

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554
25 OCT 1994

IN REPLY REFER TO:
7240-F/1700C1

Board of Zoning Appeals
Town of Hempstead
1 Washington Street
Hempstead, New York 11550-4923

Dear Board Members:

It has come to our attention that the Town of Hempstead's Board of Zoning Appeals (Board) has denied Mr. Hayden M. Nadel's application for a variance permitting him to maintain his amateur radio station's antenna at a height of fifty-five feet (versus the thirty feet permitted by the zoning ordinance). According to the text of the Board's decision (provided by Mr. Nadel), it based its determination largely on its finding that the "proposed and existing antenna height of fifty-five feet" was resulting in interference to the home electronic equipment of Mr. Nadel's neighbors.

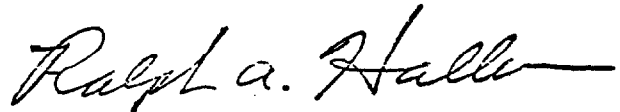
Local governments must reasonably accommodate amateur operations in zoning decisions. See PRB-1, 101 FCC 2d 952 (1985) and Section 97.15(e) of the Commission's Rules, 47 C.F.R. § 97.15(e) (copies enclosed). Section 97.15(e) provides that an amateur station antenna structure may be erected at heights and dimensions sufficient to accommodate amateur service communications. Local authorities may adopt regulations pertaining to placement, screening, or height of antennas, if such regulations are based on health, safety, or aesthetic considerations and reasonably accommodate amateur communications. They may not, however, base their regulation of amateur service antenna structures on the causation of interference to home electronic equipment -- an area regulated exclusively by the Commission.

The Commission's jurisdiction over interference matters is set forth in Section 302(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 302(a) (copy enclosed). It is clear from the report of the Joint Committee of Conference, H.R. Report No. 765, 97th Cong., 2nd Sess. (pertinent excerpts enclosed), that the congress intended that the Commission have exclusive jurisdiction over interference to home electronic equipment.

I would also like to point out that there is no reasonable connection between requiring Mr. Nadel to reduce the height of his antenna and reducing the amount of interference to his neighbors' home electronic equipment. On the contrary, antenna height is inversely related to the strength, in the horizontal plane, of the radio signal that serves as a catalyst for interference in susceptible home electronic equipment. It is a matter of technical fact that the higher an amateur antenna, the less likely it is that radio frequency interference will appear in home electronic equipment.

I hope the information in this letter is helpful.

Sincerely,

A handwritten signature in black ink that reads "Ralph A. Haller". The signature is written in a cursive style with a long horizontal flourish at the end.

Ralph A. Haller
Chief, Private Radio Bureau

Enclosures