

Minutes of the **Regular Meeting** of the Zoning Board of Appeals of the Village/Town of Mount Kisco held on **Tuesday, December 15, 2020 at 7:15 pm** via Zoom Teleconference

Members Present: Chairman Harold Boxer
George Hoyt
Jacqueline Broth
Arthur Weise
Wayne Spector
Ralph Alfano

Staff Present: Whitney Singleton, Board Counsel
Peter J. Miley, Building Inspector

1. Fortunato Cambareri
151-155 (147) Lexington Avenue
Mount Kisco, NY 10549
(SBL) 80.32-2-10

ZBA# 20-13
Area

Mr. Viktor Solarik of VKS Architect was present.

Chairman Boxer stated we are at the December 15th meeting of the Zoning Board of Appeals. We're going to take number one and then we're going to be doing number four on the agenda and then we'll come back to number two. So, Fortunato Cambareri?

Mr. Solarik stated yes, good evening. This is Viktor Solarik, VKS Architects. Can you hear me?

Chairman Boxer stated yeah, a little bit.

Mr. Miley stated yeah, Victor, can you just speak a little louder?

Mr. Solarik stated I'm trying. Does it work now? Is it better?

Mr. Miley stated yes, you're good now. Thank you.

Mr. Solarik stated so thank you to Zoning Board and everybody to hear us tonight. I'll start with a little bit of a history on this project. Mr. Cambareri has owned this property known as 147 Lexington Avenue also known as 151 and 155 Lexington Avenue since I think 2002 and –

Mr. Miley stated hey Victor, I'm sorry to interrupt you. We're recording a Village Hall and if you could just stay close to your mic. You're going in and out.

Mr. Solarik stated okay.

Mr. Miley stated thank you.

Mr. Solarik stated so, we are here at the recommendation of the Planning Board to obtain variances needed to legalize or bring into compliance a site plan that has existed since the early 1920s. And as such, there is a number of variances required to basically complete the site plan review. I will list the variances, they are, the first one is required for a residence above a store or restaurant as outlined in Section 110-18 B 1 H, which doesn't have a separate entrance from the street or sidewalk. The second one is a development coverage required where 77, I'm sorry, where there's a 70% development coverage allowed and we have currently proposed 77.5% down from almost 100%. It was 99% coverage when we started and by removing miscellaneous pavement, we got it down to 77.5. Still 7.5% points over the limit. The third variance is required for parking spaces where 20 would be required. And again, working with the Planning Board and the existing uses and the landlord and tenants, we have designated 12 parking spaces which will work for the property as it is. But there are again, we need a variance of eight spaces. There is a variance requested for 9 foot 6" wide parking space but only four have been provided in that [inaudible]. And finally, because the site is so tight, the drive aisle, the access drive is somewhat limited because of the location of the building and all the other items on the site where you would need a 3 foot variance for the driveway and that's specifically in the back of building B if you have the site plan in front of you. If you want me to share my screen, I can put up the drawings.

Chairman Boxer stated I don't have you on my screen at all.

Whitney Singleton stated there's two screens, Harold.

Chairman Boxer stated there's two screens? Okay, I've never done that. How do I get the screen two?

Mr. Miley stated the little arrow, Harold. You just click on it.

Chairman Boxer stated this one, here?

Mr. Miley stated but Viktor does not have his video on. You don't see him. You don't see his face.

Chairman Boxer stated so that's why I don't have an arrow, okay.

Mr. Solarik stated I'm trying to share the screen with you. For some reason I can't get to the screen saving – sharing.

Whitney Singleton stated Viktor?

Mr. Solarik stated yup.

Whitney Singleton stated would it help if I shared the screen with you?

Mr. Solarik stated yes, that would be great, Whitney.

Whitney Singleton stated is that what you're looking for?

Mr. Solarik stated that's correct. There's two drawings and drawing S-1 shows the, what's most important I think for the Zoning Board is the proposed site plan layout on the right side of the drawing which shows the proposed parking spaces, two handicap parking spaces up front and there's six spaces in the back of building B. There's a proposed dumpster enclosure and an area between building A and D, is proposed to be landscaped, removing the pavement that is there now. That's roughly how we got down to the 77.5% of the development coverage. Can everybody see it? I guess I can answer questions if there are any.

Mr. Miley stated yes.

Mr. Weiss stated can I ask you, how long was there 99% development on the property?

Mr. Solarik stated well, Mr. Cambareri purchased the site, I guess, like I said in 2002 and that's the way it was. There's a little record of how it got to be that way.

Mr. Weise stated okay.

Chairman Boxer stated can you explain your parking width problem?

Mr. Solarik stated okay, we have the parking spots in the back of building B and the back of the site are varied width between 9 foot 4 inches and 9 foot 0 inches. So, you know, the front four parking spaces mean the 9.6 width as does the parking spot number five which is on the north side of building B but the six spaces in the back are slightly narrower.

Chairman Boxer stated and what's the – Peter, what's the requirement to the spaces?

Mr. Miley stated predicated on short term, long term, residential or commercial. He's looking for a six inch variance.

Chairman Boxer stated okay.

Mr. Hoyt stated is there also an issue with the, is there appropriate access to get in there for fire equipment et cetera?

Mr. Miley stated there's a smaller drive aisle. He's looking for again, minimal dimension variance. The minimum required fire department access was 20 feet. The least amount he is proposing is 22 feet where 25 is required.

Mr. Hoyt stated so, we don't think there's an issue with fire department equipment et cetera?

Mr. Miley stated the State code requires a minimum 20 foot fire access road. So, there's adequate to get to the rear of the building. Correct.

Mr. Hoyt stated and his memo says that none of the buildings have a CO. Is that something that's going to be rectified or what's the status there?

Mr. Miley stated I'll walk you through the beginning, when we started the fire safety program, we're going into multiple dwellings and also reviewing their file site plans. And this is one of the results of our program. A number of the properties, excuse me, a number of the buildings were change of use from one was a rooming, the one from Thai Angels was a rooming house above that was converted to a two family house. Two others that were converted to residences from – I believe it was a – believe it or not a chicken house. And another was a smaller, two room sleeping quarters above a garage which is now an apartment. This is all prior to the current owner's ownership. So, this is a legalization. A lot of it has to do with legalizing the property and with every legalization, site plan approval. We want to improve the site, you know, reduce some impervious surface and landscaping, provide some ADA parking where it should be. So, this is a combination of legalization, so to answer your question George, yes, at end of this, they will all have legal CO's for each and every building and business that's there.

Mr. Hoyt stated okay, thanks.

Mr. Miley stated you're welcome.

Mr. Solarik stated we actually started the process of preparing the plans for all the buildings and submitting them basically for a building permit to legalize the apartments. And then we got into the site plan review and all the other issues. So, those plans have been you know, prepared and are ready to be finalized.

Mr. Spector stated how did you come up with this parking calculation? There are so many uses here are including a restaurant use which I understand requires quite a bit of parking generally.

Mr. Miley stated is that a question for me, Wayne?

Mr. Spector stated I don't know, it's for anybody who could. Yes, I guess Peter, yes.

Mr. Miley stated it's a combination, most of this property predates when there was no parking requirement. So yes, the restaurant did require a number of spaces and they are seeking an eight parking space variance. So, this is a combination of a number of uses did not require parking when they were constructed so they did get the credit for those spaces. The second was through Planning, you know, smart planning, they wanted to reclaim some of their open space and not have, you know, a place that's 100% asphalt parking lot. So, it was I guess, it was a better application having less parking spaces and they appealed to the Planning Board and essentially the needs they would demonstrate to the Planning Board based on the tenants and the type of parking that they utilized, they came up with this number so this is primarily a recommendation from the Planning Board to reduce the number spaces, in lieu of and trading it with open space.

Mr. Spector stated right.

Mr. Weise stated do we know how many spaces are used for the apartments versus the restaurant on a regular basis?

Mr. Miley stated that would be the, the applicant would have to answer that.

Mr. Solarik stated primarily, the front yard spaces are utilized by the restaurant, I'd say 4 to 5. And the back are -- the tenants are usually out during the day. So, as there is some overflow and some sharing of the parking spaces but primarily, the front of the property is used up by the restaurant.

Mr. Weise stated is there any signage that would indicate that the back would be for apartments?

Mr. Solarik stated not as of, not right now. I think the owner was, because he basically negotiates between the tenants, the use of the parking. And I think there is an agreement, I don't know whether it's written, you know, how the parking spaces are assigned.

Mr. Weise stated okay.

Mr. Spector stated I mean, these apartments are not small. There's two, three bedrooms – actually four, three bedroom apartments, I believe. I don't know how many seats are in the restaurant but I think parking calculation's usually based on how many seats are in the restaurant plus employee parking.

Mr. Miley stated yeah, it's predicated on number of tables.

Mr. Spector stated yeah, definitely a challenging site given all the uses.

Mr. Solarik stated the restaurant, the apartments are primarily used by local residents who don't necessarily all have cars. They live and work around Mount Kisco area or probably take public transportation. But they're not as heavily relying on car transportation.

Mr. Hoyt stated Peter what's the, one of variances is to allow an apartment above a garage with no direct street sidewalk access. Can someone walk us through what kind of access it has? And what's the issue with that variance? I guess I'm confused. Obviously, I understand that we preferred to have direct street access, sidewalk access. Is this a situation where someone's going to have to walk through the courtyard to get to their apartment?

Mr. Miley stated this apartment is located above a garage, located in the rear of the property. So yes, they would have to walk along the parking area to get to the sidewalk, correct. So, it's essentially a code requirement hence the inability to provide, so, they therefore seek that relief. It's essentially, you know, walking from the rear of the property to the front of the property but passing the other apartment buildings that are in front of it.

Mr. Hoyt stated it's hard to see it in the drawing. If there's a family there with small children, is there some way for them to not have to walk through, what might be a busy parking lot to get to their apartment? I can't tell whether there was access ways or paths leading back.

Mr. Solarik stated from the back of the property there's a path actually between the building A and B. And it's a brick walkway, so one can walk from the street between building A and B to the back and basically not have to walk on the parking lot area.

Mr. Miley stated just a small section of parking lot directly in front, which is no longer parking spaces.

Mr. Solarik stated correct, that's exactly right. It's basically just a turnaround area to allow the parked cars to turn out and go back out. But it's not continuous or the driveway doesn't lead anywhere, so, it doesn't have any traffic going through it.

Mr. Hoyt stated thank you.

Mr. Alfano stated and the variance, the one we're talking about it pertains to buildings D and C, correct?

Mr. Solarik stated it pertains to building C.

Mr. Alfano stated yes, okay.

Mr. Spector stated so, it's clear the current owner did not add any of these buildings? Any additions or square footage I assume?

Mr. Solarik stated no, not whatsoever.

Chairman Boxer stated Peter, how much of this is pre-existing?

Mr. Miley stated all of the structures are pre-date. The changes occurred later on so the front building A above Thai Angels started as a rooming house that was later converted to a two family home. Rooming house is no longer permitted to use since 1954. Some might add it's a better use, it was a rooming house. The others, the two family home building B was original. The building D had an apartment above the garage is original and apartment in building C was a change of use from a two room, we believe was some sort of, you know, for serve – people that, you know, serve the other buildings or some sort of custodial place. It was only two rooms without kitchen. It wasn't an individual dwelling it was attached to one of the buildings which we don't know specifically which one, so that was the second or third change of use. So, most of the structure – all the structures rather have been there but we could see from an original, we actually have original map dated February 27, 1928 that demonstrates that all the buildings were present only used differently.

Mr. Weise stated just a quick question, you said that the building D was an apartment above a garage.

Mr. Miley stated it is correct and was.

Mr. Weise stated is it still a garage or no?

Mr. Miley stated I'm shooting from the hip, Viktor, it's still a garage. Correct?

Mr. Solarik stated correct, yeah.

Mr. Weise stated and how many cars can fit in there?

Mr. Solarik stated okay.

Mr. Weise stated one, okay.

Mr. Solarik stated it's really more use as storage.

Mr. Weise stated gotcha, okay.

Mr. Alfano stated from this site plan, it looks like a car wouldn't be able to get in that garage, is that correct?

Mr. Solarik stated that is correct, yes.

Mr. Alfano stated okay.

Mr. Spector stated so, from what I understand the Planning Board has extensively reviewed this and they referred to our Board and I assume that referral comes with a recommendation from them as to this application.

Whitney Singleton stated that's correct.

Mr. Spector stated and they are recommending that this Board approved this based on their review. Not that...

Whitney Singleton stated it was their position that there was a limited thing that they could do at the site given the pre-existing, non-conforming conditions. They tried to improve it both visually and functionally to the best of their abilities. But obviously it is completely non-conforming with regard to existing uses, setbacks, you know, it's efficiency of parking. So, they did what they could with it and shipped it up to the Zoning Board.

Chairman Boxer stated who is talking in the background?

Mr. Spector stated I don't know.

Chairman Boxer stated okay.

Mr. Solarik stated sounds like somebody has a TV on.

Mr. Miley stated we're going to have to mute everybody and then only those are speaking. Okay. Everybody's muted now. So, those that need to speak can unmute, please.

Chairman Boxer stated okay, other Boards members you can unmute yourselves if you, we can talk amongst ourselves.

Mr. Hoyt stated I don't have any more questions, Howard, I'm ready to move forward on this.

Chairman Boxer stated okay.

Mr. Alfano stated it doesn't seem like there's much, you know, there's not much that can be done anyway I feel better if the Planning Board had already looked at it and, you know, gave the recommendation for the site.

Chairman Boxer stated Whitney, is there a way you could bring your resolution up for us? I guess he's not there. Okay, there we go. Page two, okay.

Whitney Singleton stated where do you want me to go at the beginning?

Chairman Boxer stated no, just to the part where they go over the –

Whitney Singleton stated the determination, right here?

Chairman Boxer stated yes.

Whitney Singleton stated reasons for decision? Can you see it alright do you want me to enlarge it?

Mr. Alfano stated I can see it alright.

Chairman Boxer stated a little bigger would be good. Okay, so, that there is no undesirable change to the neighborhood because as it's been for a long time. There is no other way to do this, that's what the Planning Board has decided. The variances themselves are not substantial, the environment will not be affected and number five, it wasn't even, it was not self-created by the current owner but it was self-created way back when but that's not fatal to the application. So, if I could get a motion to approve?

Mr. Weise introduced a motion to approve the variances. Seconded by Mr. Hoyt.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer asked for any opposed. Hearing none.

Chairman Boxer stated okay, so we're going to, just to clarify, we have approved it based upon Whitney's findings, the resolution that Whitney has provided us. Okay...

Mr. Solarik stated well thank you very much, ladies and gentlemen and we'll go back to the Planning Board to finish the site plan approval.

Chairman Boxer stated okay.

Mr. Solarik stated thank you so much, goodnight.

Chairman Boxer stated good night. Okay, we will now do DP-21. Yes, anybody here for DP-21?

2. DP 21, LLC (The Park)	ZBA# 20-6
333, 383, & 309 North Bedford Road	Area
Mount Kisco, NY 10549	
(SBL) 69.50-2-1, 69.51-1-3, 69.43-1- 2 & 3	

Mr. Neil Alexander of Cuddy & Feder and Mr. Stephen Spina of JMC were present to represent the application.

Mr. Spina stated yes, hello, Steve Spina from JMC, just trying to unmute myself.

Chairman Boxer stated that's okay.

Mr. Spina stated good evening everybody, we are here tonight as a follow-up on behalf of Diamond Properties for 333, 309 and 383 North Bedford Road. Since the last time we we're before the Board here, there was some discussion on some changes to the site plan that may affect the quantity of the variances and essentially those changes have happened in terms of a decision was made at the recommendation of Whitney to keep the lot lines as they currently exist for those properties. And instead of having a subdivision and lot line shifts just easements would be granted, you know, back and forth throughout the properties adjoining each other for utilities and access. So, that along with a few other items that we modified essentially reduced the number of variances at the time from 19 to now, I think we're at 9 variances. And most of those items that were reduced were items that were existing nonconformities that were to remain. But I guess, you know, because of the subdivision, you know, when you modify lots you're required to, you know, obtain a variance for some of those items and some other items that we way made changes on reduce some of the variances as well. So, we understand that a draft of a resolution has been provided to the Board and we're just here to answer any questions and, you know, hopefully we can be considered for an approval tonight.

Mr. Hoyt stated what's the status with Town of Bedford.

Mr. Spina stated we are at 8 o'clock. We're on their agenda for final site plan approval—

Chairman Boxer stated 8 o'clock tonight?

Mr. Spina stated so we had a really good meeting with them last Tuesday, where we were given preliminary after waiting for several months to get on an agenda. And then now, we're going to be before them two weeks in a row, so, we hope to be done tonight.

Chairman Boxer stated okay, is anybody able to bring up or look at Whitney's email with the resolution and the comparison of the better answers requested?

Mr. Spina stated I have it.

Chairman Boxer stated so the variances has appeared to be a 10,652 square foot variance for the grocery store. A 2.3% variance for the development area, 2.3 feet for, I don't know which building that is down there. Number four is a development variance again of 6.4. Number eight is a 9 feet variance, nine is a 10 foot variance.

Whitney Singleton stated I think you skipped over a couple.

Chairman Boxer stated alright, you can, you want to list them for us then?

Whitney Singleton stated yes, just going back, I did make a mistake and Steve corrected me. Number one, if you don't mind me sharing my screen for a second I'll just kind of go through them. So number one would be the 10,652 square feet as the Chairman pointed out, 2.3 variance still sought as you noticed right here. I put all the numbers where the variances were required, the rest we've been able to eliminate the need for a variance, number three was a 2.3 feet sought on 309. Steve, you want to explain what that is?

Mr. Spina stated sure, I have the figures too if you want to see the figures that we – again we – I think we kind of previously presented some of this but that's the right side of building 309. If you want, I can share my screen to go.

Whitney Singleton stated but the point is it's an existing condition. It's not being proposed, correct?

Mr. Spina stated correct, it's, the building is already there and the lot line.

Whitney Singleton stated okay, then we're jumping to number four for 383 which is going to propose a development coverage variance of 6.4%, that's for a site that is basically entirely paved. Number 5, this is where you and I had a disconnect Steve, this is no longer needed. I have a five there and it shouldn't be there.

Mr. Spina stated right, right.

Whitney Singleton stated so number 6 becomes number five and that was at 383, a proposed 0 foot buffer, that was in the rear. While it's going to be a new building, that is currently where the existing building is location, it's literally on the property line and there's no place to go.

Chairman Boxer stated Whitney, can you scroll down for us?

Whitney Singleton stated right here on this one?

Chairman Boxer stated no, the other one with the list.

Whitney Singleton stated so that's this one right here number seven we're looking at.

Chairman Boxer stated okay.

Whitney Singleton stated number 8 is a 9 foot side yard variance. Steve, do you want to explain how you're flipping the building, is that what that one is?

Mr. Spina stated sure, so, what happened here was the previous plan had the lot line change where on the northern driveway where the proposed driveway sort of cuts over to meet with Foxwood Circle. The lot line was close to the building there, the proposed building, I think it was 0.8 feet away and because we're now keeping the existing lot lines the same and not changing on that side of the building now has a, you know, greater than a 10 foot separation. The building didn't move with a lot line where it was and currently is, is farther away but now the left side of that building the existing sort of finger lot line comes down and it's a foot away. So, the variance is lessened but it's moved from the right side of the building to the left side.

Whitney Singleton stated and lastly, the only the variance with regard to the location of the accessory structures prohibits the dumpster from going to the location where they're proposing it but the Planning Board deemed that to be an advisable location given the tightness of the site. So, what's happened is 19 variances being sought, have been reduced to 9 variance being sought and that those resulting variances after having them chiseled down are a result of your board's original review. Your Board's review tonight

and your Board's joint meeting with the Planning Board where you express your concerns as to proximity of lines and traps and traffic access to building locations and some other things. And the Planning Board has gone back and gone over all of those issues and they have design the site to a degree where they think that this is an approvable project by them and we have eliminated all variances that we were able to do. So, that's basically in a nutshell these are all consistent with what you've previously seen. They're all this reduced no variances is increased and no newly created variances are being proposed too. And then, the resolution that your Board asked me to draft speaks to the original the nature of the request, the zoning of the properties, the variances originally requested, and the modification to the variances. This is yellow because I don't know if anyone's planning on commenting tonight, presumably you'll be taking actions tonight. These are all your public hearing dates, all the submissions today, the SEQRA determination, SQERA has already been handled by the Planning Board and therefore no further actions were required. And here is the draft that are prepared for you based on our consultation as to the undesirable change, the feasibility, the substantiality, the adverse environmental impacts and self-created hardship. You want to go through any of those and then lastly, the conditions of approval and, you know, your Board's eventual vote.

Chairman Boxer stated okay, anybody on the meeting wants to comment?

Mr. Hoyt stated Whitney, Do you mind just going back to the page of the condition page?

Mr. Miley stated let me check that, Harold. I'll get back to you on that.

Chairman Boxer stated okay.

Mr. Weise stated well I appreciate the effort that was put in working with us because that seems to be quite a difference from the very first thing we saw.

Mr. Spina stated thank you.

Chairman Boxer stated while we're waiting we forgot to close the public meeting on our first case, if someone can make a motion?

Mr. Spector introduce a motion to close the public hearing for ZBA# 20-13. Seconded by Mr. Alfano.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer asked for any opposed. Hearing none.

Chairman Boxer stated okay.

Mr. Hoyt stated thanks, Whitney.

Mr. Miley stated Chairman?

Chairman Boxer stated yes?

Mr. Miley stated we just checked, nobody raising their hands on Zoom and just look at Facebook comments, the only person is me that did a test and we do have another number that we have to pass out. That number is 646-558-8656 and they will need to dial in 813-061-50276. If you want just give it a couple minutes. That's an actual Zoom number if they don't have access to the actual Zoom with their computer.

Chairman Boxer stated okay.

Mr. Miley stated but nobody else, we don't see anybody ready to comment. We have significant amount of people in the waiting room.

Chairman Boxer stated Mr. Alexander, I see you. Can you say who you represent. Why are you here?

Mr. Alexander stated I'm sorry. I represent Diamond Properties.

Chairman Boxer stated okay and for the record, could you spell your name for us?

Mr. Alexander stated sure, it's N-E-I-L A-L-E-X-A-N-D-E-R, is the last name. Neil Alexander, a partner of Cuddy & Feder. I'm here on behalf of Diamond Properties along with Steve Spina from JMC.

Chairman Boxer stated okay, thank you.

Whitney Singleton stated I asked him to be a man of few words tonight.

Mr. Miley stated Chairman, we don't have anybody waiting. We just did a double check. You're good to go.

Chairman Boxer stated then I guess what we can do is take a vote. I would...

Whitney Singleton stated close the public hearing?

Chairman Boxer stated yes, we can do that. Motion to close the Public hearing.

Mr. Weise introduced a motion to close the public hearing. Seconded by Mr. Spector.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, so then we've all seen the resolution that Whitney has prepared and I would propose that we base our approval on that resolution. Is there any objections to that? Okay, then we need a motion to approve based upon Whitney's resolution?

Mr. Weise introduced a motion to approve the plans. Seconded by Mr. Alfano.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, good luck.

Mr. Alexander stated thank you very much. Keep safe.

Mr. Spina stated thank you, have a good night everybody.

Chairman Boxer stated goodnight. Thank you. Oh look, they're wasting no time showing up. Okay. Now, we are going to be doing Homeland Towers ZBA# 20-14. And whoever is here for that can you identify yourself, please?

Mr. Miley stated Chairman, can I interrupt one second. I'm sorry, Mr. Gaudio. Sunrise Community Solar was number three. Do you want to adjourn that?

**3. Sunrise Community Solar, LLC
180 S. Bedford Road
Mount Kisco, NY 10549
(SBL) 80.44-1-1**

**ZBA# 20-5
Area**

Chairman Boxer stated sure

Mr. Miley stated it's your decision, they requested an adjournment.

Chairman Boxer stated no, an adjournment is fine.

Mr. Miley stated I think you need a motion, Chairman.

Chairman Boxer stated I'll move to adjourn it.

The Secretary stated to January 19th.

Mr. Miley stated the date is January 19th, the next available.

Chairman Boxer stated okay, so January 19th the next available? Anybody a second?

Mr. Hoyt seconded the motion.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Boxer stated okay, thanks Peter.

Mr. Miley stated I apologize for interrupting Mr. Gaudio.

Chairman Boxer stated okay.

Mr. Vicente stated oh, no problem.

**4. Homeland Towers
180 South Bedford Road
Mount Kisco, NY 10549
(SBL) 80.44-1-1**

**ZBA# 20-14
Area**

Mr. Robert Gaudioso of Snyder & Snyder; Mr. Manny Vicente and Mr. Klaus Wimmer of Homeland Towers were present.

Mr. Gaudioso stated good evening, Mr. Chairman and members of the board. My name is Robert Gaudioso, I'm a partner with the law firm of Snyder & Snyder. I'm here on behalf of the applicants, New York SMSA Limited Partnership, doing business as Verizon Wireless and Homeland Towers LLC. Mr. Chairman, would you like for me to make a presentation to start out the meeting?

Chairman Boxer stated yes, please.

Mr. Gaudioso stated the applicants are appealing the Building Inspector's determination from the building inspectors memorandum dated October 6, 2020. In that memorandum, the Building Inspector determined that two variances were required, including a setback variance and a height variance and I'll touch on those in a moment. The reason we are appealing the Building Inspector's determination and the alternative that the variances they're not required is for a number of reasons. First, under Section 110-27.1 H, the zoning code states that for a wireless facility outside of the wireless overlay zone, that on property that's not owned by the village, the Planning Board is the approval authority and the application shall be permitted only if a New York State licensed professional engineer, specializing in electrical engineering with expertise and radio telecommunications facilities establishes to the satisfaction the Planning Board four factors. And just to take a step back in case the Board is not aware, this is an application for a telecommunications facility. This is an application at 180 South Bedford Road, which is a 25 acre parcel. The proposal consists of a 140 foot tower that's designed to resemble a tree with branches extending to a maximum height of 145 feet, together with antennas on the tower for Verizon Wireless and related equipment at the base. And after my initial presentation, I'll ask our engineer to walk you through the plans just so you are oriented on the property and understanding more detail what the facility is proposed of. So, based on the express code Section 110-27.1 H, we believe that for a facility such as this outside of the overlay zone, the Personal Wireless Service Facility Overlay Zone, that as long as the four factors are established by a professional engineer to the Planning Board, that the other requirements of Section 110-27.1 are not applicable. We believe that such an interpretation by the Zoning Board will be consistent with prior precedent of the Village of Mount Kisco. And what we attached was a memorandum from the Village Attorney dated May 20 of 2019, which we believe speaks for itself. And in that memorandum, it states by implication the application was exempt and this was an application for a similar wireless facility outside of the overlay zone. And the Village Board approved that application without requiring any height variances or a setback variances. Even though the height and the setback would have required height and setback variances had other sections of the wireless code of the Village been applied. But the Village Attorney opined at that time in that memorandum, which is attached to our memorandum has been submitted to the Zoning Board, that the additional requirements beyond 110-27.1 H were not applicable. So, we believe both zoning code on its face is very clear. We also believe that prior precedent is very clear and that in order to avoid unreasonable discrimination which is prohibited under the Telecommunications Act of 1996 and in order to comply with New York State Law, that similar applications have to be interpreted similarly and the Zoning codes applied equally. We believe that –

Chairman Boxer stated can I interrupt for a second?

Mr. Gaudioso stated issued in that regard. Yes.

Chairman Boxer stated the letter from Mr. Singleton is dated May 20th?

Mr. Gaudioso stated the letter from Mr. Singleton is dated May 20, 2019.

Chairman Boxer stated okay, I read this more as a suggestion. It's the end of the first paragraph. It says merely my suggested analysis, he's not opining on it. He's just making it an analysis for the Board and the Mayor.

Mr. Gaudioso stated well, in fact, the Board and the Mayor did approve the application and did not require any height variance or setback variance. And we'd be happy to submit a copy of those minutes from that Village Board meeting as part of the official record after this evening.

Chairman Boxer stated and where is that cell tower?

Mr. Gaudioso stated that's at One Mountain Avenue. It was an existing cell tower and it was a replacement of that Cell Tower with a new cell tower, including other functionally equivalent carriers such as T-Mobile going on that tower to be able to provide their functionally equivalent services to the applicant in this case.

Chairman Boxer stated okay, thank you.

Mr. Gaudioso stated so, that's the basis for our request for an interpretation that the variances cited in the Building Inspector's memorandum are not required. In addition, the Building Inspector determined that a height variance was required and we believe that height variance is not required for the following reason. Section 110-27.1 E 3 states the following and I'll quote it. "Maximum height, unless the FCC promulgates rules to the contrary or the applicant demonstrates to the satisfaction of the Board granting the special permit that a greater height is necessary, the maximum height for a tower or monopole shall be 80 feet above ground level or the maximum height necessary to provide service to locations which the applicant is not able to serve with existing facilities within and outside the Village whichever is less." So, as you may or may not know we have a pending special permit application and site plan application before the Planning Board. The Planning Board is the special permit authority and we believe based on that express language of the code Section 110-27.1 E 3. The Planning Board gets to make the determination of the Planning Board makes the determination that a height greater than 80 feet is necessary to provide service within or outside the Village. Then that height would be permitted by the Planning Board's determination in a special permit criteria. So that's the second basis for why we believe that the Building Inspector's determination should be overruled by this on reporting. In fact, we submitted and I'll go through this in a moment. We did submit documentation demonstrating that a greater height was necessary.

Chairman Boxer stated okay.

Mr. Gaudioso stated yes.

Chairman Boxer stated what I don't think in your package which is required is a copy of the Building Inspector's denial. And so we don't have anything to base our decision on.

Mr. Gaudioso stated I believe that was submitted but we would be happy to provide an additional copy.

Chairman Boxer stated my package that I got from the Building Inspector's office does not include that. And submitting a copy after the meeting does not help us.

Mr. Gaudioso stated okay. Just by way of procedure, the Planning Board has declared itself lead agency to this matter until the Planning Board issues a SEQRA determination. This Board's unable to act because of the fact that it's a coordinated review.

Chairman Boxer stated correct.

Mr. Gaudioso stated so unfortunately, I don't think we'll be able to finish up this evening. But we will be happy to provide a new additional copy of the Building Inspector's determination after tonight's meeting in advance of a future meeting Zoning Board, if that's acceptable.

Chairman Boxer stated okay, thank you. Okay, so then, continue with your presentation, please?

Mr. Gaudioso stated thank you. And everything that I am discussing has been submitted in writing which I'll go through in a moment. Just in case anyone has any additional questions or would like to go back and take a look at this. In the alternative to our appeal of the Building Inspector's determination, we are seeking the variances for the setback and for the height and I'll go through those. The zoning code requires a setback of 500 feet from a dwelling unit for a wireless telecommunications tower. We currently have to the closest residence 388 feet and to the closest dwelling which is the caretaker's cottage on the neighboring Marsh Sanctuary 197 feet. So, while those distances are greater than the height of the facility, they do not meet the 500 foot setback. In addition, the zoning code requires without explanation an additional 100 foot setback for every 10 feet that the tower exceeds the underlying zoning codes height requirement. So let me explain, the base setback is 500 feet, the underlying height requirement is 35 feet. The proposed facility is 145 feet. So, because of the additional height from 35 feet to 145 feet, the every 10 feet we have to add 100 foot of setback. So, the setback requirement for a 145 foot tower from any dwelling unit is 1600 feet and we have to the closest caretaker's cottage 197 feet. So, we're seeking the variance for that difference. In addition, as I read before on the Section 110-27.1 E 3, the maximum height unless otherwise determined by the Planning Board is 80 feet. So, we would need a height variance from 80 feet to 145 feet. Now the standard for this facility is different than your customary New York State, Village or Town law zoning

variance standard, because Verizon Wireless is considered a public utility for zoning purposes by the case law of the state of New York, a different variance standard applies and I did again detail this in my memorandum. The case is from the New York State Court of Appeals, the highest court in New York state. It's L1V Rosenberg and what the court held was that the test for a variance for a public utility only requires the utility to show that the application is necessary to quote render safe and adequate service and that there are compelling reasons economic or otherwise for the facility at the property.

Chairman Boxer stated can you do me a favor when you refer to your memorandum? Can you tell us which page you're on so I can follow?

Mr. Gaudioso stated yes. So, if you are on the memorandum on page two, point number three, that's the public utility status. And those of the cases that stand for the proposition of the variance standard in New York State for a public utility. We also cited in that section the requirements of the Federal Telecommunications Act of 1996, and there are four basic requirements. Municipality may not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services, that's on page three. Decisions must be made within a reasonable period of time. Any decision shall be in writing and supported by substantial evidence. And decisions shall not be based on the environmental effects of radio frequency emissions to the extent that the facility complies with the Federal Communications Commission regulations regarding such emissions. The section regarding our interpretation goes on pages four and five and onto page six. With respect to the applicability of the standards for the height and the setback variance, we have that set forth in the memorandum starting on page 25 under .7. And again, that goes through the various cases and also the criteria that we proposed supports the issuance of two variances. I'd like to discuss some of the documents that we've submitted in support of our application if I may, Mr. Chairman?

Chairman Boxer stated sure.

Mr. Gaudioso stated on November 4th we did file the Zoning Board application form and we submitted the memorandum in support of the application in the appeal which I was just referring to. We submitted the deed for the property. We also submitted a long environmental assessment form with a visual EAF Addendum. Again, as I mentioned, the Planning Board has declared itself with the agency for a coordinated SEQRA review in this matter. We submitted an FCC compliance report. That report shows on the worst case conditions that the facility would comply with the FCC regulations regarding radio frequency exposure. We submitted a report from V-COMM Engineering, we have Mr. Mike Webster with us this evening, which details the need for the facility and that was dated August 17, 2020. We submitted an alternative site analysis from Mr. Klaus Wimmer of Homeland Towers. He's also with us this evening. And that was dated August 14, 2020. We submitted the Visual Resource Assessment prepared by Saratoga Associates, Mr. Matt Allen is here on behalf of Saratoga today. And that assessment included view shed maps to show where the facility would likely be visible on where would likely not be visible from, as well as a sight line showing the limited visibility of the facility particularly from the Chase Residential Development. Since the Visual Resource Assessment date July 29, 2020, we have conducted a balloon test, a publicly noticed balloon test based on methodology, the Planning Board approved off. And we expect to submit visual renderings based on app balloon test and the direction given by the Planning Board and its staff, with respect to how the facility will actually look. So, what we did is we were given direction. We predetermined locations to take photographs from where we took additional photographs during the day of the balloon test, just in case you're unaware. Balloon test is where we float a balloon at the location of the proposed facility. In this case, we actually floated two balloons. We floated into the height of the facility and 25 feet lower, and then we went to around the area. We took an extensive number of photographs. With those photographs, we'll perform visual rendering using computer animation be able to show exactly what the proposed facility will look like, as well as alternative designs for facility. We also submitted a Supplemental Visual Resource Assessment, dated September 28th, that was based on some feedback we received from the planning board. We submitted concurrence in the New York State Historic Preservation Office confirming that there are no historic properties in the area of potential effects. We submitted a determination from the FAA confirming there would be no hazard to air navigation from the facility, and confirming that the facility would not be lit and or marked for FAA purposes. We submitted a Supplemental Radio Frequency report from V-COMM. In this report, we responded to the technical comments of the Planning Board's consultant Mr. Mike Musso. We submitted actual drop call data. We submitted an exhaustive alternative site analysis to supplement Mr. Wimmer's alternative site analysis establishing that various existing buildings and structures were not feasible. And we also submitted an analysis to establish the necessary height for the proposed facility. We also submitted another set of materials from Mr. Wimmer of Homeland Towers dated in November 2nd, confirming again the non-feasibility of various alternatives in and around the Village. We submitted a letter from Homeland Towers committing to allowing co-location at this facility. So both the tower and the equipment compound that the base would be able to support future co-location of additional carriers, in order to avoid the proliferation of additional towers in the area. We submitted the memorandum of lease showing that Homeland Towers does have a least with property owner. We submitted a letter from our engineer, APT Engineering, we have

Mr. Robert Burns with us this evening to answer any questions regarding his letters or the plans, and that letter was to respond to various comments of the Village Planning Board staff. We submitted a letter from APT Engineering again detailing compliance with the Villages' steep slope permit requirements. We submitted another letter dated October 29th from APT Engineering, confirming that the facility would comply with the Village's noise level requirements. We'll went into great detail in all the proposed equipment and how the facility would on the worst case conditions comply with the Village's Noise Ordinance. We submitted a letter from APT Engineering dated September 16, 2020 certifying that the facility would be built such that in the unlikely event or collapse, it would collapse entirely within the property. We submitted additional documentation both from APT Engineering and Tectonic Engineering confirming that there would be absolutely no dangers related to fire, related to ice or debris fall from the facility. We submitted another report from Saratoga Associates, detailing the scope of methodology for the balloon test that I mentioned earlier. And again, we also did submit a full set of plans which I'll have Mr. Burns provide to you in a moment for review. On December 1st, we did supplement our filing with a property evaluation report from Lane Appraisals. This report concluded that the proposed facility would not result in the diminution and property values, or reduce the marketability of properties in the area. This report was based on 16 studies throughout Rockland, Orange, Putnam and Westchester Counties over the past six years, and all the data that is in that report. We submitted a supplemental report again from V-COMM Engineering, responding to various public comments. And we submitted an affidavit from Homeland Towers President, Mr. Manuel Vicente. He's also here this evening confirming, that the only location on the property that the property owner will allow is the location as proposed in this application. And then finally on December 7th, we supplemented the application with a setback analysis report from Mr. Wimmer, what this report includes a number of maps. One map shows the setback of 500 feet for an 80 foot tower and it shows that there is essentially no location that would meet that setback within the Village based even on an 80 foot tower. And we also did a second map in Mr. Wimmer's report, showing that with the 1600 foot setback, there's clearly no location that would meet that setback either. So to apply that setback, we believe would result in a prohibition service. And finally we submitted a letter from the Village Manager dated December 2nd, 2020 confirming that the Village has quote no interest by the Village Board to list a portion of either of the two previously discussed Village owned properties including Leonard Park to the installation of a wireless facility. The other property, the Village Board denied leasing was the water tank within the Chase neighborhood. Mr. Chairman, if you would like I would have Mr. Burns share his screen to be able to walk you through the site plan if you believe that would be helpful or we'd be happy to answer any questions that the board of the public may have.

Chairman Boxer stated I wouldn't mind seeing the site plan.

Mr. Gaudioso stated great, Bob, if you could share your screen and provide the Board with an overview?

Mr. Burns stated sure. For the record my name is Robert Burns. I'm a civil engineer with APT Engineering and I'm going to apologize in advance because sometimes I struggle sharing my screen on this stuff so, let's try this. And we want that, share. Can we see that?

Mr. Gaudioso stated yes.

Mr. Burns stated alright, excellent. All right. Once again my name is Robert Burns, I'm a civil engineer with APT Engineering. The site in question as Rob had mentioned is 180 South Bedford Road, which is a 25 acre parcel on the south side of South Bedford Road. The installation itself will be located in the interior of the parcel towards the northwest corner closer to South Bedford Road, vehicle access to the proposed facility will be along an existing variable width access driveway, which will come off South Bedford Road winds around and eventually will come off with about 100 foot long proposed gravel access drive, that is 12 foot wide. The compound itself will be 41 feet by 62 feet. It'll be gravel surface, it'll have a 6 foot high chain link fence around it, and a 12 foot wide access gate on the south side of the compound. The proposed compound has been sized for four carriers, Verizon being the anchor or the initial and three future carriers, plus an area for possible future municipal equipment if they desire to put equipment on the tower. Outside of the fenced in an area will be what we call utility lay down area, and it will be a utility backboard where the meters. Electric meters will be housed as well as they step down transformer and a telephone cabinet. Inside the fence in the northwest corner of the compound is Verizon's ground equipment. It is equipment pads on a 10 foot by 12 foot concrete pad with a diesel fired, a very small diesel fire generator on top. The pad will also have a steel canopy over the equipment cabinet, it's not over the whole pad but over this area, which will have the two radio cabinets for Verizon's equipment. The center compound is as Robert mentioned is a 140 foot high modifying with the top of the branches at 145. Verizon's plan is to initially installed eight panel antennas and 12 Remote Radio Head's and three MDBs. So essentially they're going to put up eight antennas and some impertinences at the 137 mark. The tower also be designed for three future carriers at 10 foot increments below Verizon's installation. In addition, as part of the installation a landscaped area along the existing driveway will be planted with, I believe they're 6 foot high Arborvitae or evergreen trees at that location. And that is essentially the plans and I'll be happy to answer any questions from the Board.

Mr. Gaudioso stated thank you, Bob.

Chairman Boxer stated how many trees have to be removed?

Mr. Burns stated in this scenario, there's 38 trees being removed, we're also in the process of doing some small revisions due to the Fire Department comments. And that may increase by anywhere from 8 to 10 additional trees.

Mr. Gaudioso stated Bob, did you say 38 or 33?

Mr. Burns stated 38, 38, the four inch caliber and greater trees need to be removed.

Mr. Weise stated can you comment on the height of the tower? It sounds like it is much larger than many towers?

Mr. Gaudioso stated well, it's not much larger than many towers, actually. It's right in line with, you know many telecommunications towers particularly for cellular service. Other towers typically for AM or FM radio could be hundreds of feet tall, typically personal communications service towers which is what this is intended for, is below 200 feet, this at 145 feet as well in line with that. Actually, the tower itself is only 140 feet, we've proposed 5 foot of branching on top just for an aesthetic topper on top of the tower to give it a bit more dimension on the top of the tower. But that's unnecessary, we could eliminate those 5 foot of branches to lower the height. When we have the visual renderings, I think you'll be able to see that a little bit more clearly. The height was detailed in the first supplemental V-COMM report, detailing the reasons why the height was necessary, given the local topography, the surrounding tree line and the location of their surrounding sites and the coverage from those sites that need to be able to provide the service within the area.

Mr. Weise stated in the existing tree line, I missed that part. How high is the existing tree line?

Mr. Gaudioso stated well the tree line varies in this area but we estimate typically given some of the evergreens in the area, 70 or 80 feet. What we did with the view shed map, we actually did a much more conservative tree line much lower than that. And with that I'd like to ask maybe Mr. Allen to share his screen, he can show you the view shed map and some of the preliminary work that was done with respect to the visual analysis. Bob, can you stop sharing your screen and Matt, can you give it an overview off what you did with respect to the view shed map, the methodology that you perform for the balloon test, and the methodology moving forward based on the Planning Board's direction?

Ms. Broth stated can I ask a quick question before he starts. I just curious if he knew, how many gallons of diesel they're going to be stored on the property for that generator?

Mr. Gaudioso stated Bob, do you know the number of gallons?

Mr. Burns stated I don't offhand, I'm trying to do it from memory. I wanted to say, it's somewhere in the neighborhood of one between 150 and 200 gallons, depending on how much backup that Verizon is going to require. It'll be in a double walled diesel tank, so that you know if anything happens that it is fully safety alarmed and situated but right now Verizon is still weighing what exact generator they wanted to put in there. So the diesel will probably be in that neighborhood.

Chairman Boxer stated before you go away, I have a question.

Mr. Burns stated sure.

Chairman Boxer stated the, you mentioned that there is going to be a notch that is intended to have it directed, to create the direction if there should be a collapsed. Has there been any actual test on that or do you have any proof it actually happening?

Mr. Burns stated so the tower is designed with what they call a yield point. And the towers designed in accordance with the requirements of TIA222-H, which is what is the Federal requirement for structural design on a tower. When a yield point is determined to be placed on a tower, the tower still designed to that strength. But what they do is they actually over designed the tower below it, so that when the tower, if a catastrophic event happens, the tower will more than likely buckle it's tubular steel, so that doesn't really snap but it will buckle on itself, and stay within the property line. So the tower itself is designed per the regulations that are required. But when they put in a hinge point, they over design it at in the area in the hinge point or the area below the hinge point I should say.

Chairman Boxer stated again...

Mr. Spector stated what is the elevation of the base of the tower, the proposed tower?

Mr. Burns stated the elevation of the base, you mean the actual grade?

Mr. Spector stated the actual elevation above sea level or is that a, I was looking through the, I couldn't find it in the plans, maybe I just wasn't reading it correctly.

Mr. Burns stated the existing grade is about 420, and the proposed grade will be about 425. We're having to fill the compound. So the new grade there will be 425.

Mr. Gaudioso stated and we actually accounted for a balloon test. But I see we have Mr. Allen on mapping -- are you able to share your screen?

Mr. Allen stated yes, I apologize. I set an operator error on muting. Let me share my screen.

Chairman Boxer stated can you please identify yourself?

Mr. Allen stated yes, sorry, I'm Matt Allen with Saratoga Associates. I'm a landscape architect and visual analyst.

Chairman Boxer stated okay, your screen disappeared again.

Mr. Allen stated yeah, I'm trying to share my screen. If you can bear with me, I'm trying. Can you see my screen now?

Chairman Boxer stated no.

Mr. Allen stated okay.

Mr. Gaudioso stated Mr. Chairman, while we're waiting for Matt, if you'd like I could ask Mr. Webster to go through some of the details of his report?

Mr. Allen stated if you could bear with me, I'm going to log in through a different method. If when somebody sees me pop up if they could admit me via Zoom that would be easier. I'm logging in through my PC now.

Mr. Hoyt stated before we go, before we move forward, I thought we just go back to that report again. I thought-- I'm looking forward now but I can't find it of course. I thought the materials described a small diesel generator as what was proposed. I know that was the question that came up. I thought it said, it was restored roughly 35 gallons that could be wrong. But for me what your reply was it sounded like Verizon hasn't made a decision. Are you saying that what's in the report if I'm right, I can't find it. Are any of these items here still being worked on and not final or I thought I had read that there was a diesel generator. It sounds like there is.

Mr. Burns stated the size of the generator won't change. They are, they change depending on which manufacturer has the availability. So they'll be putting in a 15 KW generator here. And you're right, I misunderstood. The diesel tank is actually only 54 gallons, I was thinking of a bigger generator, they're putting the small generator in here, whether they go with the Ascot generator, that's on here or a Polar powered or Kohler or Generac, that's still kind of up in the air, but it will be 15 KW diesel generator.

Mr. Allen stated this is Matt Allen again, I'm going with another portal I am going to try to share my screen one more time. Okay, it looks like you've got me now and I'm sorry Rob, do you wanted to talk about the view shed map?

Mr. Gaudioso stated yeah, so if you can start out with an overview of the first step you took preparing the view shed maps, how you accounted for the cumulative impacts on the proposed, but speculative solar farm. How the viewpoints were located, how the view shed maps created and walk the Board through that methodology please.

Mr. Allen stated sure, I'll try not to put in too much detail, but just the basics. The first step that we took in evaluating the visual impact of the project was, to create what's called a view shed map which really just identifies the geographic area within which you would expect to have visibility of the top of the tower. So the map you're looking at is the, what we call, a land cover view shed map, which includes the screening effect of existing buildings topography and vegetation. Because there is a separate project on this site, the

proposed solar project a little bit to the south of the proposed mono pine, we included the tree clearing that would result from that project, just to show the worst case if both projects were built in the same timeframe. So what you're looking at with the view shed map the areas in blue, largely in this area and Leonard Park and area in the office park, a little bit to the east of Leonard Park and along portions of Route 172, show a high likelihood of visibility largely because of the open spaces and axial of views in the direction of the project. Because of the topography and vegetation, we did not find visibility, in the Marsh Sanctuary or in the Mount Kisco Chase Residential neighborhood. To confirm visibility, the view shed map was the first step in the visual assessment to confirm visibility as Mr. Gaudioso has mentioned, we did a balloon visibility study and in advance of that study, we provided a methodology to conduct that study working with the Village Planning Board consultant. Mr. Musso, who approved the methodology and part of that methodology was to pre identify locations, that we would visit two photograph and observe whether the balloon was visible or not. Based on the view shed analysis and that was signed off on by the Planning Board through their consultant Mr. Musso. So on November 21st, Saturday, November 21st, we raised a balloon at the project site in the tower center location to an elevation of 145 feet above grade, plus the elevation there'll be some earth work in the area to accommodate for grade, so the top of the balloon was raised to the actual top elevation of the proposed monocle, it did account for the future grading. At that point, we visited each of the locations that were pre-approved and photographed whether the balloon was visible or not, whether it was visible above trees, through trees we did obviously in November take the photographs and leaf off condition, so it was the worst case visibility condition. We will be preparing a visual assessment report that summarizes all photos, photographs that were taken, the methodology that was used and we will be providing photo simulations of what the tower would look like from key locations that have already been recommended by the Village consultant to Michael Musso.

Mr. Gaudioso stated Matt, can you please explain the topography, the way it slopes from the proposed solar farm, down to 172 and how that impacts, whether the facility would be visible from the Chase subdivision to the south.

Mr. Allen stated yes, you can see from, I'm sorry about that, if you can see the contours on this map in this location, is the high point of the site which is a fairly sizable hill. It's almost 100 foot rise from the tower location to the crest of the hill and there's somewhat of a ridge in this area. That hill, with the vegetation on top of it even accounting for the vegetation to be removed within the proposed solar farm area, is more than adequate to screen, to completely block visibility of the tower from all locations to the south. So as I mentioned, we visited the Marsh Sanctuary during the balloon test and found no visibility at all, we also drove all of the roads within the Chase residential neighborhood and similarly found no visibility of the balloon at all. We did do as one of our earlier test, we create, we prepared some line of sight profiles, just to determine before we ever did the view shed map or the balloon test. The line of sight profiles told us that we did not expect to find any visibility in those areas, so that this was an earlier study that has been enhanced with more data during the balloon test and will be put in laymen's terms with photo simulations going forward.

Mr. Gaudioso stated thank you, Matt. Chairman, any questions from the Board on materials presented, those materials are all in your package.

Chairman Boxer stated any comment? Okay, I think it should be clearer when we get pictures.

Mr. Gaudioso stated the pictures will definitely speak for themselves. Mr. Chairman, I'd like to ask Mr. Mike Webster, who is the radio frequency engineer for this project, to have him to walk through some of his findings again. All of his reports were in your package, Mr. Allen could stop sharing a screen and allow Mr. Webster to share his screen. What he'll show you are the propagation maps that he prepared, showing the existing coverage and the proposed coverage. He'll talk about the call data that was submitted, how the surrounding sites are already over capacity they'll also talk about the need for the proposed height and analysis of some of the surrounding alternative sites, Mike?

Mr. Webster stated good evening, I'm Michael Webster I work for V-COMM Telecommunications Engineering, we prepared two reports that were submitted to the township, I only bring up all the maps that I will be sharing are in the supplemental report, submitted on October 28, 2020. This first exhibit is a radio frequency propagation plot showing the wireless service area for Verizon's existing on air sites and two planned Verizon Wireless sites at 700 megahertz. It does not include coverage for our proposed site Mount Kisco four. The green highlighted area represents reliable service and coverage for Verizon wireless customers. This includes service on street, in vehicle, and in buildings for Verizon's voice and broadband data services. It represents NEG 95 DBM RSRP for rural and suburban areas. RSRP is a signal level that RF Engineers use to determine the received power that user equipment needs for 4G services. This signal level provides a 10 DD buffer, for in building and in vehicle coverage, Neg 105 DBM RSRP is the limit at which user equipment is designed for reliable service, levels below that as it approaches Neg 115 DBM, a bit error rate rises and calls start to breakdown and data sessions will not complete. The map shows that from current sites, we have a gap in coverage along 172, from Stratford Drive all the way over to

approximately Old Wagon Road. It has portions of the development along Stratford Drive and Carlton Drive and north along West Patent Road up towards John Cross Road. The next map on page 15 of the report shows the same coverage of 700 megahertz with the addition of our proposed site as you can see the areas filled in with the green coverage area that on Route 170 down in Stratford Road and Carlton Drive and also north along West Patent Road and across most of John Cross Road. On page 15, we show the coverage from the same existing sites without our proposed site but at 2100 megahertz which is another operating frequency for Verizon Wireless. It shows a larger coverage gap from Main Street along Route 170 over to approximately Old Wagon Road and Darlington Road. The same coverage graph headings south along Stratford Drive and Carlton Drive and the coverage graph of North along Patent Road and John Cross Road.

Mr. Gaudioso stated Mike, I think you mentioned Route 170, I think you meant 172 is that correct?

Mr. Webster stated that is correct, I apologize, Route 172.

Mr. Hoyt stated Mike, do you mind if I interrupt, do you mind explaining the difference between 700 and 2100?

Mr. Webster stated yes, it is just the frequency at which the device operating, so carriers are licensed on several different bands by the FCC, Verizon Wireless has frequencies license to them in four frequency bands in this area of New York. For prediction purposes two of the bands are considered low band and that would be 700 and 850 and two bands they consider higher bands are 1900 and 2100. The low bands and the high bands both have similar propagation characteristics, so when you're doing your propagation studies, it's usually sufficient to just look at one of the two bands in each low and high band to determine what your engineering needs are.

Mr. Hoyt stated so, it's ideal to have one of each?

Mr. Webster stated yes, Verizon, were only showing the propagation plots for these two bands. Verizon's equipment will cover all four of these bands but their propagation for their too high bands will be similar to this current plot that is on the screen and the lower bands will be the page back two pages prior that on page 14.

Mr. Hoyt stated just to sort of delink on this point, but if I'm using my Verizon cell phone, am I going to be in one particular band and maybe some police service is going to be in a separate band or what's the distinction?

Mr. Webster stated the network will determine what users are on what frequency band. All your devices will usually work on any of the bands that Verizon's is licensed on, so that the network itself will select the best band for your device at that time.

Mr. Hoyt stated okay.

Mr. Gaudioso stated and just to tap into that, you asked about emergency services? No, they're licensed on different bands, so they're not on the same bands. An emergency call made on Verizon, system will be made on Verizon system and we did propose to design the facility to be able to handle free of charge, if the Village's emergency services wanted to co-locate on the facility, we would provide free space on the facility for their equipment. Michael, you can continue please.

Mr. Webster stated alright, this final map is the same 2100 megahertz, coverage this time with the proposed site coverage added to the map and it shows the green coverage area fills in from Main Street along Route 172, all the way over to Darlington Road the coverage gap is partially filled in along Stratford Drive and Carlton Drive. And the coverage gap is filled in north along Patent Road and John Cross Road, the other, sorry I got my page right, yes, the other purpose of this site is to offload capacity from the existing Mount Kisco site, located at 304 Lexington Avenue, the chart here shows the forward data volume for the alpha sector of that site, which covers downtown Village of Mount Kisco. The red line on the chart is the design RF capacity for that sector, the blue chart blue line shows the measured forward data volume, that is actually being used and the orange line shows the general trend going forward, that the site would expected to continue growing in traffic. The proposed site will have a coverage overlap in the Village downtown area to offload capacity from the existing Mount Kisco site.

Mr. Gaudioso stated and that's the Oakwood Cemetery site?

Mr. Webster stated yes.

Mr. Hoyt stated is there a way to make that Oakwood Cemetery site stronger?

Mr. Webster stated no RF capacity is a limitation of licensed band width. So without being licensed more spectrum from the FCC, they cannot increase their capacity at that site. And the last item that I wanted to go over was, the need for the height of the site, we did two other maps Page 17, map 11, we took the proposed site lowered the height of our proposed antennas to 122 foot center line. That would be 125 foot top of our antenna and did the same coverage analysis, the only coverage shown on this map is, just from the proposed site, we do not have any of the other neighboring sites adding to this map. It does show that it still covers into the Village, but does not cover as far over along Route 172 that we would need to provide coverage. And then we also went down to 80 foot, which is the maximum height in the ordinance so our antenna center line would be 77 feet and you could see that the coverage zone for that reduces even more. And our coverage along Route 172 to the east of the site, does not really improve at all. That is why our site was required to be 140 foot in height.

Mr. Hoyt stated do you have, maybe that's the map 11 or map 12 showing, it seems that the coverage areas outside of Mount Kisco towards the highway on 172, maybe I'm looking the maps are deceiving but it seems like there's a lot of coverage gaps, throughout the area outside of Mount Kisco, maybe I'm wrong about that but if I'm correct...

Mr. Gaudioso stated it's really three issues, one is obviously 172 in the Village and outside of the Village, is extremely important both in the Village and outside of the Village. So for example, on South Bedford Road, 7,311 vehicle trips a week along South Bedford Road and those were essentially going from 684 into the Village, particularly the hospital. So it's a critical corner in the region both within the Village and outside the Village. Secondly, if you look to the south which is also the odd shape of the Village area there are still gaps in the southern part of the Village particularly in residential areas where there's high usage. Third, as Michael shows the site that is covering the downtown Village, the Oakwood Cemetery is already over capacity, which means they will be unable to [inaudible] usage within the Village. So, the way you remedy that situation to add additional, an additional site, so by providing additional coverage. You asked a very interesting question Mr. Hoyt, the way you phrased, you said, can we increase if you get the exact term, but increase the range of the Oakwood Cemetery. Those weren't the exact words, but that's kind of what I heard in fact, that would make things worse. So if you made Oakwood Cemetery cover a greater area, it would cover more users and its capacity deficiency would be further exasperated. So what we're trying to do is actually shrink the area of coverage from Oakwood Cemetery by providing another site at this location, so that way Oakwood Cemetery is no longer over capacity and unable to support the users in the downtown.. And finally, [inaudible] is that wireless facilities are national, wireless networks are national, wireless service doesn't see municipal boundary lines. But again this facility will provide significant coverage throughout the Village of Mount Kisco that's necessary for both coverage and [inaudible].

Chairman Boxer stated anybody else having problems with Mr. Gaudioso's audio?

Mr. Hoyt stated yeah, the audio has degraded.

Chairman Boxer stated yeah, there was a lot of static on there, you still came through but it was hard to listen to.

Mr. Gaudioso stated I get told that all the time.

Mr. Hoyt stated I just was reacting to one of the maps, map 7. While I understand map 7 or the proposed site would increase existing coverage in Mount Kisco. I couldn't help but notice that most of the coverage would be outside of Mount Kisco, at least most of the areas not shaded green would be outside the boundaries.

Mr. Gaudioso stated I hope you can hear me, one of the things that I think Mike was explaining earlier the 700 frequency band, the lower band covers further than 2100 frequency band. So, 700 gives you "best case coverage", the 2100 actually has more bandwidth license from the FCC, so that provides more capacity. So, you have to look at Map 7 and Mike, if you can put up the map showing the 2100 existing coverage.

Mr. Webster stated yes.

Mr. Gaudioso stated and you have to look at both frequency ranges together to understand the need for capacity and coverage. So when you look at 2100, which has greater capacity, greater [inaudible] because it's a wider band that's license, you can see there is much greater areas of need particularly within the Village.

Mr. Hoyt stated you may need turn or mic on and off, I think there's something wrong with your signal because it's very garbled, unless I'm garble too.

Chairman Boxer stated no, you're good.

Mr. Gaudioso stated I'll sign out and sign back in.

Chairman Boxer stated okay.

Mr. Weise stated can go back to the slide that shows the proposed 2100 megahertz coverage area? It makes a big difference.

Mr. Hoyt stated you also had, while we're waiting you had some slides I think it showed some alternative locations, maybe currently not feasible. And the coverage from there is that right, do you mind as long as we're waiting and have some dead time, would mind pulling those up.

Mr. Webster stated yeah.

Mr. Hoyt stated including one from the hospital, I don't recall whether that was 700 and 2100.

Mr. Gaudioso stated I'm back, Mr. Chairman I hope that sounds better.

Chairman Boxer stated much better.

Mr. Gaudioso stated thank you.

Mr. Webster stated Robert just you're filled in, the Board has asked to see the alternative site at the hospital and the coverage that we included in our report for that one.

Mr. Gaudioso stated yes, and if you could explain to the Board, the concern about being too close to Oakwood Cemetery and the concern about the coverage from that site, that would be, I think that would be very helpful.

Mr. Webster stated so on the screen right now is our coverage analysis at 700 megahertz for a cellular installation on the rooftop of the hospital, the coverage from the hospital along Route 172 does not fill in the total gap area that we were looking to address with our proposed site. It is also relatively close to the existing Mount Kisco site at 304 Lexington Avenue. I believe that this distance between these two sites is about 0.6 or 0.7 miles, with the sites being so close to each other, the coverage overlap between these two sites would be significant and would not actually provide any of the capacity relief that, we would be looking to get in this area from the existing Mount Kisco site. So from that standpoint we ruled out the hospital from an RF perspective, as it did not fill the coverage gap or provide the necessary capacity for me.

Mr. Gaudioso stated Mike, could you just go over the Darlington Castle, I think that was the other alternative you had brought up.

Mr. Webster stated yes, so here is the coverage from Darlington Castle, this one the coverage is intermittent along Route 172, and it's intermittent in the downtown area and at 2100 as well, it does not provide coverage into the downtown Mount Kisco area. So from that perspective it did not meet the needs to be able to offload capacity traffic from the existing Mount Kisco site, it was pulled out from an RF perspective.

Mr. Hoyt stated it might be a teeny, it looks like you are not showing the coverage from the other sites, am I wrong?

Mr. Webster stated no we're not.

Mr. Hoyt stated it will be uncovered?

Mr. Webster stated we're not showing the coverage from the other sites because we want to show only this site. So, if I go back to site to map nine, so our coverage gap that we wanted to fill for 2100 went from, Main Street area, or the back side of the hospital along Route 172 all the way over to Darlington Road. So this is the area that we wanted to fill in, and back at the Darlington Castle area. With a site at this location our coverage west from Darlington Castle at 21 megahertz would not sufficiently make it into this area of the Village, to provide any coverage or capacity relief from Mount Kisco.

Mr. Gaudioso stated Mike, can you also show the Board where, the existing site is at the red dot which is the intersection of 172 and 684 and the overlap with that sites.

Mr. Webster stated yes, we would have a similar issue that we had with Mount Kisco and the hospital as we do with Darlington Castle and Bedford three. Bedford three is an existing Verizon site at the intersection of 172 and I-684, these sites are about a half mile apart from each other and you would have the same interference issues that you had here that would actually reduce capacity in their network in that area.

Mr. Gaudioso stated thank you, Michael.

Mr. Webster stated you're welcome.

Mr. Gaudioso stated Mr. Chairman, Mr. Wimmer prepared some maps that I think will be helpful for the Board to look at regarding alternative sites and setbacks and things of that nature. If I could ask permission for him to share his screen and go over some of his findings of the work that he's done for this project that would be great.

Chairman Boxer stated okay.

Mr. Gaudioso stated Klaus.

Mr. Wimmer stated yes, good evening Chairman, members of the Board. Klaus Wimmer with Homeland Towers, I'm the regional manager, I managed the project for Homeland Towers. As Mr. Gaudioso indicated, I prepared a setback analysis that shows the required setback in a residential district and this case here, [inaudible] it shows the setback at an 80-foot height. So, what I did here is I selected the closest residences to our proposed site which is, roughly here. And I'm showing a setback, a 950 feet setback as it required under the code and that you can see, there's really no area in here only along Route 172, where a location that meets the code is available. That's at the 84 [inaudible]. And then the another map for a 140 foot tower, 145 foot tower and these band circles and obviously the setback requirement is even larger.

Mr. Gaudioso stated and Klaus is that setback requirement is depending on the underlying height limit in each of those various heights, is that correct?

Mr. Wimmer stated that is correct, so I prepared a table, setback table that shows the underlying height limit for the respective districts, we have the Preservation district, the Conservation district, office and planned residential and multi-family residential. And it shows the underlying height limit and the minimum setback to residents and then, the difference through the difference from to an 80 foot tower and 145 foot tower. So, in the Conservation district, the minimum setback is 1600 feet, as Mr. Gaudioso stated and that those are the red circles that I'm showing here.

Mr. Gaudioso stated and Klaus, did you look at any alternative sites?

Mr. Wimmer stated we did, to give you background here, I've been doing this work much too long, since early 2000, I've worked on since then pretty much looked for a site in this area. We looked at all these properties here, actually to get an ultimate site analysis we looked at the commercial properties contacted and sent proposals to many of these property owners. And really did not get any interest to entertain it at least.

Mr. Gaudioso stated now Klaus, can you looked at the existing towers and did you find that Verizon was located on three of the surrounding existing tower and the only tower that Verizon was not on was the Guard Hill tower but that the property owner I believe, had an issue with that.

Mr. Wimmer stated that is correct, and compared to the ultimate side analysis that I did, I'm showing up here that shows the existing locations where Verizon is located already. Here we have 304 Lexington Avenue site that the Verizon is already, two is the existing set of One Mountain Road, number three is 1.4 miles to the east. Over here, that's excited 172 and 684 and there is an existing Tower on Guard Hill, that we were looking to lease, but there was not leasable.

Mr. Gaudioso stated Klaus, the Mountain Avenue site that is zoning approved and Verizon's proposing to go there and Michael's maps is radio frequency map showed the coverage that they'll obtain at that site, is that correct?

Mr. Wimmer stated that is correct. And as I mentioned before here, this is a location map of all the properties we contacted with proposals. And as you can see just referring to the numbers here, you know to all the addresses and property owners we sent proposals. We contacted 14 properties, two of which are Village properties, here this is Leonard Park, this is the water tank on the Chase development on Rolling Ridge Road.

Mr. Hoyt stated those two sites there, they seem awfully far away from 172. If a tower [inaudible] provided coverage on 172?

Mr. Wimmer stated I have to add that this spans a period of two to three years. So we started out here and really worked [inaudible].

Mr. Hoyt stated but would those sites have any impact on 172?

Mr. Gaudioso stated they weren't as ideal as the proposed site. The proposed site is ideal because its close to the 172, it's in that valley so to speak with 172. When Homeland Towers first approached the Village as Homeland Towers always do, they look to partner with the Village or the municipality, as they have in many, many other locations and try to use municipal property because that is typically preferred. And in fact under the Village code, as we could see the Mountain Avenue site was preferred and expedited. Despite a very rigorous review by the Village Board of both Leonard Park and the Rolling Ridge water tank location, Homeland Towers did a title analysis, site plan analysis, visual analysis, appraisal analysis and ultimately the Village Board last year determined it was unwilling to move forward with those locations. Nevertheless, as recently as the last couple of months, Homeland Towers went back to the Village and asked again if the Village was interested in changing its mind and is confirmed with Mr. Brancati's letter that we did submit, that the Village is not interested. So after the Village properties were exhausted, Homeland Towers did look a more preferred locations from a coverage standpoint and the proposed location is idea because it works from a coverage standpoint, it's on a 25 acre property and when we submit the visibility is limited to just the immediate area and not from the residential area, that you could see on this map that's quite significant of the south, unlike the Rolling Ridge site and unlike the Leonard Park site. And also the location is ideal because we were able to site it on a 25 acre property and we were able to obtain a lease agreement.

Ms. Broth stated tell me how long ago you approached the office park?

Mr. Gaudioso stated Mr. Chairman, we don't have any other presentations that we'd like to make it this time again, all of these documents, everything we said is in writing, and it's in the package. As I said, we will supplement with the visual renderings now that we've completed the publicly noticed balloon test, we should have that shortly. We will submit a copy of the Building Inspector's determination for the record, I wasn't aware you didn't have that and I apologize for that. But at this point, we'd be happy to answer any questions the Board or the public has, I know this is a public hearing and at the end of the evening, we would ask for an adjournment because again we do have the coordinated SEQRA process that has to play itself out, thank you.

Mr. Hoyt stated I'm wondering if, can someone speak to technology, just you know, in five years, is this tower going to be a dinosaur? Is there technology out there that's going to change the need, et cetera for towers like this or is that a long ways off?

Mr. Gaudioso stated you know, I've been going this twenty five years, 25 years ago we heard the same questions. The facility that's for quite expectation that 4G service, there is not expectations that 4G service any time soon will be twilighted. It is the backbone of wireless carriers networks, it used LTE which is long term evolution technology, that's used by all the major carriers. The question of 5 G oftentimes comes up, this site is being proposed and designed specifically for 4G which is what all of our mobile devices now currently are operating on. Even with 5G in the future carriers, all of the carriers are now are rolling out their 5G technology, including simply upgrading their equipment on all of their existing sites. So this tower will be here for the long term foreseeable future. If the tower did ever become obsolete for some reason, we would not oppose a condition of approval that would require it to be removed. The code does not require that but we would be willing to accept that.

Ms. Broth stated I don't know, if you've heard my question before I was just wondering how long ago you had spoken with the office park?

Mr. Gaudioso stated I'm having a little trouble hearing the question, I think the question was how long ago did we speak with the office park is that correct?

Ms. Broth stated that's correct.

Mr. Gaudioso stated Klaus, I know that's detailed in your report and when you say the office park, do you mean the mount, the Care Mount facility?

Whitney Singleton stated there's two Care Mount facilities, the one of Bedford or the one in Mount Kisco?

Ms. Broth stated the one that Mr. Wilmer said, that he had contacted and was not able to come to terms with.

Mr. Wimmer stated there was no interest on part of the owner to lease space to us, that it is correct. And that was and I'm talking off memory and they're quite a view of properties that we tried to get interest from. But I think this was in 2019, I'd have to double check my records. I think it was about a year ago, we recently reached out to property located in Bedford that previously had responded to our proposal and we did not receive a response back I think it was, was it 90 South Bedford Road.

Mr. Gaudioso stated it was 91 and 110 South Bedford Road and there was a proposal sent by telephone, by mail on April 2019. 100 South Bedford Road, again was 2019 and that's all details in the August 14, 2020 report from Mr. Wimmer.

Ms. Broth stated I'm just asking because the world in commercial real estate has been turned on its ear over the last year and they're going to be looking for all kinds of new ways to [inaudible]

Mr. Gaudioso stated yeah I think we can certainly you know, retrace our steps. The fact of the matter is that location is also not within the overlay zone. That location is much closer to the Park and would likely be much more visible to the surrounding residences, but we can certainly look at that again.

Mr. Wimmer stated can you repeat the address that is attached to this property?

Ms. Broth stated also put up the address, I'm not sure what it was.

Mr. Gaudioso stated I believe its 90 and 100 is the one within the Village the Care Mount facility. Which if you've ever gone to that facility as I have many times, you know, the wireless service at that location is terrible, almost non-existent, to the point you have to be on a Wi-Fi network.

Mr. Hoyt I always thought they did that intentionally, because my service seems to disappear right as I walk in the door.

Mr. Gaudioso stated yeah, it's pretty tough.

Chairman Boxer stated any other board questions?

Whitney Singleton stated I just want to point out a couple of things, Rob, just for clarification. There are a couple of things that are deficient on the current application. I just wanted to go through those, maybe I'll share my screen. And as the Chairman pointed out, you don't have item A, you don't have the determination that you're appealing from, so the Board can't consider that. I believe that you have all these other items. You also have here one of the mandatory items is a copy of your sign lease. And we've requested that in the past that I'm requesting that again.

Mr. Gaudioso stated yeah, again we believe that's a proprietary document. We did submit an affidavit.

Whitney Singleton stated I'm simply putting it on the records that were requesting it.

Mr. Gaudioso stated okay and I'll put on the record again as I have that. We believe its proprietary documents. We've submitted the memorandum of lease which shows that we do have a lease for the property. We've also submitted a sworn affidavit from Mr. Vicente to confirm the details.

Whitney Singleton stated okay and I'd also like to point out that while it's related to, it's part of your submission to the Zoning Board, but on your application for where you set forth your compliance with the 110-45, you have a non-responsive answer, I think it's on Page 28 of your memo. When I asked about your compliance with the master plan, you say you will comply with all fire codes. That's not responsive to the question about the master plan.

Mr. Gaudioso stated we can certainly take a look at that and supplement.

Whitney Singleton stated okay, those are the only things I have right now.

Mr. Gaudioso stated thank you.

Chairman Boxer stated Peter?

Mr. Miley stated yes?

Chairman Boxer stated do we have people who are, who would like to make comments?

Mr. Miley stated we do Chairman, we have several people who would like to speak on the record. When you're ready, I'll start allowing people in the meeting.

Chairman Boxer stated okay, I think we could go now.

Mr. Miley stated alright, our first person is Rex Pietrobono. You're out there, Rex?

Mr. Pietrobono stated I am.

Mr. Miley stated alright, terrific.

Chairman Boxer stated okay, Rex, we're going to try and we're going to limit everybody to five minutes.

Mr. Pietrobono stated then I have to speak quickly.

Chairman Boxer stated yes.

Mr. Pietrobono stated thank you, Zoning Board members for your valuable time, I appreciate it. My name is Rex Pietrobono, I reside at with my family at 2 Sarles Street, which is adjacent to the 25 acre parcel, and within, I think they said a couple of hundred feet of the proposed location is my house or within 300 feet. Briefly the property in question, I believe is the last undeveloped 25 acre parcel of land in Mount Kisco, full of natural growth trees, rock outcroppings and a plethora of wildlife which we observe all the time roaming about. It is perfect for a large single family home that it has been historically and intended to be used for the property. Really, is a priceless gem about to be smashed into many smaller and less valuable pieces. The applicants are for, the applicants when I say are the applicants is SCS Solar and Homeland Towers are for profit businesses looking to move into a natural habitat which is surrounded by residential neighborhoods. They have retained experts who may or may not have checked all of their boxes but we do have our own eyes to see and our own knowledge to see what is right and what is wrong. The short paragraph in Homeland's memorandum in support of their application illustrates by point under Roman numeral V, subsection 4 B 1, it's on Homeland memo page 8, I'll read it, I mean it's there, you'll find it, it's like the middle of the page. As demonstrated in the application materials submitted here with, including the VRA, the facility has been strategically located and designed, so as to fill the identified significant gap in service. The facility will be in harmony with the appropriate and orderly development of the district and will not be detrimental to the orderly development of adjacent properties. The facility is minimally will be visible and has incorporated a stealth mono pine to further blend the facility into its surroundings and camouflaging views of the facility from the public. So, first they claim there is a significant gap in service and they have all these maps to show you and I can only tell you that since we bought the place in 1996, I travel that road, my family travels 172 corridor daily, I don't know a dozen times a day, I have never dropped a single cellular phone call, I use Verizon, ever in that corridor that they speak of that is so dramatically needed. There are roads around this community that you can drop service, that is not one of them and within a mile of our property on West Patent, is a pole that either up or going up that is dedicated for emergency services so don't let them imply somehow this is altruistic and they're going to be able to put it out there and put these emergency services on the pole because it's not necessary. It's all about for profit, in every walk through that we've done on this property, it's always had two bars. Anyone who – we all raised our hands so their application appears replete with these kinds of distorted form over genuine substance assertions. They claim for example, no steep slopes when a proposed 10 foot by 12 foot concrete pad will be elevated in a ravine, it is literally in a ravine surrounded by even steep slopes than the entire mountain slope. Homeland offers eight 6 foot arborvitaes, which by my math leaves about 139 feet of the 145 foot tower unaccounted for. That is because the monopole is proposed in an area impossible to screen better. There are two or three tall pines. The tallest one is tagged with number 37 by Insite within the last few weeks Insite Engineering on behalf of SCS Solar. So is that marked for, it's within the area disturbance of this driveway that they're planning on expanding and for all of the vehicles that go on. That one tree is basically the only screening that is offered for my property, I had sent the ZBA photographs two weeks or so ago. It's my understanding that they were not forwarded to you otherwise would show you clearly. It is ridiculously obvious from my property, okay? Basically anywhere on the property and I will be sending that to you and I hope that they are forwarded to each of you, because there is no place on my property that I can escape the view or the gaze of this tower. And those trees may or may not be removed by Homeland or SCS, they need coordinate, they need to confirm that those aren't planned to come down because it looks like they are. Their efforts are to maximize their commercial profits which inversely I should say, diminished the value and enjoyment of our property, wildlife preserve, Kisco Chase, and the Route 172 Mount Kisco entrance corridor, if you will. My property is the first house coming into Mount Kisco and the last to leave, so you come in you're going to look up to the left and you are going to see this structure, even at the best of times. And they, like, and Homeland likes to say, oh, well, it's seasonal cover whatever. You're going to see it for what seven months of the year without any coverage and the rest you're going to

see it peeking over everything and out from everything. You're going to see the structure. You will see it from 172 and those trees are not forever, those trees have been dying off regularly. So when those trees go, if they're not taken out by SCS or Homeland, it's going to be completely exposed forever. If you look at their – and if you look at Homeland's memorandum, I'm almost done, on Page 14, subsection, which section is that? Again Roman numeral V, Subsection 4 E 4 on Page 14. Minimum lot size, these are requirements. And their response is the CD district requires a minimum lot size of 25 acres. And the property is at least 25 acres in size, well, that's great, but they only rent 1/10 of one acre of 25 acres. So it's really suspicious and not appropriate for them to rely upon that number. They have like 4000, 3500, 4000 square feet, their lot is relatively the size of a postage stamp, and not up to code that they say they are in compliance with. And in the regional manager for Homeland Tower is August 14th letter, it says that he determined that the proposed location would be best, and yet, constantly Homeland has been claiming that this was – this particular spot is the only spot that's been made available to them by the landlord, so it doesn't, those are inconsistent statements. You know, this isn't a residential neighbor asking to move a tool shed or a fence closer to a boundary line, it will effectively forever decimate the view scape next door of my property and all around. That is the only unaffected views cape we have. We watch sunsets there, I would put pictures up but I take longer than five minutes just to figure out how to do it. I will send you these images, I hope that there again forwarded. You know, and the applicants are asking you for permission to expand and place their industrial projects into the surrounding buffer zone and setbacks. The Board of Trustees from our Village Mount Kisco didn't legislate unfettered discretion to developers. They deliberately, in contemplatively play statutory constraints upon this particular district for mitigating impacts upon neighboring properties, including setbacks such as the required solar 200 foot buffer, and the site like towers minimum 500 foot undisturbed buffer zones which they are well into encroaching into that by their proposals. Homeland revels in its own category of disturbance since they profess to have little or no constraints from our inconsequential local government. And may place their steel towers wherever their dart may fall on a map. Their application is steeped and purported needs, overreach and commercial profit. What about our rights to rely upon those Village code safeguards when purchasing our home in 1996 or even more recently turning down unsolicited offers to sell it back in 2018? What about our right to count upon, our government to protect us from unbridled greed? All leases involved in these applicants, whether they're active where they were proposed or drafted on this parcel should be demanded and review to see if these are self-created hardships or none at all. Perhaps there is an escape clause, I don't know, I haven't seen the lease. And I hope it doesn't sound too corny to say that we need a hero, or heroes to stand up for what is right versus wrong for our environment, the residential neighbors and the community. I respectfully ask that you deny the SCS and Homeland Tower applications requests for variances. Thank you.

Chairman Boxer stated thank you very much.

Mr. Miley stated Chairman, the next speaker is John Rhodes. John, are you there? He may be having...

Mr. Rhodes stated can you hear me now, Peter?

Mr. Miley stated I can hear you.

Mr. Rhodes stated thank you. Mr. Chairman, members of the Board, thank you for your patience with this whole process. I'm sure it could be handled in a more expeditious way. Now that the Planning Board has decided to do an un-segmented review, and is considering a positive declaration of environmental impact on this, I think it might make more sense to just wait on the part of the Planning Board until, you know, until the part of the Zoning Board, until the Planning Board, you know, comes to some sort of conclusion. It's a very complex application actually applications that have, you know, possible extreme impact, negative impact on stormwater, tree canopy, animal habitats, viewscapes, noise, community character, fire hazards, steep slopes and many other factors. And probably save everybody a lot of time if you just wait until, you know, the Planning Board does it. But I know you have, you know, you have to your duty to do and I appreciate you spending all this time on it. Just a couple of notes that have to do with the environmental aspect since I'm speaking on behalf of the Conservation Advisory Council on this matter, the first is the balloon test. You know, contrary to what the applicant's consultant has said, there would be very significant visual impact from the March sanctuary and the Pietrobono home and other locations. Couple of weeks ago, I had the chance to examine the new proposed site for the Homeland Cell Tower and view the balloon test myself and take a lot of pictures. Based on my observations and pictures, the current site will have major visible, a major impact on a number of different nearby locations. One is the historical caretaker's cottage, which is in a part of the Marsh Sanctuary property. So contrary to what the consultant said there was a major visual impact. If you can see the picture behind me, this was a picture that was taken next to the tower, next to the caretaker's cottage which by the way is a historic Mount Kisco landmark, that's been in use for cultural events and for conservation used for well over 100 years. So you can see behind me right about my head there the two balloons that were floated. This was taken with the 50 millimeter lens it fits all qualifications and those were just the balloons. If you could imagine people visiting this historic landmark or going to meetings at March Sanctuary there, would see from 172 when

they were entering this historic area. They would see not just those two balloons but a giant Cell Tower there. So it's kind of disingenuous to say there's no impact for Marsh Sanctuary. There's no impact from the far southern end of Marsh Sanctuary, you know, down where the pond is, but from this side of Marsh Sanctuary, which is one of most historic parts of the preserve, there is clearly an impact. I think it also, I think you'll see when you do get all the pictures both from the consultants and also from the residents, you know, what a major impact is this would have. The, you know, there are a number of environmental, severe environmental impacts that we see as being very likely, you know, from this location. For example, the land that needs to be disturbed for the tower platform and the utility lines which we examined carefully and took lots of pictures of, that just that construction itself in an area that's has not too many trees to prevent erosion, could further increase erosion and sedimentation down to, downhill onto Route 172, and onto the Marsh Sanctuary property. Also and this is something you may not be aware of, but it has been a major concern of the CAC for the past two years. New York State Department Environmental Conservation tells us that 100% or close to 100% of the ash trees including the mature ones on this property that form a good part of the canopy will be dead within three years, victims of the emerald ash borer plague. This basically means all those beautiful old ash trees, you see all through the forest and maybe in some of your properties are basically going to be dead. Now if it's on your own property or in the park or whatever, you know, we can take measures to replant as best we can, you know, to make up for those but in this particular case, the visibility as you've been seeking picture behind me. And by the way it's much worse from Mr. Pietrobono's property, it's maybe three times as visible as this and you'll see that in the picture yourself. So if you remove the ash trees on the slopes which will be done because of the emerald ash borer, they're going to die off. Whatever is visible now will be even more visible and whatever is audible now in terms of the diesel generator, you know, I believe I don't remember exactly how far it is, but from the edge of the driveway which is the edge of Mr. Pietrobono's property to the platform, you know, it's further to his house but it's actually much closer than the 300 feet they're talking about. So the noise, the visibility all that's going to be increased by this very predictable loss of ash trees which makeup somewhere between 13 and 20% of the tree coverage maturity, tree coverage of this area. But, you know, all of these are going to be decided, all these impacts and the required remediation's are going to be determined by the Planning Board in the course of their SEQRA review. And as I said before, I think it's probably premature for the ZBA to take anything but the very bare minimum of action on either application while the Planning Board is you know, going through the exhaustive investigations. The other thing is in terms of setbacks and it really annoys me when, you know, I can see that in some cases, it's necessary to give a variance for a setback. You know, I just said if somebody's just adding onto their porch and it's going to encroach 10 feet. You know, into the setback or somebody is putting a shed and the neighbors don't mind, this has happened recently. But, you know, here we're talking about, I mean even if you leave aside Mr. Miley's memo, saying that a 1400 foot setback variances required, you know, even if it's just a couple of 100 feet below the 500 feet that would normally be required. You know, any variance like that, major variance that would really make a mockery of the Village's setback requirements which some members of this Board, and I know myself and other people have all worked very hard to make sure, and the Village Board to make sure that these setbacks were set at a reasonable level and were set in such a way as to preserve the nature of the, you know, neighborhoods that are involved. So, I think that it's just kind of absurd, you know, and the thing they talk about the alternative sites, you know, the needs I think Rex and other people have talked about, you know, how doubtful all these, you know, the employees of the other company have come up with all these, you know, charts and graphs, you know, basically spun in such a way that indicate that there's a need. But, you know, everybody travels Route 172 knows that there's no gap there. Yes, there is a gap at the medical center but, you know, that has – there's a lot of issues that because there is reception in the parking lot and maybe not in the building, that could have to do with their construction of their shielding. But they also talked about looking at all these alternative sites. But I noticed they kind of skirted over some of them. The one which is that the – I believe it's called the Northern Westchester Professional Park, that's across from the main campus of the medical group. That one, I go there frequently myself and I see that there are two large parking lots on hills behind those buildings that are virtually always empty. And that those parking lots also shielded from Woodcrest by a hill and a tree but they basically have a clear shot down 172 if that's really, you know, what they're interested in. So, when we were doing the balloon test, I had a conversation with Mr. Wimmer, you know, we were kept running into each other in these different points in the balloon test. And to mention that property and he said, yeah, we left a voicemail message for them. And somebody that was listening and said only one message and we have left him a message. If they're interested they'll call us back. I think that when we're dealing with the future character of this neighborhood and the character of the Town's open space that if there is a property that actually at one point I believe, did express some interest. That there's, you know, due diligence requires more than just making, you know, a single phone call or even a couple of phone calls, really acquires a substantial effort because there would be a substantial negative impact on the neighbors on Marsh Sanctuary and on the Conservation District property itself. So anyway, I've got all these points in the letter which I'll send to you but, you know, probably you don't even have to read it until after the Planning Board gets much further along. So, I thank you for your time. Wish you all a very happy holidays and stay safe, stay well. Thank you.

Chairman Boxer stated thank you. Anyone else, Peter?

Mr. Miley stated yeah, Chairman. Next speaker is Mr. Andrew Campanelli. We have a couple more also, Chairman.

Mr. Campanelli stated good evening, can you hear me?

Chairman Boxer stated I'm going to time you to ten minutes.

Mr. Campanelli stated that should be okay, I will be more succinct than the applicant and hopefully a lot more helpful. There was kind of a mish mosh of representations between Federal law and State law and factual conclusions that are unsupported by evidence, I'm going to try to pull them apart, mostly to be helpful to the Board but also to create a record. So when the applicant started, the first thing he started his presentation with was talking about discrimination, he cited a section of the Telecommunications Act that says the Board can't discriminate between applicants and he pointed to a different application from a different applicant. But the Telecommunications Act doesn't say you can't discriminate, what it says is you can't unreasonably discriminate of greater import according to Federal Courts, you must look at each tower application individually and decide it on its own merits and with that regard, you must discriminate, you must decide each application on its own and so if this tower is in any way different from the last one in terms of adverse aesthetic impacts, things like that, not only are you permitted to discriminate, you're actually required to under the Federal Telecommunications Act of 1996. The second thing that the applicant's attorney pointed out is to advise you that any application you make, if you are to deny the application must be based upon substantial evidence. That's correct. But substantial evidence is not what you might think. Under Federal Law, what substantial evidence means is, is more than a scintilla but less than a preponderance. It means you must make your decision based upon sufficient evidence that might support a reasonable mind reaching your conclusion. Now, against that backdrop I'm going to move on to some of the issues that he discussed. The first thing the applicant discussed was Section 110-27.1 H of your code. And in that code, part of the most critical language of the code is left out. It provides that a special permit is not required, if an engineer establishes to the satisfaction of the approving agency all of the following: that the facilities needed to provide coverage to an area of the Village that currently has inadequate coverage and is the minimum height and minimum aesthetic intrusion necessary to provide that coverage. Now, who gets to decide all three of those things? Not the applicant. Based upon this record it's remarkable, but I'll tell you, the applicant doesn't get to tell you anything. They get to proffer evidence. They can bring in all the experts they want and they can say in our professional opinion there's a gap. They don't get to say there's a gap. That is a fact finding determination that you and only you must make. And you must make it based upon the evidence which is they're required to provide. It's their burden. I want to start with the requirement that they prove that the aesthetic intrusion is the minimum necessary, okay, because it's not. I'm going to put it on the record. It's very simple. This is a 25 acre parcel. It is beyond argument that there were alternative locations on this 25 acre parcel where they could put it, which would dramatically adversely reduce the adverse impact. Now, the attorney has twice requested the applicant to provide the lease and it's put down in your procedures that they're required to produce it and they're refusing to do so. It's very interesting. The alleged reason they're not producing it is because they're claiming it's a proprietary document. I respectfully submit that's nonsense and here's why. What wireless carriers and site developers do when they are asked to provide a lease is they simply blackout any proprietary information. What proprietary information would there be? Well, obviously, the length of the lease whether it's five years or 25 and of great import, the amount to be paid to the landlord, they don't want their carrier, their other competitors to know what they pay. That's fine. But what's not proprietary is what the lease provides in terms of where they have the ability to place the tower. There is none even remotely proprietary about that. So my suggestion to the Board is to request of this applicant to blackout any portion of the lease that contains what could arguably be proprietary information. But the description of the property or where they can place it is not proprietary, not under any stretch of the imagination. Once again, under Federal law, you and you alone get to determine what evidence you can ask the applicant to produce to enable you to ascertain and make the facts finding determinations you must make. And there were two types. You must make local zoning determinations. For example, under H 1, you have to ascertain if the aesthetic intrusion proposed by this applicant with their proposed tower is the least possible intrusive location possible. Without the lease, you can't make that factual determination. At the same time you also must make Telecommunications Act determinations. By way of example, you'll hear the applicants say we have a significant gap in service and this is the least intrusive means of rendering the gap. You must also make those fact finding determinations to ensure that you're not accused of effectively prohibiting this applicant from providing personal wireless services. To claim that a denial of this application would violate the Telecommunications Act by effectively prohibiting them from providing personal wireless services, they have to prove to you they have a significant gap in personal wireless services and this proposed installation. At this specific portion of that site, at this specific height is the least intrusive means of rendering the gap. They don't get to tell you whether or not it is. You and you alone get to decide it, they have no authority to tell you factual determinations, you have to make them. And how can you possibly make them without seeing the lease, so you have the right to demand it and if they don't give it to you, you can go up on the memorandum of lease which seems to indicate schedule A, they can put it anywhere they

want and you can make a determination based upon that. Once again, if a reasonable mind could conclude that they have the ability to put it on a different portion of the site based upon the memorandum of the lease. Remarkably, in their argument for the standard for a variance, they cite New York SMA limited partnership versus Village of Flower Park, I'm very familiar with the case. And it says the standard for granting a variance is that they have to prove there are gaps in service, that the location of the proposed facility will remedy those gaps and that the facility presents minimal intrusion on the community. Again, who gets to determine if the applicant has proven each and every one of those things? You do. Of greatest import is the final works from that case, I happen to know the judge who issued that decision and at the bottom of that decision, with regard to each of those three things, the Federal judge says this, if the court finds that even one reason given from the denial by the local Zoning Board is supported by substantial evidence, the decision of the local Zoning Board cannot be disturbed. So if you find a legal grounds, a proper grounds to deny this application, then you have the power to deny it. Now, the Telecommunications Act doesn't give you grounds for denying it. Your code does. So for example, you can determine that the aesthetic impact won't be a minimal intrusion. It's going to be a dramatic adverse aesthetic impact especially on Mr. Pietrobono's property, which is the closest one. And you can rely upon the letters from the homeowners. Federal Courts have recognized that to be substantial evidence. You of course can also consider, these adverse aesthetic visual impact analysis submitted by paid experts by Verizon or Homeland Towers but you and you alone get to determine what weight should be given to each, which is more credible. Who better understands the nature and extent of the adverse aesthetic impact, these strangers from another state or the people who live here and know how it's going to impact their homes. Not surprisingly, Federal courts have recognized local, if local citizens are the persons in the best position to know and understand the nature and extent of an adverse aesthetic impact. So again, it's up to you. You've got those letters. The aesthetic impact letters were not attached as annexure A to our previous memorandum. Now, your Building Inspector Mr. Miley, on October 6, 2020 was perfectly correct in stating they need two variances. Not only they need variances but the setback variance is huge. They're looking for a reduction by 75%. That is a very significant variance to request and the burden's on the applicant to show that they meet the criteria under which the variance could be granted. Sorry if I'm going fast, but I'm trying to keep it within the 10 minutes I've been elicited. Mr. Gaudioso said, "The facility is necessary." Not up to him to say that. He doesn't get to dictate that to you. That is up to you to decide. Now, there is definitely coverage in the Town. There's no question about it. The reason that's important is Federal Courts have ruled, once the applicant has some coverage, it broadens your power to regulate the placement of wireless facilities. They have to prove to you that it's necessary to remedy not just a gap, a significant gap in personal wireless services. I'm going to point it out again. I haven't seen hard data at all. They said that they gave drive test data. I haven't seen signal strength recordings and I didn't look at the maps they gave. I saw the ones presented today. What's remarkable is they only show you the signal strength for 85 to 95 and 95 to 105. What they don't show you is the signal strength 105 to 115 because under the standards described by RF Engineers, signal strength from 85 to 95 dB is deemed excellent. 95 to 105 is very good and 105 to 115 can be considered good, which means it's more than sufficient to give adequate coverage for wireless facilities. Another very important piece of information is what exactly are they trying to accomplish? You're not obligated on the Telecommunications Act of 1996 to allow them to have perfect or seamless coverage. At the very same time this meeting tonight started, one of my associates handled another Zoom hearing for a case in Southold, Massachusetts. And in that case, Verizon represented to the local government that their goal, their coverage rate goal or capacity rate goal is the success rate of 99.4%. They find the only acceptable level of drop call rates is 0.6. Now, based upon what I'm seeing here it looks like that's exactly what they're going for here. They're not saying that without this tower you can't have service, you can't send the receive calls in the Village. That's not what they're saying. What they're saying is they want to prove coverage and you don't have to grant an application especially one which would adversely impact, especially the nearest property. You don't have to grant the application. Nothing compels you to do so. Now, in addition, the Board, very intelligently suggested they consider alternative locations. When we heard from Klaus Wimmer, their expert I guess. He said, and I quote, "I really didn't get any other interest from the other property owners." I will tell you that's not exactly evidence that there were no potential alternative locations. There are many situations where local governments simply ask for proof. Did you send a letter to the owner of the hospital of this property? Show me a copy of the letter. Show me a copy of any response you got. If you sent an email, what was the email address you sent to? I haven't seen anything the records showing that none of these other site owners are willing to lease them space. I understand there's been some submission but I haven't seen anything like that. I think I'm maybe running close to my 10 minutes. Let me just see if there's anything else I have to get on. Okay, I'm going to end it there but I imagine that this hearing is not going to be closed tonight. So I am going to review the latest submissions by the applicant and submit a further memorandum in opposition. But I respectfully suggest to the Board that the Board take a hard look at their submissions because they're not still, not giving you the probative data. Even if they give you a percentage of calls, ask for the drop call data which will show you if they're dropped calls, what geographic area the dropped calls happened in and when chronologically did they occur. Again, because then and only then would you be in a position to understand if there is capacity deficiency and where it is because without that, you can't determine if putting the tower at this location would be consistent with smart planning, just in terms of coverage because if it doesn't cover whatever gaps exist, they're going to come back for another tower but

they clearly haven't established this is the least intrusive site to put the tower. It's beyond argument because common sense would dictate. On this 25 acre site, move it farther away from the closest home. It'll be a less dramatic adverse aesthetic impact. So, thank you for the time.

Chairman Boxer stated thank you.

Mr. Miley stated okay, Chairman, we have another speaker, if you're ready.

Chairman Boxer stated okay.

Mr. Miley stated Mr. John Stockbridge, are you out there?

Mr. Stockbridge stated good evening. Thanks for having me here and thanks to your hearings, if you will. I want to echo if I might, I don't know whether you can see me or not but I can see me but I want to echo Mr. Rhodes comments because I think he hit upon a lot of the things that are significant. One is the Marsh Sanctuary, which I'm on the board. I live about a mile up Sarles Street but the Marsh Sanctuary is not just on the south side but it's also on the northwest which is where the Brookside house is, Brookside Cottage. And just if somebody can raise their hand and let me know that you can hear me because I can't tell what I'm on here or not., thank you very much Whitney. Okay, but the point is the Brookside House has been there since 1830, it is on the Village's list of historic properties, it doesn't have to be on the State of New York as a historic property. I mean, I think it's clear that it's on the Village historic property list. And it is without a doubt on the significant areas I think in Town from the potential of having the greenspace around and if you've ever been by there with amphitheater, if you've ever been inside, you can tell what good thing that is and I think Mr. Rhodes pointed the impact the cell tower in that location would have on the Brookside Cottage. And what occurs to me is that the height and setbacks as are part of the Village Code to protect residential areas, taking the huge exceptions to them is not what the Village Code wants to have happen, which is why when you look at solar and the cell here, that it seems to me that a positive declaration has to be taken by the Planning Board to move this thing for completion. I would say that one of the things we talk about is whether the owners have been willing other owners that the owner of this property lives in Florida without being too crude, they really don't care about...

Unmuted speaker interrupts.

Mr. Stockbridge stated I'm saying that the owner of the property is in Florida and therefore it doesn't have any kind of view shed considerations when saying do you want to have it here or not. I mean as far as their concerned, it's a dollar and cents situation. I like, Rex Pietrobono and like some of the others have mentioned, have no problem with coverage. We happen to be AT&T customers, I'm sorry to say but we live a mile up Sarles Street. My wife and I talked frequently when we've forgotten something in the car going up and down Sarles, going on 172, going across West Patent because I work in Bedford Hills. There's no gap in the coverage whatsoever, so I think I would suggest to the members of the ZBA that if you get to spare a moment, just go down the street with your cell phone and see what you get for coverage because I think you'll find that the applicant here is exaggerating what is not really the gap if you will. So I think the overall feeling is that this has a very detrimental impact to the residential area, Mr. Pietrobono's property, the Marsh property which is the caretakers home, the whole environment there, the tree loss and not just looking at the top of a little tower, you're looking at an entire tower and its plant below and it's totally intrusive. I would say that without being too crude, I just say that the ZBA should say no, the Town Code calls for certain height and setback requirements and this frankly is where we start. We don't just say okay, we need cell coverage and therefore we can take a huge variance to the existing code. So, I'm very much in favor of the ZBA getting a chance to say things here. Very much agree with Mr. Rhodes, Mr. Pietrobono, the comments that Mr. Campanelli made. And it's really I think the Village's character that we're talking about and the character – one thing I would like to mention, I think I saw that Harry McCartney was on the list here and he's the historian for the Village. And I'd love to have his view on the overall impact on the work he's doing for trails in the Village and for maintaining greenspace because greenspace is really the thing that goes away. You can't put it back. So, very, very thank you for letting me talk and representing the Marsh Sanctuary and also our neighborhood. So, thank you.

Mr. Miley stated okay, Chairman, there are no other people with their hands up in the Zoom. Nobody has called into the number that we've provided and I'm looking at Facebook as we speak and there are no comments to read into the record. So I have nobody else. You're muted, Chairman.

Chairman Boxer stated we'll keep the public hearing open for now. And I don't think there's any more business that we have.

Mr. Miley stated no other business, Chairman. I'm sorry.

Whitney Singleton stated perhaps you can. What's the next date? The third Tuesday in February or January?

The Secretary stated January 19, 2021.

Mr. Miley stated did you hear that? January 19, 2021.

Whitney Singleton stated so, you'd be adjourning the public hearing to January 19th. Correct?

Chairman Boxer stated correct.

Mr. Gaudioso stated thank you very much for your time this evening and have a happy holiday.

Chairman Boxer stated thank you.

Mr. Gaudioso stated thank you.

Chairman Boxer stated okay, does somebody want to make a motion to close the meeting and go home?

Mr. Weise introduced a motion to close the meeting. Seconded by Mr. Hoyt.

Chairman Boxer asked for all in favor. The motion carried by a vote of 5 to 0.

The meeting adjourned at 10:05 pm.