Actually there is a legal right of way under her property and the house is over here. But it shows you there is a quite a substantial elevation change. The proposed garage is going to be over here in this corner.

**Tom Costello** – Is this closer to the Federal Hill side of Joe's Hill or to the Route 6 side.

**Deborah Gravinese** – Federal Hill.

**Tom Costello** – When was the house constructed?

**Robert Gravinese** – 1999.

**Paul Vink** – Looking at the survey is there is a reason why it can't be moved inside the setback area so you are out of the setbacks?

**Robert Gravinese** – It can fit down in here which puts it substantially further away from the house. Well, it is two things, this slopes off substantially so in order to fit because when I had my contractor if you don't approve we were trying to see where it could fit someplace else. It can fit right in here but the slope increases substantially here. You would have to build a big retaining wall and you would have to drive up the driveway it would certainly not be the most desirable spot for it. I didn't check it this way but the way it is here to this wall there is about 70 feet so it is conceivable but you would be on top of this wall this actually show the wall here so you would have 20 feet left over you would need a 30 foot apron on the building you would be driving out of the garage door almost onto the wall. And the way this slopes down where we sited it, the reason I sited where I sited it it is the flattest section of property up in here and it is also set back into the woods where it is going to be less noticeable.

**Tom Costello** – Can you set this up.

**Robert Gravinese** – Plus from the tree prospective where we trying to site it was where I hoped would be the least amount of tree cutting and there would still remain a buffer of trees in the front of it.

**Tom Costello** – Do you have a garage in the current house?

**Robert Gravinese** – Yes.

**Tom Costello** – So what is the purpose of the new building?

**Robert Gravinese** – I do cars as a hobby. It is a storage place. My mother in law is going to live with. The house unfortunately doesn't have a lot of storage in it other than the garage. It is all living space. The upstairs is going to be all for storage and the downstairs will be for cars.

**Tom Costello** – What is the square footage of the house?

**Robert Gravinese** – 8,000 square foot.

**Tom Costello** – And how many car garage is there currently?

**Robert Gravinese** – 3 1/2

**Tom Costello** – And you are proposing 3.

**Robert Gravinese** – I have a couple of cars that I tinker around with. I want to make a work shop and use upstairs for storage.

**Tom Costello** – And what would you do with the existing garage would you continue to use that?

**Robert Gravinese** – That would be for every day cars. We have three cars, my mother in law has two cars. And she is going to be moving in with us. That will be used for every day.

**Tom Costello** – Would you have power in this garage?

**Robert Gravinese** – Yes.

**Tom Costello** – Plumbing?

**Robert Gravinese** – No.

**Tom Costello** – No water?

**Robert Gravinese** – I wasn't planning on water, no. The interior will be finished with insulation there will be heat in it.

**Tom Costello** – The front yard is that a rock out property that picture?

**Robert Gravinese** – Yes, when they did all the excavation for the house. This whole wall is the result of the excavation house.

**Tom Costello** – How did they get in the septic fields?

**Robert Gravinese** – I am not really sure I believe they brought fill in because this is where the septic tanks are and this whole section is where the fields are.

**Tom Costello** – Is that picture from a high point?

**Robert Gravinese** – That is actually a picture that Houlihan Lawrence had for the brochure. These are all pictures I took. This is the rear and this is the side it goes off like this and it is hard to see here pretty much where you see this rock cropping and that is where that stream is off down below. And that is off 55, 60 feet off the back line and when that was built 50 feet was the current setback.

**Tom Costello** – And the side yard and the rear yard in R160 is 100 that is why they were told they need a variance.

**Robert Gravinese** – Some of these shots for a example these are from Cathy McWilliams driveway going up and the site is actually over here, here is that house, I was trying to give you an idea it is extremely wooded, this area is densely wooded, this is from our entrance going into the property. Our house is over here. This is a picture of the site nearby where the site is looking up towards Cathy McWilliam's barn. So really the only one that really could be potentially impacted would be her. Liebowitz is across the street. Ellis down in front. The McWilliam's barn is up over here. Liebowitz is way over here the other side of Reynwood and Ellis way down in front. And this whole piece of property over slopes off substantially and what used to be the Girl Scout camp. I think this is pretty much the high point of Joe's Hill.

**Tom Costello** – If you haven't been here we typically go out and visit the site so our plan would be during the next month to come by and take a look and if there is anyway you can mark.

**Robert Gravinese** – It is all staked out currently.

**Tom Costello** – If we come by and no one is home we can see where you plan to put it. Is it visible from the driveway?

**Deborah Gravinese** – You have to walk through the woods to get to it.

**Tom Costello** – Are there any questions of the applicant or comments on this application?

Any other questions from the Board. We will see you next month.

**4) Michael and Susan Curry**  
**69 Elmwood Drive**  
**TM# 46.77-1-33**

Michael and Susan Curry were sworn in by Tom Costello.

**Tom Costello** – If you could explain to us what you are planning to do.



**Michael Curry** – We are planning for a variance for two existing sheds on the property to basically keep them where they are.

**Tom Costello** – Where is the property located?

**Susan Curry** – 69 Elmwood Drive.

**Tom Costello** – Where is that located?

**Michael Curry** – Tonetta Lake.

**Tom Costello** – Did you provide us with a survey map of what the property looks like?

**Susan Curry** – Yes, we also have letters from neighbors and pictures.

**Tom Costello** – How long have you lived at this property?

**Susan Curry** – Almost eight years.

**Tom Costello** – And when were the sheds put up?

**Susan Curry** – Four months ago they were moved.

**Tom Costello** – Where were they moved from.

**Michael Curry** – I had one that was closer to the driveway but we rebuilt our home and it was a place to store our belongings.

**Tom Costello** – So one of the sheds was closer to the house and you relocated it?

**Michael Curry** – Both of them to this area.

**Tom Costello** – Both of them on the property previously?

**Michael Curry** – Previously there was one and about six months we got the second shed to set them up in this arrangement.

**Susan Curry** – That is where they are now. That is what got the attention...

**Michael Curry** – The shed being up close up to the driveway and the second shed awaiting tree removal so I could move them to this area.

**Tom Costello** – What are the sheds sitting on?

**Michael Curry** – They are on 6 x 6 frame with crushed stone compacted.

**Susan Curry** – There is no garage on the property. To put a garage on we would need a variance.

**Michael Curry** – And also if we were to go the garage route it would really look odd on the property and it wouldn't fit the scale of the property and look out of place so I think my intention was to try to avoid doing that and therefore that allows me the storage that I need without having to go that route.

**Tom Costello** – What are you currently storing in the two sheds?

**Michael Curry** – This particular shed is all tools and a small work space for our home. I have four children and I have ten bicycles.

**Tom Costello** – So the one shed is used for toys.

**Michael Curry** – And like lawn equipment and the sharp tools.

**Tom Costello** – The shed that has the garage style door was it ever used to store a car?

**Michael Curry** – No.

**Tom Costello** – Was it ever used to store a car?

**Michael Curry** – No.

**Tom Costello** – Could it be used to store a car?

**Michael Curry** – No, I don't think you could turn the car to get it in there is actually trees in here and there is a larger tree in here that was also one of my problems in order to situate the sheds on the property I had to work with those two existing trees. They are nice canopy over the property so in order to have the 20 feet setback it puts the shed in the middle of those trees.

**Tom Costello** – The shed that is in the survey map was that removed?

**Michael Curry** – Yes. That was there when we bought the house. The property had a lot of problems.

**Tom Costello** – And it shows that you have two wells on the property are both used?

**Michael Curry** – One is a drilled well and one is a existing is about 25 feet and three feet across.

**Tom Costello** – Are both still used?

**Michael Curry** – One is being used and one would be used eventually for a water spigot outside.

**Tom Costello** – I will read the letters. The first letter is from Carmen Catalantto, 76 South Drive.

“My property borders the Curry’s on South Drive. I have no objection to the location of the sheds they have placed on their property.”

Then there is a letter from Joseph D’Amico, 72 South Drive.

“I reside directly behind the Curry’s on South Drive. I have no objections to the placement of the sheds in questions. The sheds are in excellent condition and add positively to the property.”

The next letter is from John and Patricia Kelleher, 66 Elmwood Drive.

“I occupy the residence directly across the street from the Curry’s who are asking for a waiver of the Town’s Zoing for the placement of their sheds. I find that the current placement of the sheds is aesthetically pleasing and has added to the property. I have no objections to the Curry’s receiving a variance.”

And the fourth letter is from Angela Bednarchak, 76 Elmwood Drive.

“My family and I have been neighbors of the Curry family since they moved to Elmwood Drive. We have no objections or concerns with the placement nor the location they have chosen for their storage sheds.

If additional information is needed, please feel free to contact me.”

**Tim Froessel** – Can you show us at 20 feet where the sheds would lie?

**Tom Costello** – What would present you from using the east side?

**Michael Curry** – I have a large swing set.

**Susan Curry** – There isn’t enough room.

**Michael Curry** – Also I would like to have my sheds on the driveway so the kids would be going up and down that area to put their stuff away and also I do all my own work on my own cars.

**Tom Costello** – Are you self employed?

**Michael Curry** – No.

**Tom Costello** – So the work you do on your cars is more of a hobby?

**Michael Curry** – No, it is more of a matter of survival.

**Tom Costello** – So it is not a business?

**Susan Curry** – No, it is only our cars and an occasional sister.

**Michael Curry** – We are a family of six so whatever I can do on my own.

**Tom Costello** – Any more questions from the Board? Would you like to go out and visit? Paul?

**Paul Vink** – I think I would.

**Tim Froessel**- I would do.

**Tom Costello** – It is five feet from the property line I is probably worth seeing the impact. Typically we don't vote on it the same month the application what we would like to do over the next month is come by and take a look and just look at the neighborhood and take a look at the closeness to neighbors and also look for other opportunities where it requires less of a variance. So if you will take these pictures and bring this back next month you will be second on the agenda.

#### **5) Estate of David Dann**

**57 Bloomer Road**

**TM# 56.14-1-7**

David Dann, Jr. appeared for this application and was sworn in Tom Costello.

**Tom Costello** – If you could just tell us a little bit about your application.

**David Dann** – Back in the late '80's did work on the house that was an old sunroom that was damaged in a tornado that they replaced with a room and they thought they were doing the right thing there were no permits in the file and the same with the deck that was built probably around the same time on the side of the house. Here are some of the pictures. But the house has been like that for 17 years. And the footprint, as far as the back room hasn't changed. This room is the same as the way the old room was.

**Tom Costello** – What about the deck?

**David Dann, Jr.** – Where the deck is there was steps, there was no deck there.

**Tom Costello** – That was added. Who did all the drawings?

**David Dann, Jr.** – A realtor.

**Tom Costello** – Do you have a potential buyer pending?

**David Dann, Jr.** – We did unfortunately they backed out with the delay.

**Tom Costello** – Are you familiar with this house Tim Froessel?

**David Dann, Jr.** – There is nothing behind it, woods. There is nobody behind it. I am trying to get everything in order. I have a house in Danbury.

**Tom Costello** – Who is living in the house currently?

**David Dann, Jr.** – I live in it two nights a week.

**Tim Froessel** – The house is a ranch?

**David Dann, Jr.** – Yes.

**Tim Froessel** – If these drawings are accurate neither the deck or the addition encroaches any closer to the side of the property line than the house and the garage?

**David Dann, Jr.** – Exactly, and the deck is probably before the garage.

**Jack Gallagher** – I would like to go out and see it Tom Costello.

**Tom Costello** – As you probably heard me mention we typically go out and visit the site and we will do that over the next month and sounds like we may or may not find you

there. Some times the neighbors check up to see who is walking around. Are there any questions on the applicant. So you are third on the agenda, Lakeview Manor.

**David Dann, Jr.** – Do I have to do mailings?

**Tom Costello** – You have to come and if you have letters from neighbors. That always adds to the evidence in making a determination.

**Willis Stephens** – We need to go into executive session.

Executive session ends.

**Tom Costello** – I will make a motion.

**Jack Gallagher** – Second.

WHEREAS, on May 16, 2005, the Zoning Board of Appeals voted to deny a use variance request of Vails Grove Golf Course, Inc, (“Vails Grove”) and New Cingular Wireless PCS, LLC (“New Cingular”) , which sought permission to construct a 100 foot cellular telecommunications tower (monopole) in a R-160 Zone within the Town of Southeast; and

WHEREAS, New Cingular commenced an action in the United States District Court for the Souther District of New York entitled New Cingular Wireless PCS, LLC v. The Town of Southeast and Town of Southeast Zoning Board of Appeals Index No. 05 CIV 5554 (CLB) (MLS), seeking to enforce its rights pursuant to the Telecommunications Act of 1996; and

WHEREAS, after review of the record and in consultation with counsel of the Town of Southeast, it is determined to be in the best interest of the Town to enter into a consent judgement which would, *inter alia*, allow the application to proceed through the lanning process under certain prescribed conditions.

NOW, THEREFORE, BE IT RESOLVED that the Town of Southeast Zoning Board of Appeals hereby authorizes the Town’s legal counsel, Stephens & Charbonneau, to enter into and execute a Consent Judgment on the Zoning Board of Appeals behalf authorizing the applicant to proceed with its site plan application before the Southeast Planning upon condition that the applicant, Vails Grove Golf Course, Inc., resolve all outstanding notes and notices of violations of local building and zoning codes on the subject premises and once resolved, completes the prosecution of the pending site plan application of Vails Grove and New Cingular Wireless PCS, LLC.

**Roll Call Vote:**

**Joseph Castellano** – In favor

**Jack Gallagher** – In favor

**Tim Froessel** – In favor

**Kevin Sheil** – In favor

**Paul Vink** – In favor

**Tom Costello** – In favor

The resolution was approved by a vote of 6-0, 1 absent.

**Tom Costello** – Do I hear a motion for the minutes?

**Tim Froessel** – I will make a motion to approve the minutes from the November 2005 meeting.

**Tom Costello** – Second?

Kevin Sheil – Second.

**Tom Costello** – All in favor?

All in favor.

Meeting ended at 9:30.

Submitted by:

Linda M. Stec