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PL060754
PL050096

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

Canadian Hydro Developers, Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Township of Amaranth to redesignate land within the area generally bounded by Highway 89 to the north, 6th Line to the east, 25th Side Road to the south and Amaranth-East Luther Town Line to the west in the Township of Amaranth from 'Agricultural' and introduce site-specific policies pertaining to wind energy developments, thereby permitting development of a wind project on the subject properties

OMB File No. O060140

Canadian Hydro Developers, Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 46-88 of the Township of Amaranth to rezone lands respecting the area generally bounded by Highway 89 to the north, 6th Line to the east, 25th Side Road to the south and Amaranth-East Luther Town Line to the west from General Agricultural (A1) to General Agricultural (A1-#) Exemption Zone to permit the development of the wind plant and include site-specific regulations pertaining to wind turbine setbacks and applicable definitions

OMB File No. Z060109

Canadian Hydro Developers, Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 69-2004 of the Township of Amaranth to rezone lands respecting the area generally bounded by Highway 89 to the north, 6th Line to the east, 25th Side Road to the south and Amaranth-East Luther Town Line to the west from Agricultural (A) to Agricultural (A-#) Exception Zone to permit the development of the wind plant and include site-specific regulations pertaining to wind turbine setbacks and applicable definitions

OMB File No. Z060110

Canadian Hydro Developers, Inc. has referred to the Ontario Municipal Board under subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of site plans for wind turbines on lands in various locations (Melancthon II Wind Project) in the Township of Amaranth and a second transformer also in the Township of Amaranth

OMB File No. M060091 and M070025

Allto Investments Holdings Inc. appealed to the Ontario Municipal Board under subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Minister of Municipal Affairs and Housing to approve the Official Plan for the Township of Amaranth, specifically sections 3.10 and 3.10(e)(v) being policies relating to wind energy

Approval Authority File No. 22-OP-5450

OMB Case No. PL050096

OMB File No. O050177

APPEARANCES:

Parties

Counsel*/Agent

Canadian Hydro Developers Inc.

T. Bermingham* and M. Mercer*

Township of Amaranth

J. Wilker* and D. Germain*

Township of Melancthon

A. Osyany* and P. Munn*

Allto Investments Holdings Inc.

W.W. Stutz*(not present)

Paul Thompson and Theresa Kidd

P. Thompson

Roy and Teresa Brownell

John and Joan Lever

Rick Dewsbury

Robert Younker

Janikke Heiberg

Ian Reed

INTERIM DECISION OF THE BOARD DELIVERED BY N.C. JACKSON

Canadian Hydro Developers Inc. (hereinafter CH) have appealed the initial delay and refusal of the Township of Amaranth (hereinafter Amaranth) to approve of an Official Plan Amendment, Zoning By-law amendments and site plan approvals for 23 wind turbines and an expanded transformer station. An existing transformer station in Lot 15 Concession 9 is to be expanded.

The turbines are to be sited on agricultural lands in the area of Highway 89 to the north, 6th Line to the east, 25th Side Road to the south, and Amaranth-East Luther Town Line to the west. The Lands are to be leased with agricultural operations continuing.

This project is part of a larger project called the Melancthon wind plant. The first phase for the creation of 67.5 megawatts of renewable energy was constructed in 2005 and 2006 with 45 wind turbines in neighbouring Melancthon Township. The transformer is located in Amaranth Township. The second phase of the Melancthon wind farm project of approximately 132 megawatts is comprised of 69 additional wind turbines in Melancthon Township (recently OMB approved) and 23 wind turbines planned for Amaranth Township. All of the energy from the project is by contract to be supplied to Hydro One.

Amaranth in Dufferin County is largely agricultural in nature, having soils largely classes 1, 2 and 3 under the Canada Land Inventory and therefore Prime Agricultural under the Provincial Policy Statement. Amaranth at an elevation of approximately 500 metres above sea level, with fairly flat terrain and located in proximity to a trunk transmission line is also an area where there are regular strong winds. This leads to the possibility of the consideration of wind farms in accordance with the Provincial Policy Statement (PPS). Section 1.8.2 of the PPS provides that increased energy supply should be promoted by providing opportunities for energy generation facilities to accommodate current and projected needs, and the use of renewable energy systems and alternative energy systems where feasible. Alternative Energy Systems are defined as sources of energy that reduce the amount of harmful emissions to the environment. The PPS goes on to provide in section 1.8.3: "Alternative energy systems and renewable energy systems shall be permitted in settlement areas, rural areas and prime agricultural areas in accordance with provincial and federal requirements. In rural areas and prime agricultural areas, these systems should be designed and constructed to minimize impacts on agricultural operations." Renewable Energy Systems are defined to mean the production of electrical power from an energy source that is renewed by natural processes including but not limited to wind, water and others.

Provincial requirements now include the Environmental Screening process set out under Regulation 116/01 under the *Environmental Assessment Act*. An

Environmental Screening Process has been undertaken and following the denial to elevate to an individual Environmental Assessment, is now complete. Federal requirements in this case revolve around airports, and aerodromes, both registered and unregistered. More on this issue follows later under aerodromes.

Locally Amaranth has anticipated wind energy projects through its 2004 Official Plan. Section 3.10.a states the Township supports wind energy facilities as a source of renewable energy. The section goes on to state that large scale commercial wind energy operations including one or more large wind turbines generating electricity for sale to the electrical grid, known as wind farms, are permitted through a zoning by-law amendment in the Agricultural Designation. Parts of section 310 were appealed to this Board by Allto Investments Inc. and then subsequently consolidated with the present CH Appeals. Allto have now withdrawn their Appeal, dismissed by this Board. All the wind energy sections of the Amaranth Official Plan are now in effect.

There have been other significant changes in this hearing process. What was originally projected by the Parties and Participants (25) in the Prehearing process to be a five week hearing was reduced to portions of a 3 week hearing process. OMB Mediation brought the Parties closer together but short of full settlement. CH and Amaranth continued discussions that have resulted in a full settlement with Amaranth. The Brownells have settled and withdrawn as Parties.

The Township has given site plan approval to the sites of the remaining 22 turbines (#23 has been withdrawn by CH). The 22 site plan referrals by CH have been withdrawn by CH. What remains with the Board is the site specific Official Plan Amendment, 20 Zoning By-law amendments (2 cover sites for 2 turbines and 18 are for single turbines), and the site plan amendment for a second transformer at the previously approved site for the existing transformer. The Township Council deliberating during the OMB hearing determined that site plan approval for the changes to the transformer site should remain with the OMB.

Others have come forward to argue against wind energy turbines. John and Joan Lever and Ian Reed have testified against the concept. The Board prefers the expert planning evidence of John Bousfield that the planning concept for wind energy is accepted in the Province of Ontario through the use of the word "shall" in the Provincial

Policy Statement and in the Township of Amaranth through the provisions of the Amaranth Official Plan. Even in Prime Agricultural Areas otherwise protected, the Province has recognized the value of renewable energy sources that will not pollute the environment. What remains asks Mr. Reed for his well intentioned concerns eloquently expressed. The Provincial Policy Statement makes it clear that in addition to the many environmental issues visited in the Environmental Screening process is the design and construction so as to minimize impacts. In this case the impacts that can be properly considered in the site specific Official Plan amendment, site specific zoning by-laws and the site plan referral to this Board are setbacks in particular to aerodromes, registered and unregistered and noise (in this case from the existing transformer proposed for twinning).

Aerodromes

According to evidence in this Hearing there are 19 aerodromes located in the Township of Amaranth. Most are on grassed runways without any formal Amaranth, Provincial, or Federal approvals. Two are registered in the Canadian Flight Supplement. The relatively large number of aerodromes is perhaps since Amaranth is generally flat following more upland areas of the Oakridges Moraine or perhaps as speculated by pilot David Moritz that this area was thought earlier to be an alternative to full airport use for the GTA. Since aeronautics is within federal legislative authority there is a legal reluctance to legislate locally in that field Re Orangeville Airport Ltd. and the Town of Caledon et al (1976), 11 O.R. (2nd) 546 Ont. Court of Appeal. In Amaranth none of the 19 aerodromes have been recognized individually in the Official Plan nor in the Zoning By-law. Amaranth takes the position that to do so in a restrictive manner to the aerodromes would be beyond their legal authority. Amaranth concedes it could legislate not to restrict but to protect aerodromes. This is done in part generally in the Official Plan section 3.10 respecting wind farms. Paragraph vii regulates location of wind turbines to be “no closer than 10 kilometres from an airstrip unless the written approval of Transport Canada is obtained.” The short answer to this succinct policy is that Transport Canada and its related agency Nav Canada have both given written approval (Exhibit 61) for all remaining 22 turbine locations in Amaranth.

Transport Canada does not fully legislate over airstrips of the type in Amaranth. Transport Canada does deal more explicitly with airports known for their federal certification. Transport Canada permits registration of airstrips in the Canadian Flight Supplement. This registration is voluntary and can assist with landing. Unregistered airstrips are subject to recommendations of Transport Canada from Non Instrument Code1. Of the 3 classifications of aeronautical facilities, in Amaranth there are no airports, there are 2 registered aerodromes and the other 17 are unregistered aerodromes. In the Provincial sphere the Provincial Policy Statement speaks to airports only – by definition “all Ontario airports, including lands designated for future airports, with Noise Exposure Forecast (NEF)/Noise Exposure Projection (NEP) mapping. Section 1.1.3 g) of the PPS states long term economic prosperity will be supported by planning so that major facilities such as airports... are designed to prevent adverse impacts noise...”.

“To protect airports from incompatible development new residential development ... will not be permitted in areas near airports above 30 NEP/NEP as set out on maps approved by Transport Canada.” It is evident from this reference that the Provincial Policy Statement only deals with airports of a type not evident in Amaranth and that its intent is the protection of such airports.

Even though Transport Canada and Nav Canada have given their written approvals to the turbine locations and their lighting, they have also recommended to Amaranth that local pilots be consulted in the planning process. This Amaranth has done and this Board in turn has heard from 11 persons who are either pilots, and or who operate aerodromes in Amaranth. All the pilots are not in agreement. There is a strong sentiment that air safety is compromised by the location of some of the turbines near existing aerodromes. That sentiment is however disagreed with by other pilots with long flying records and experience. Charles Burbank, a respected pilot and operator of the registered Burbank Field Aerodrome, spoke to the need to make all turns to the left when operating within aerodrome traffic circuit. Yet the Regulations provide exceptions when right turns are specified by the Minister in the Canadian Flight Supplement or where otherwise authorized by the appropriate air traffic control unit [reference Canadian Aviation Regulations Part VI Division v 602.96(3)]. Filed by other witnesses as Exhibit 65 are references from the Aerodrome/Facility Directory which show for the

Port Elgin (Pryde Field) and Orangeville (Murray Wesley Kot field) that right hand circuits are permitted on certain runways.

The Board asked that Transport Canada be appraised of pilot concerns respecting moving ground obstacles, wake effect and turning in the traffic circuit. Transport Canada chose to maintain their position that they had approved the 22 turbine sites and make no further commentary. It is Transport Canada approvals that the Board must rely upon with the most weight when aeronautical safety is the issue.

The CH planning of setbacks from the turbines is based upon unobstructed takeoff/approach paths of generally 2.5 Kilometres at both ends of the runways and 600 metres on both sides of the runways to form rectangular envelopes. These are based upon Transport Canada recommendations from TP312 Table 4-1 of Chapter 4 (Non-Instrument Code1), even though there are no legislated setbacks for these unregistered and registered aerodromes. Prior to settlement, a Township airport consultant Paul Hayes, had recommended 4 kilometres and 2.5 kilometres. Following the settlement there are some increased setbacks beyond Transport Canada Recommendations. While wind wake effect is a consideration, Michael Lepage, an expert in air dynamics, testified that turbulence from a turbine is similar to turbulence from static structures of similar size and that within 770 metres wind is back to its undisturbed condition.

The revised Official Plan Amendment (Exhibit 25) now clearly applies only to the portion of the Township affected by Appeals of CH where policy 3.10 is changed. As such it does not change the broad policy of the Township in section 3.10 of the Official Plan that will still apply elsewhere in Amaranth. The CH amendment does specifically require 4 kilometres from the centre points of the runway of registered aerodromes, the Burbank and Kot Fields and 4 kilometre extensions from the ends of runways of the Burbank, Kot and Briggs and Pomeroy aerodromes. The amendment requires implementation of all Transport Canada directions and consultation with local aerodrome operators and pilots in establishing setbacks. The 20 zoning by-laws establish setbacks of generally 120 metres to roads and 350 metres to non participating residences. Where there are reductions in such setbacks, the Board is satisfied with the planning rationale from planner Bousfield of the intricate balancing taking place with setback of the turbines together with setbacks from environmentally sensitive lands, the

preservation of agricultural operations, servicing, and access. No objection is raised as to the road and residence setbacks.

Of the 4 unregistered aerodromes closest to the CH proposal: The Pomeroy aerodrome located in Lot 27, Concession 6 has not been in use for more than 10 years according to evidence from witnesses Currie and Dewsbury. No objection is raised from this operator.

The Briggs field is in Lot 32, Concession 4 proximate to several turbines in Melanacthon now operating. He was present but did not object.

The Dewsbury Aerodrome in Lot 26, Concession 10 is active. Mr. Dewsbury took part in the hearing as a Party supporting the CH proposal and advocating for wind energy for its environmental benefits.

Janikke Heiberg claims an aerodrome on her recently acquired (July 2007) property Lot 31, Concession 8. Her concern is proximity to Turbine 62. There is conflicting evidence as to the existence of this aerodrome now visible from a site visit by the Parties and the Board. The previous owner Roger Petite was a vocal opponent of wind farm development in Amaranth. Mr. Petite spoke repeatedly at a Township meeting (16 times) and is quoted as saying he would oppose the wind turbines no matter where they were located. Ian Reed the only pilot to have landed on this site (once) was a founder or organizer of the Amaranth Citizens Coalition, an anti wind power group. The construction of the Petite (now Heiberg) landing field in 2006 was subsequent to the current Applications of CH. Although Ms Heiberg is now interested in operating an aerodrome, she failed to produce requested materials (in her cross-examination) confirming that intention at the time of purchase. There are discrepancies in the Heiberg evidence regarding the usage and timing of such aerodrome. The Board notes but does not go as far as the witness Dewsbury, who from his experience flying over the Petite-Heiberg property claimed "it was a dummy created to thwart wind development". The Board is however not satisfied with the authenticity of such present position which can be advanced without permits or zoning when weighed against the priority of wind development as set out in the Provincial Policy Statement.

Noise

The Board notes that all turbines are now the subject of a Certificate of Approval for noise issued by the Ministry of the Environment. Noise was also reviewed in the Ministry of the Environment in the Environmental Screening Process. There is no evidence in this hearing of noise problems from the first phase turbines now operating in Melancthon. John and Joan Lever raise scientific concerns from other countries. The evidence of noise experts, acoustical engineers Steve Titus and Vince Gambino testifying in this hearing, is that there will not be offensive noise from the turbines now with new design. The Board is satisfied that noise from these turbines has not been proven to be a problem that bears withholding approval.

Noise from the generators (existing and proposed) is a different issue with direct and credible evidence of a problem. An intermittent hum has been heard on nearby properties and inside homes for more than one year following installation and operation of the first transformer. That transformer has caused the noise in a manner that has disturbed the quality of life of residents. The evidence of the hum is as follows:

Gary Tomlinson is a Senior Environmental Officer with the Abatement section of the Ontario Ministry of the Environment (covering the local Amaranth area). He was summonsed to this hearing by Paul Thompson, a neighbour to the transformer and Party in this hearing. He states that he took sound metre readings at the Whitworth residence at 214215 10th Line and the Thompson residence at 214242 10th Line in the early morning hours 1:00 AM and 2:00 AM of June 18, 2007 respectively, at levels of approximately 30 and 31 dBA. The readings are to be increased by 5 in accordance with an audible hum. The adjusted readings of 35 and 36.6 meet section 12 of NPC-232 set at 40 dBA and therefore were not a contravention of section 14(1) of the *Environmental Protection Act*. Mr. Thompson, as an officer with 18 years of experience, did state twice that the noise was expected but that he was surprised at the level of the hum. As such he reported the noise levels to his Supervisor who agreed that the report be forwarded to the Approvals Branch where an Application for a Certificate of Approval was pending for the existing first transformer. He confirmed that when the first transformer was installed in May of 2006 it was not the position of the Ministry of the Environment that a Certificate of Approval was required for transformer noise. That

position has changed and CH had applied voluntarily after the change in policy and after installation. Since CH had been cooperative no orders or charges had been laid. Mr. Tomlinson was aware of earlier higher readings in 2006 before a noise wall was constructed by CH circa December 2006.

Cheryl and Ed Whitworth, nearby residents, testified of assurances in the planning process by CH that noise would be minimal. Noise from the Generator has been intermittent, but when heard has awakened them 4 times a night in a manner that hurt their ears. The noise wall constructed in December 2006 and landscaping berm constructed in May of 2007 has helped lower the hum but it is still heard intermittently in their home. They have suffered from sleep deprivation resulting in stressed family relationships. They fear that the second transformer will compound the problem and that new mitigation measures will not be sufficient.

Theresa Kidd, nearby resident, testified that the noise from the first transformer was of great concern, yet without a solution. She stated the issue of noise from the first transformer should be resolved before a second transformer is introduced into the site plan. She confirmed the barrier wall was a slight improvement but the transformer noise remained annoying on her property.

Paul Thompson has been noted aforesaid. He is concerned that *Planning Act* notices for the Transformer (Zoning and Official Plan) referred to the Hydro from Melancthon 1 and that now no Official Plan or zoning changes are proposed for the second transformer. The Board notes the *Planning Act* notices did reference the first phase but that wording in the final instruments is general (a commercial electrical Substation). If notwithstanding this representation CH and Amaranth stand on the existing Zoning and Official Plan, the Board must deal with the site plan amendment before it for the second transformer. Mr. Thompson, in some detail, reviewed earlier representations of CH that he would not hear or see the transformer or accessory equipment and stated he still awaits adequate mitigation. He fears the second transformer will repeat the problem or worsen it. In this hearing he played a recording of the transformer noise, made Exhibit 18. The authenticity through calibration was verified by the CH noise expert and MOE Representative, prior to commencement in the Hearing room. A loud hum was audible in the hearing room. This hum was later

characterized by Robert Younker, an Amaranth resident and Party in this hearing, with his own plans for a wind farm, as a massive hum that brings into question the appropriateness of applying the 5 dBA tonal adjustment. Mr. Younker's comments in final argument were that the hum was horrible to expect residents to listen to for 18 months such that it might cause an attack on an official or the use of explosives on the transformer. Rick Dewsbury a, pilot and party in this hearing with views supportive of wind farms, questioned in argument, the same 5dBA tonal adjustment calling it inadequate in the MOE noise modeling. He called for a resolution of the transformer noise and a proper addressing of the nature of the tonal quality.

The intermittent nature of the hum was clear to the Board on the site visit with the Parties when the hum was not audible either on the transformer site, not near the Whitworth nor the Thompson properties.

Mr. Thompson in his evidence, stated the hum was audible in his house and that his sleep was impacted although to a lesser degree than the Whitworths. His witness statement, Exhibit 21, discloses a long line of complaints to senior environmental officers and a chart of noise readings taken by himself on his property from July of 2006 until July of 2007 which he states shows readings at 40dBA or above more on a daily basis, more than not.

Bruce Kingdon testified that in four visits to the Thompson house he could hear the transformer noise on 2 of the 4 occasions inside the house and outside even when he put on hearing protectors.

Robert Currie a former elected official, farmer and lessor of 2 turbine sites, stated he could not hear the hum on his one visit to the Thompson property but that he had heard it on numerous occasions when driving by the Thompson residence. He could hear a hum that was not offensive to him.

The response of CH is through Vince Gambino and Steve Titus who were qualified in acoustical engineering. In 2006 Mr. Gambino confirmed non compliance from the transformer in noise readings that required mitigation. He designed a 6.5 metre noise barrier around 3 sides of the existing transformer. Based upon modeling he

predicted 36 dBA with the tonal adjustment after the wall was built. He agreed with the similar readings of Mr. Tomlinson after the wall was constructed.

This noise panel of CH witnesses confirmed that separate independent monitoring of the noise from the transformer was now underway which also involves the MOE and the Amaranth retained noise expert.

The panel also testified that the second transformer now planned would have a 3dBA specification lower than the 88dBA specification for the first transformer. The second transformer is also planned to be in a pit 3 metres below grade with rubber lining in the pit bottom and side walls. Thirdly, it is planned that the second transformer will have its own separate noise barrier. The panel predicted that the cumulative impact of the 2 transformers would be 38dBA on the sensitive receptors and that it would meet the 40 dBA MOE requirement. It was their expectation that this proposal for the second transformer would be submitted to the MOE after the C of A for the first transformer was issued. There was some speculation as to the tonal nature of the continuing problem being related to the harmonics of the transformer and area and perhaps the contribution of moist weather and whether the MOE was awaiting some resolution of the continuing noise through monitoring prior to issuance of the C of A for the first transformer.

Later, toward the end of the hearing, CH produced a C of A for the first transformer issued by the MOE on October 17, 2007. That is subject to an acoustical audit to be prepared by an independent Acoustical Consultant.

Board Conclusions

The Board for reasons set out above under Aerodromes finds the planning undertaken by CH, now in conjunction with and supported by Amaranth, respecting aviation, to be reasonable and to represent good planning. The Board also finds other concerns with wind farms raised generally not to be in accordance with the current Provincial Policy Statement and the current Amaranth Official Plan. Such concerns included the financial capability of Amaranth to undertake this size of a project. These concerns have been carefully analyzed financially and agreements will require

substantial contributions by CH. Moreover, financial securities estimated by counsel at close to 1 Million dollars will protect the residents of this relatively low populated municipality. The Board was requested to withhold its order by the Municipality until a number outstanding matters including,

- Construction drawings,
- EMO Plan,
- De-icing measures,
- Noise Dispute Resolution Plan,
- Decommissioning Agreement
- and Amenities Agreement,

were completed. These matters could be protected under zoning holding provisions, through the withholding of an order or through presentation at the conclusion of the hearing. In this case counsel have been diligent, with the Board process accompanying council meetings held during the hearing, bearing on the same matters. The Board prefers that outstanding matters be dealt with in public hearing to respond to issues raised in the public hearing. The Board will treat the Appeals generally as positive in what the Board determines to be a first phase decision but without noise approval.

The Board notes that the existing Official Plan in exhibits put before it, in section 3.10(c) states “that large scale commercial operations involving one or more turbines generating electricity for sale to the electrical grid may be permitted through a Zoning By-law Amendment in the Agricultural and Rural Designations. It is intended that such operations, referenced herein as wind farms shall be sited and regulated so that most of the safety, noise, and visual impacts are contained on the subject site.” Noise from the turbines is not the issue in this hearing. The Board’s finding on noise from the generator site is that notwithstanding best efforts from professionals skilled in their work, noise continues not to be dealt with primarily on the transformer site. It has resulted in impacts on residents that are legitimate and heart felt notwithstanding efforts to mitigate through the usual type of noise mitigation measures. More is expected of the developer

based upon earlier assurances and what are normal expectations of neighbours (compatibility). The Board appreciates the work of officials but when the analysis is incomplete (continued Monitoring) and the approval process seems to change in midstream, it causes the Board to carefully review its jurisdiction in this case for the site plan amendment for a second transformer and whether the design and construction proposed will minimize impacts contemplated under the Provincial Policy Statement.

The Board is not satisfied with the increased level of noise site planning through berms and noise walls and other mitigation measures that the result in the combined transformer site will be an improvement rather than a continuation or worsening of the present hum so graphically described by witnesses and parties in this hearing. This is based upon past mitigative actions and results from the first generator that warrant continued monitoring and independence in reporting. It was suggested late in the hearing that CH might under certain circumstances remove the first transformer and replace it in a manner that resolves the problem. The Board is open to that or other meaningful resolution in a manner that combines the resolution of transformer one issues so that there is not a combined type of undue resonance with the second transformer which has its own new mitigation measures. The Board appreciates the public interest concerns and will act upon a request from the Appellant and Amaranth expeditiously to schedule on 1 week's notice to other Parties a continuation to hear evidence on the outstanding municipal requirements (to be shared with Parties in the resumed hearing) and to hear further evidence on resolution of transformer noise off site in the context of the site plan amendment sought on Appeal. No other issues will be brought forward in the resumption. Existing evidence in the 70 exhibits will not be repeated.

"N.C. Jackson"

N.C. JACKSON
MEMBER