

THE REGULAR MEETING of the ZONING BOARD OF APPEALS of the Town of Cortlandt was conducted at the Town Hall, 1 Heady St., Cortlandt Manor, NY on *Wednesday, September 21<sup>st</sup>, 2016*. The meeting was called to order, and began with the Pledge of Allegiance.

David S. Douglas, Chairman presided and other members of the Board were in attendance as follows:

Wai Man Chin, Vice Chairman  
Charles P. Heady, Jr.  
James Seirmarco  
John Mattis  
Adrian C. Hunte  
Raymond Reber

Also Present

Ken Hoch, Clerk of the Zoning Board  
John Klarl, Deputy Town attorney

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**ADOPTION OF MEETING MINUTES FOR AUG. 17, 2016**

So moved.

Mr. John Mattis stated I move that we accept the minutes with the correction on page 10.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the minutes are approved with that correction.

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**ADJOURNED PUBLIC HEARINGS:**

- A. **CASE NO. 2016-10                      New York SMSA Limited Partnership**  
**/d/b/a Verizon Wireless** for a Special Permit to install a wireless telecommunication facility on property located at **1065 Quaker Bridge Rd. East, Croton-on-Hudson, NY.**

Mr. Michael Sherridan stated good evening, Chairman, members of the board. My name is Michael Sherridan. I'm an associate with Snyder & Snyder LLP, the attorneys for New York

SMSA Limited Partnership d/b/a Verizon Wireless. As the Chairman mentioned, Verizon is looking to install a wireless telecommunications facility consisting of a monopole with related equipment at the base therefore and a fenced compound on a 40 acre property at 1065 Quaker Bridge Road East. I'm here tonight to confirm dates for a balloon test with this board. It's my understanding at the last meeting it was discussed that a balloon test would be convened and that dates would be announced at this board. I have a date of October 1<sup>st</sup> with a rain date of October 2<sup>nd</sup> if that is acceptable.

Mr. David Douglas stated we talked about those dates at the work session and so members of the public are clear it would be Saturday, October 1<sup>st</sup> we'll have the balloon test starting – we talked about being 10 o'clock.

Mr. Michael Sherridan responded at 10 a.m., yes.

Mr. David Douglas stated and if the weather's bad and it needs to be pushed back to the Sunday, it will be Sunday at 10 but when and how will you let us know so that we can let people know.

Mr. Michael Sherridan responded I will notify Ken Hoch. I think probably the easiest way, I understand there are people here who are going to speak tonight, that they have a representative also, give their contact information to Mr. Hoch so he's able to notify them and we'll try to do it as much in advance as possible. However, as the weather changes, I mean we'll try and make the decision by Friday morning if it is going to be pushed off until the 2<sup>nd</sup>. I would also say 10 a.m. to 2 p.m. if that's a good enough window. I'm not saying it's not going to be up longer for than that but I would say that that four hour window, it'll be up at least that point. If for some reason there's mechanical difficulties and it goes up a little later than 10, I will have the consultants extent it past 2 that same amount of time but we're looking from 10 to 2.

Mr. David Douglas stated it makes sense. The only thing, in terms of the notifying the town as we discussed. You'll need to let us know on Friday because the town is closed Saturday and Sunday.

Mr. Michael Sherridan responded no, I understand and certainly want the neighbors to know that it's not going to happen on Saturday in as much in advance as possible so it'll be Friday morning at the latest unless it's obvious that the weather is not going to cooperate.

Mr. John Mattis asked I'd like to ask a question? What color were you intending this balloon to be?

Mr. Michael Sherridan responded traditionally, they're an orange or a red.

Mr. John Mattis stated I would suggest that you make it a dull silver, the same color as the proposed tower because a yellow or red will be much more visible than a silver would be. It should be as close as possible to what the color would be.

Mr. Michael Sherridan stated I can check to see if they have those. I'm not sure if they do but I will take that under advisement.

Mr. John Mattis stated it would just make it a little more realistic.

Mr. James Seirmarco stated they're all shaking their head 'no.'

Mr. David Douglas stated well okay, they'll get a chance in one second. Anything else that you want to address?

Mr. Michael Sherridan responded I think if the board is agreeable to that, Saturday the 1<sup>st</sup> 10:00 to 2:00, rain date of the 2<sup>nd</sup>. We'll notify Mr. Hoch at the latest Friday morning if it is pushed off to that rain date and if anybody has any comments.

Mr. David Douglas stated the question I had, at the last meeting there were certain points raised by representatives of the owner, the attorney. You're planning on responding to those at some point?

Mr. Michael Sherridan responded, yes we have a opposition documents which we received. We also received updated documents which reflect changes in the tower and we will be responding to those.

Mr. David Douglas asked anybody else want to be heard?

Mr. Mike Valenti stated my name is Mike Valenti. I represent Heidi and Frank Franco. I'm from Camponelli and Associates – I'm an associate of Camponelli and Associates, 1757 Merrick Avenue, Merrick New York. Hello everybody. First thing, I just had a few points to make about the date for the balloon test. We are requesting respectfully to the board that the balloon test be delayed. It's our contention that it's not enough notice for members of the community and it's also our contention that, as right now, fall is coming, this tower is going to be at its most intrusive when leaves fall off the tree as a lot of the trees are deciduous in nature and they lose the leaves in the winter. The late fall and winter months, this tower is going to be much more visible than it is right now. So, we are looking to potentially delay the balloon test until leaves fall off the trees if that's possible.

Mr. David Douglas stated so what you're basically asking for is to get it delayed until December.

Mr. Mike Valenti responded yes, please, yes.

Mr. David Douglas stated I don't know if Verizon has a position on that or not.

Mr. Mike Valenti stated I'm sure they do.

Mr. David Douglas stated but because if you're asking for it to be in November the leaves aren't

going to be off either and in terms of giving notice, we had discussed the idea of a balloon test last month at the meeting so it's not like we're springing it on anybody and the idea discussed then was that we pick a date at this meeting.

Mr. Mike Valenti stated no I understand sir, I was just thinking that if the public knew the exact date more than a week ahead of time – and I understand, respectfully understand the board's point that it was talked about at the last meeting. So, that was one point that I wanted to bring up. My clients were hoping December, preferably December 6<sup>th</sup>. There's an event at the Danish home that day and we believe that since there's an event at the Danish home there would be more opportunity for people to see the balloon test.

Mr. John Mattis stated well the question isn't if you see it from the Danish home, the question is if you see it for the neighbors so it doesn't matter what's going on at the Danish home. I would suspect that you guys only want to see it from the road. The Danish home doesn't care if they see it. They're not the problem.

Mr. Mike Valenti stated I understand that sir, I respectfully submit that if the balloon test is conducted on a day where there's a public event at the Danish home, people in the community will be there and will be more likely to see the balloon test, if that makes sense.

Mr. John Mattis stated if they're interested, they'll come out. If they're not interested they won't.

Mr. Raymond Reber stated we don't need a special event to bring them out. If they're interested, they should have enough motivation to come whenever the balloon is up there. That's kind of a weak argument to say they'll only be there if they come to a public event.

Mr. Mike Valenti responded I understand that but I think that it would give the public an opportunity, maybe for people who are not as in tune to public events in the town to "oh that's the balloon..."

Mr. John Mattis stated well, we've already put this off a month so that people would know when it is, now you want to put it off until December, now you want to have it only when there's a public event. We don't need the public event. The people want it – you have people here who have been sending out notices. You had something in front of your property or next to your property, a handout, which I have here and so they have a way of letting the people know. If they know and they don't want to come out, they won't come out. If they want to come out, they will come out. It has nothing to do with what's occurring at the Danish home.

Mr. Mike Valenti stated also, I mean, I just want to put my respectful difference of opinion from you sir with making the balloon silver. I think that, although you're saying it'll be the same color as the tower, it's only going to be a point in the air, the balloon, so a silver tower is going to be much more visible than a silver balloon in the sky so I think that a red balloon would be more likely to be seen...

Mr. John Mattis stated and the red balloon will be much more visible than the tower.

Mr. Raymond Reber asked on what basis do you say that just because the balloon is only a point or a small – that it's going to be a big difference in terms of visibility? If they can't find the balloon, how are they going to find the stem that's going up, the single tower? I don't understand the logic there in terms of visibility.

Mr. Mike Valenti responded I think that if the tower is standing in front of you, you look down and you look up...

Mr. Raymond Reber stated it's not standing in front of him. It's way back in the woods which they won't see most of it anyway because of where it's back.

Mr. John Mattis stated in a highly wooded area.

Mr. Raymond Reber stated in a highly wooded area so it's not like you're standing there and you've got this thing right in front of your face. You're going to see something maybe sticking up over the trees or through the trees which means you won't see much of it. It will be the same color.

Mr. Mike Valenti stated respectfully, the red balloon is going to be more visible to the casual observer who's not necessarily paying attention...

Mr. Raymond Reber stated 'casual observer' – we have people go past on 129 past the one that's not too far off the road. Most people don't even see it and it's very close to the road. We say: did you see it? "No." Next time they go by "well, we never even saw that." The casual is not the important thing because casual people will not be seeing a cell tower way up in the woods on a hill, okay? So, try your next argument.

Mr. Mike Valenti responded okay, sure.

Mr. John Mattis asked I'd like to ask you a question, and I ask your partner who was here last month. Have you walked the property? Have you seen where this will be located?

Mr. Mike Valenti responded I have not but I've seen pictures of the property.

Mr. John Mattis stated pictures don't tell you where it's going to be located. You've got to walk up in the woods and see the plateau where it's really going to be.

Mr. Mike Valenti stated I've seen pictures of the property. I know what...

Mr. John Mattis stated you haven't seen pictures of the plot where it's going to be.

Mr. Mike Valenti stated I've seen pictures of the property.

Mr. John Mattis stated you're not answering my question. Have you seen the location itself where it will be in pictures?

Mr. Mike Valenti responded yes.

Mr. John Mattis stated the location itself. Somebody's walked up there and took pictures?

Mr. Raymond Reber stated it's a significant hike to get up to where that tower is going to be.

Mr. Mike Valenti stated Mr. Franco sent me pictures of where the tower's going to be and I saw them.

Mr. John Mattis stated but you were evading the question before that. You just said "I've seen pictures. You didn't say which ones."

Mr. Mike Valenti stated I was not intending to evade the question sir.

Mr. David Douglas stated let me get back to the balloon test for one second. I feel a little bit differently than Mr. Mattis does; the color. If the public would find it easier to look at a red balloon then I have no problem with it being a red balloon if that's what Verizon usually does then that's fine.

Mr. Mike Valenti stated that's fine with us. Thank you sir.

Mr. David Douglas stated then again, it's really up to Verizon.

Mr. Mike Valenti stated of course. May I go on please?

Mr. David Douglas responded yes.

Mr. Mike Valenti stated my second point that, as part of a balloon test, most cell tower companies who put up the tower they usually provide pictures to the Zoning Board after the balloon test to show where this balloon is going to be, how it's going to look to an observer around the tower. We respectfully, and my clients have told me that they would consent to this, we respectfully request that Verizon take pictures from the vantage point of the Franco's property as their...

Mr. David Douglas asked can't the Franco's do that?

Mr. Mike Valenti responded yes, that is true. We can do that.

Mr. Franco stated if they can superimpose the tower [12:18 inaudible].

Mr. Mike Valenti stated a lot of the time that a...

Mr. Wai Man Chin stated so you're saying you're giving permission for the cell tower photographers to come on your property and take pictures.

Mr. Raymond Reber stated I think we actually asked at our work session if Verizon would – if the homeowners would approve and appreciate it, we asked the same question that we suggested that Verizon do just that, if the homeowners would like that, that they go to the home and take the pictures from the home.

Mr. John Mattis asked would you allow us board members to go there and look at the same time, to get a vantage point? That would be very helpful to us.

Ms. Franco responded we are very [12:43 inaudible].

Mr. John Mattis stated thank you. That would be great.

Ms. Franco continued [12:51 inaudible].

Mr. John Mattis stated no.

Mr. David Douglas stated no, we appreciate that.

Ms. Franco stated [inaudible].

Mr. David Douglas stated we're asking, we can only go on your property if you let us so if you want to...

Mr. Mike Valenti stated they will let you.

Mr. David Douglas stated okay, great.

Mr. Mike Valenti stated that's the simple answer I guess. Also, there was one other issue I just wanted to address. The balloon test, I'm assuming, will be completed for a 140 foot tower. We also request that a balloon test be placed at 175 feet. Under the section 64-09A of the Middle Class Tax Relief and Job Creation Act of 2012 which you wouldn't think would have to do with cell towers but it does. That Act prevents the denial of a modification – by a Zoning Board the denial of a modification of a cell tower as long as it does not substantially change dimensions of the tower. Under FCC regulation, a substantial change is defined as: the greater of either 10% of the height of the tower or the height of one additional antenna – antenna raise usually about 8 feet, plus 20 feet of separation between the antennas. We request that a – this would effectively, if the tower was to go up at 140 feet, this would allow the Verizon to make subsequent addition in height to the tower and it would have to be approved by a Zoning Board and I think that's

something that should be taken into account by the Zoning Board of Appeals and should be reflected in the balloon test.

Mr. David Douglas stated well I'm going to ask Verizon what its view is on the law regarding that but I'll wait until you're finished.

Mr. Mike Valenti stated I did bring a copy of FCC interpretation of the regulation of the section 64-09A of that Act. I have copies for the board if they would like.

Mr. David Douglas stated it would be useful. We're not going to read it now.

Mr. Mike Valenti stated no of course and I understand that but I just – for your knowledge and...

Mr. David Douglas stated what you're saying is your understanding the laws that if we approve a cell tower and we set a condition that it be 'x' feet, that we are then not allowed to stop the provider from thereafter, increasing that by either 10% or whatever another story is? I'm I getting the gist of it right?

Mr. Mike Valenti responded yes, that is correct.

Mr. John Mattis asked so they have a right to do that without coming back to the Zoning Board?

Mr. Mike Valenti responded the Zoning Board has to approve it.

Mr. Raymond Reber asked so if we can get Verizon to sign an agreement that they would not come back for a request and we have that on the file plus the fact that we would have to approve an extension, wouldn't that pretty much squelch any chance that they would – we, ourselves, are not interested in entertaining it because when we approve these things, we know that they're supposed to be co-located. They know they're supposed to allow co-location so when they say 140, they better have taken that into intent, and in fact, they told us that at an earlier meeting when I challenged them as to why that height, why not lower and they said "we have to have room for co-location." So, my understanding is that's all been taken into account. I would like to ask Verizon or their representative if that's not true and if they would not put that in writing that "hey, we'll sign a legal document. We will not extend that tower. We don't have to. We've made allowances for co-location." If we can get that out of Verizon – because our intent is not to let them go higher. We're with you folks.

Mr. Mike Valenti stated and that's just the Federal – may I...

Mr. John Mattis stated I would vote against that every time.

Mr. Mike Valenti stated thank you. Thank you sir.

Mr. John Mattis stated they told us what they need and that's all they're getting.

Mr. Wai Man Chin stated you can pass those out.

Mr. Mike Valenti asked can I approach the board? *Handing documents out to the board.* May I speak please?

Mr. David Douglas responded yes, go ahead.

Mr. Mike Valenti stated anyway, because of our reading of the Federal law and FCC regulation we request that the balloon test be – obviously have the 140 foot balloon test but we request that in approximate of 175 foot balloon test should also be held to show the town what the tower could become potentially.

Mr. Raymond Reber stated again, assuming we can't get a complete firm commitment from Verizon.

Mr. Mike Valenti stated honestly, I don't know off the top of my head if that would prevent them. I don't know.

Mr. Raymond Reber stated well, you've already said they have to come before us. We are telling you that we've gotten from them and I just want them to put it in writing and restate that they have allowed for co-location and that there's no reason why they would ever want to extend it. If we have that on file then we have all we need to reject if they ever come back and we would reject.

Mr. John Mattis stated the co-location has to be below the top of the tower. The co-location each subsequent one goes down, not up. I would never vote more than what they're asking for. They've never asked for anything more than 140. I gave them a 145 or something in case there's something...

Mr. Mike Valenti stated of course. I'm just speaking, my boss has experience with these things them trying to add height to the tower after the fact.

Mr. John Mattis stated we'll make sure that doesn't happen.

Mr. Raymond Reber stated that's a valid concern. We hear you. We agree.

Mr. John Mattis stated and we don't want that at all.

Mr. Mike Valenti stated I think I guess you want to hear from Verizon, right?

Mr. David Douglas responded first we want to hear from anybody else in the public who wants to be heard.

Mr. Mike Valenti stated okay, thank you.

Mr. David Douglas stated thank you.

Mr. Bill Sherrer stated good evening. My name is Bill Sherrer. I live at 2126 Quaker Ridge Road. I was not at the last hearing because I did not receive notice until after the hearing took place. Apparently the town sent the notice to the fellow who owned the property 11 years ago, although I have changed the name on the tax records, somehow or other it went to him and he's told me about it after the fact or I would have been here. So I don't want you to think that it was a lack of concern on my part. I will make full disclosure, I am a lawyer. My wife is the title owner to the property so I can act as her legal representative just for the record. I must tell you, not having been at the last meeting I was concerned by some of the comments by the board. What sounded to me as if, not only had there been a prejudgment here but there had been an antagonism. I'm sure that wasn't intended but that is the way it came out to people who haven't been here before. A couple of things I want you to understand...

Mr. David Douglas stated I can assure you, there's no prejudgment and there's no antagonism.

Mr. Bill Sherrer stated I wasn't directing that comment to you.

Mr. David Douglas stated well you're addressing it to the board so I just want to assure you, there's no prejudgment. Sometimes people say things forcefully, less forcefully. We don't prejudge. We've all been doing this for many years.

Mr. Bill Sherrer stated and I'm a real estate lawyer so I've been at this game for quite a while myself. Number one, I don't know how familiar the board is with the topography of this area but the Danish home is essentially in a valley. Our house is on the other side of Quaker Ridge Road, several hundred feet elevation higher so that the prospect of looking at this tower from the vantage point of the people next door is very different from the prospect for us. Right now, and you're all welcome to come on the weekend. I'll provide drinks; coffee, whatever you'd like, you can stand on our deck which overlooks the valley and it is a sea of trees. There is absolutely no question that a test done in October is tantamount to no test at all. It's unfortunate that this is taking longer than Verizon would like but they signed this lease back in 2015. They did their projections and plans in 2014. I've got documents here, so they've had plenty of time to get their act together. Frankly, I don't understand about the balloon test because where I practice, which is in Manhattan, when someone wants to develop a tower for example, they have their architects do all kinds of renderings and those renderings take sight lines into account. Verizon could very easily have gotten somebody to do projections from the entire circumference around the Danish home to show exactly what the impact of the tower would be. It's done all the time in Manhattan and although this isn't Manhattan, it's something which somebody like Verizon could do and we wouldn't need balloon tests. Their architects and engineers are perfectly capable of generating drawings from the various vantage points both high like our house and low like somebody else's house to see exactly what it would look like if there were no trees. The balloon test is a nice 1950's approach if you ask me but with the computer programs and with the kinds of models that

good engineers and architects can do there's a much more precise way for the board to get a picture of what this will look like when the trees are in bloom and when the trees are defoliated. A second point; and I'm going to raise this I think in a letter to the board, I asked Mr. Hoch if the board had seen the lease that Verizon entered into and it doesn't matter what the Danish home is being paid. That is entirely irrelevant to the situation. There is a memorandum of lease on file with the County Clerk which I got today which if you don't know what a memorandum of lease is designed to put the world on notice of what the underlying lease is so that you can't come in later on and say something is afoot and we didn't know about it. What they've done here is they've leased their parcel of land, which is 7,500 square feet for the purpose of putting up a single pole with a small auxiliary building and a few transformers. They describe this as a compound. I, myself, don't see any need for 7,500 feet there. They're getting themselves a right-of-way to have trucks come in 24 hours a day and I can certainly understand that they need a truck to be able to come in if the tower needs servicing but I have a suspicion, and maybe this is just a condition in the approval that what they may have in mind is to set up a parking area for their trucks for servicing Verizon Wireless. I know it may be prohibited by Zoning but in the real world that I operate big companies like Verizon do what they want to do and then they say "come after me and prove that I'm wrong."

Mr. John Mattis stated we can put that as a condition that they don't because none of us want that.

Mr. Bill Sherrer stated and there should be no lighting in that parking area because I suspect that you'll see lights to protect – they have a 5,400 square foot enclosed area – there's absolutely no need for that kind of a size. I'm going to send a letter because I'm going to suggest to you, and this is probably something you haven't heard, this is a subdivision under town law section 276. This is a not simply a cell tower approval. Normally you think of a subdivision as being a lot that's being cut out to sell it but when you take a look at 276 closely and some of the authorities from throughout the country that have dealt with this issue, when somebody makes a ground lease, which is what they've done here, carves out a designated piece of property, which they've done here, and said it's yours to use; in this case for five years with I think four or five years options to renew. That is a subdivision for the purposes of development and because this is a 48 acre site, looking at the Zoning Ordinance, I think there may even be a SEQRA involved here. I'm not sure. I'm not an expert in SEQRA but it may well be the case and I just did this, this afternoon and I'm going to explore that and I'm going to send a letter to Mr. Klarl I guess to explain my position on that.

Mr. John Klarl stated just to let you know, from time to time, the town has given people tax parcels. So they don't own the property but they ask for a certain physical dimension be taxed to that tenant and it's not been a subdivision.

Mr. Bill Sherrer stated well this is more – this is more than just a tax parcel.

Mr. John Klarl stated you have to convince me it's other than what we've done. For example, you can take a McDonald's from the shopping center, they don't want to pay for the entire

shopping center; they want tax allocated to their piece so we give them a separate...

Mr. Bill Sherrer stated and I've dealt with McDonald's situations, Kohl's likes to have their own parcel...

Mr. John Klarl stated so we have to see to what extent your application agreed with or varied with our definition of subdivision.

Mr. Bill Sherrer stated yes, no I agree with you and what the town law says. But I think that this needs a good deal more examination than just the concept that they're coming in, putting a tower up, wanting to provide service – another thing I think you'll have to keep in mind which I'm also going to put into the letter, is putting that tower there I believe contradicts the Master Plan of 2016. The Master Plan identifies southern Cortlandt, which is the Quaker Bridge/Quaker Ridge Road area as being an area of special consideration in terms of the visualness, the openness to the river and the gorge and so forth and putting a tower here in the middle of that area strikes me as quite contradictory and something that should be taken into account. The other thing I think you have to take into account here is that this is the classic slippery slope and by that I mean the following: I can't think of any other location in the Teatown area where I live that would be any less impacted by a cell tower than this particular cell tower here which means I think that when Crown Castle comes in and asks for the right to put up a cell tower or AT&T if they still do it but not through Crown Castle comes in, or Sprint comes in and the board says "you know, we really don't like the idea of having too many cell towers in this area." There is a court of appeals decision which I'll send to you, from about 20 years ago, in which somebody came in for permission to put in a mobile home park and the only objection the town had at the time was there'd be too many mobile home parks and what was the answer? That's not a valid ground. You have to focus on is not so much this particular application which may well not impact anybody, despite what my neighbors think, what I may think but it's entirely likely that this is going to be followed by an application from Crown Castle, from Sprint and whatever other companies are out there that do these things. I'm not saying you don't deny it because of that but recognize that by validating this particular application you are probably tying your hands to any other applications in that area because no one's going to come in and be able to establish that the various provisions of the Zoning Ordinance dealing with towers are any less satisfied.

Mr. David Douglas stated I'm not sure that's a hundred percent true because the town, for one thing, you're supposed to co-locate initially if you can so that it's not going to be that there's going to 15 separate cell towers in an area. If a new applicant comes in, one of the things they have to show, and one of the things that Verizon has to show is that they can't co-locate on an existing tower and that's one of the things that we've asked Verizon with respect to this application, specifically with respect to the tower that's on Route 129. They have submitted certain information and we've got to value with that and any future applicant would have to do the same.

Mr. Bill Sherrer stated I'm just suggesting to you that there is going to be a very, very high bar to satisfy once you approve a tower here to say 'no' to somebody else. If they meet the

requirements and they're entitled to the Special Permit, the way I practice my law is that they get it. I may not like it but they get it. My concern is that once you set the precedent, if you don't adhere to the standards that you have the ability to adhere to, you may find yourselves with your hands tied behind your back if you have a problem with another one because the very clear implication of this case law is that you can't decide there are too many towers in the area. That's my only point.

Mr. John Mattis stated to expand what Chairman Douglas said, the town code says that when a tower is built, it has to be built with the ability to co-locate four other cell carriers on that. So that tower will be able to handle four others. So if they come in and they need one in that general area, they have to go right on that tower.

Mr. Bill Sherrer asked and what compels Verizon to agree to that?

Mr. John Mattis responded that's in the town code.

Mr. Raymond Reber stated it's in the code.

Mr. John Mattis stated it's in the code. They put that protection in so that we wouldn't have cell towers all over.

Mr. Raymond Reber stated it has to provide for co-location and they know they have to allow it to the others and our code tells other applicants: no, you co-locate. You have a tower, use it.

Mr. Bill Sherrer stated if that is the implication and the provision of the code that's fine.

Mr. Raymond Reber stated we don't want more towers than we need. That's why we're insisting on the ability of co-locating.

Mr. Bill Sherrer stated my basing points are simply that in terms of determining what the impact this will have, balloon tests, to my mind, are the cheapest – it's real cheap to put a balloon up there but other than photographs you're not going to have anything really of any real basis to make a determination. There won't be much of a record. They can have renderings done and if the renderings are done correctly and the engineering is done correctly, it will show exactly what you need to know and have in your record to substantiate an approval or to substantiate a denial. And secondly, and I'll deal with Mr. Klarl, I really do think this is a subdivision and if it's not going to be a subdivision then the board has to put some very stringent conditions on this approval which may not have occurred to them based upon – we could use a narrow issue: put a pole up. Don't put a pole up. Thank you.

Mr. John Mattis stated thank you.

Mr. Frank Franco stated members of the board, I'm Frank Franco. I just wanted to say that the state for the balloon, even though you guys were saying that we had notice of this balloon test.

We knew that the date was going to be set today. We didn't know what the date would be and we're here next week – I think there's a Holiday potentially coming up, people might be out...

Mr. David Douglas stated it's not a Holiday on Saturday.

Mr. Frank Franco stated well sometimes people go away close to the Holiday. I don't know exactly what the situation is but nonetheless I think a week or so notice for this event is kind of cutting it a little bit close. I mean, I haven't had the opportunity – you say we could communicate with people, well we do our best but I don't really feel that one week in advance is really enough for us to rally people for this event.

Mr. David Douglas stated it's a week and a half. It's not this weekend. It's next weekend.

Mr. Frank Franco stated a week and a half. I still think it's kind of close. I mean, people plan things in advance and...

Mr. David Douglas stated I'm not totally disagreeing with you that, yes, it's better to plan things out six months in advance, but any date we pick somebody in the neighborhood won't be able to make it.

Mr. Frank Franco stated well I don't mind one – I don't know what the situation will be. Maybe everyone will be able to make it but beyond that, even with the leaves, in a week and a half I can't really say that all the leaves are going to be down. I do think that would contribute a more accurate picture for what this thing would look like. I'm just asking to consider pushing this date...

Mr. David Douglas stated my concern has to do with how far would it have to be pushed back and that's why I said; basically, what's being requested is it has to be pushed back to the winter time and even in December not all the leaves are down as anybody who rakes leaves, knows from bad experience.

Mr. Frank Franco stated well October, a week and a half, the leaves are just sort of starting to fall at this point.

Mr. David Douglas stated but the balloon test is just one more piece of information and whether you can see the tower at all is not the only factor, it's just one of the many factors that we have to weigh...

Mr. Frank Franco stated from a local resident standpoint, I want to see the tower in its worst case scenario and that would be when the leaves are down, so that's my request and I'd appreciate it if you consider that.

Mr. David Douglas stated we'll hear from Verizon. We'll make the decision but one thing we'll factor in is what the applicant's position is, which I don't know yet.

Mr. Frank Franco stated all right. Thank you.

Ms. Heidi Franco stated good evening members of the board. Thank you so much for listening to our case tonight. I would like to reiterate Frank's point that...

Mr. David Douglas stated could you say who you are. I know who you are but...

Ms. Heidi Franco stated sorry, hi there. My name's Heidi Franco at 1059 Quaker Bridge Road.

Mr. David Douglas continued for anybody that's watching it either tonight live—not live, but on the internet or on Cable TV or wants to look at the minutes, they need to know who you are.

Ms. Heidi Franco stated understood. Sorry, Chairman Douglas.

Mr. David Douglas stated no, it's okay.

Ms. Heidi Franco stated again, just to reiterate his point. Verizon is a huge company. They have tons of resources. We are people in a community. We have limited resources. We need additional time to get the word out to our neighbors to allow our neighbors to have time to adjust their schedule and to allow the leaves to fall off the tree. Perhaps December 6<sup>th</sup> is an appropriate date but maybe we can find a way to meet in the middle and give everybody a little something. And again, I would just like to reiterate, I would love the board's respect to the members in the community and to the members of the community that pay taxes here to have our positions considered as well in a respectful fashion.

Mr. David Douglas stated let me just say. I know that you think that you're not getting respect but we respect the public. We listen to the public on every single case. We listen to you. We listen to everybody and we weight everything. I'm just going to ask; please, let's not – don't assume that we're out to get you. We live in this town too. We are all residents of this town. We are all citizens here. We're just people that are on this board.

Ms. Heidi Franco stated and I appreciate that and I appreciate your time here tonight but when you make statements in the [36:50 inaudible]; that's all we're giving them, it kind of indicates that maybe you're giving them something already which a conditional approval is a little – before everything is heard, that's difficult to...-- that was spoken.

Mr. David Douglas stated I'm going to say it one more time and I won't say it anymore, I'm just going to tell you, we don't prejudge anything. We listen to what the evidence is, what the people say, we take into consideration – we're somewhat familiar what the law requires and doesn't require and then we make a decision.

Ms. Heidi Franco stated that sounds great. So please consider after the leaf fall for the date. Thank you.

Mr. Bill Sherrer stated the memorandum of lease that I pulled off the County Clerk's record today shows that the lease was dated May 11<sup>th</sup> of 2015. It has attached to it a site plan which is dated March 28<sup>th</sup>, 2014. It seems to me that if we're talking about having this balloon test, whatever relevance you attach to it, when the leaves aren't there or you wait until the leaves are down, we're talking about 60 days, this has been – most of these transactions, I do a lot of leases, they develop very slowly. This has been in Verizon's horizon for a long time because they didn't just think about this when they retained the engineer. So we're going into our third year now. If the test takes place a month later and it shows that with the leaves on the ground, it doesn't matter, you can't see it. It's to everybody's benefit.

Mr. David Douglas stated let me just play devil's advocate. There is a benefit to getting, if there's going to be a cell tower approved, to getting it sooner rather than later because it'll provide cell service for the area that's not served which is the whole purpose for it and if it doesn't provide sufficient coverage for people on preserve then there shouldn't be one there in the first place.

Mr. Bill Sherrer stated you're exactly right and if Verizon was that concerned about it, it wouldn't have taken Verizon a year to get the lease negotiated to get to this point...

Mr. David Douglas stated no, I'm talking about the benefit to the community. There's different things that we weigh.

Mr. Bill Sherrer stated I live in the community. You know something? I have an AT&T tablet. I have an AT&T phone, I also have a Verizon phone. They all work there. The service in Croton is spotty, there's no question about it but they all work there. I'm right across from the Danish home. So, the extra month and a half doesn't matter a hill of beans. The fact is, this is going to go a long time before it gets done and if it takes until December it's not going to affect their ability to put that tower up for five minutes. So, if it makes the community a little more comfortable with the notion that they've gotten a fair shake, then having a balloon test, which is done when the leaves are up, which just gives the Appellate division a wonderful ground to do an article 78 here or the supreme court.

Mr. David Douglas stated that tactic doesn't work, okay.

Mr. Bill Sherrer stated it's not a tactic. It's just – it doesn't make any sense.

Mr. David Douglas stated please, don't do that. We're not your foes. Don't start threatening litigation.

Mr. Bill Sherrer stated I'm not – I've got more to do with my time.

Mr. David Douglas stated I make my living the same way.

Mr. Bill Sherrer stated I'm not litigating anything here.

Mr. David Douglas stated please.

Mr. Bill Sherrer stated I don't have time to be pro-bono for myself. I have to earn a living. I'm not getting paid to be here but I'm saying to you, to start sparing over whether October 1<sup>st</sup> or December 1<sup>st</sup> is a day to do the test is really losing sight of what's going on here. This thing's gone on for years with Verizon and will be another two years if you approve it today before the tower is up I'm sure. That's the way it works.

Mr. Raymond Reber stated you made an allusion to the fact that service is not a problem and our Chairman said one of the considerations is whether service is or is not provided. After our last meeting, because this came up and it was challenged, I went up East Quaker Bridge, starting at the bridge all the way up to the home. Every 150 yards I used my Verizon phone to dial. Now usually if I'm in a weak area I'll get maybe one blip. I may get a signal, I may not. Every time, all the way up, I got a message: there is no service available. It didn't give me any attempt. It just said: no service at about every 150 yards so anybody driving up there, unless they've got much better phones than I have, there's no service on that road. So when people say: 'oh the service is fine.' Why did mine...

Mr. Bill Sherrer stated I didn't say the service is fine.

Mr. Raymond Reber stated no but it was alluded to at the previous meeting by some of the residents: "oh service is okay in the area." I can't go on private property but I go on that road; zero.

Mr. Bill Sherrer stated service is not great but I've had to speak to clients parked in downtown Croton and I can't speak to them.

Mr. Raymond Reber stated that's not the point. The point is these cell companies are coming – they're trying to provide service in areas. This is an area that obviously is depleted in service capability. That's a strong argument to say somewhere we need a cell tower so that we can get service.

Mr. Bill Sherrer stated without a doubt and the way I read the Zoning Ordinance, it says: residential areas are at the bottom of the list. Right across 129 there's all kinds of commercial space but that's not my point. My point is simply if people want to see whether or not this is going to have a visual impact, which is one of the components doing it in October when the leaves are up on October 1<sup>st</sup> doesn't make any sense and the extra two months doesn't matter.

Mr. Raymond Reber stated I'm not arguing with you. I'm just raising the point that we keep hearing comments that service is not an issue...

Mr. Wai Man Chin stated across 129 there's only a few commercial space because I live on East

Mount Airy and that's all residential space and that cell tower is right in front of us all the time, the one that's on 129. I drive past that cell tower every day, twice a day, there times and four times a day. I still don't get no service and I have Verizon, at all. I know it's not a Verizon cell tower. It's an AT&T cell tower. So, once I turn the corner from 129 from Yorktown, I'm gone. I don't have nothing over there. I'm just saying that the cell tower there is in my backyard or my front yard also. You're saying that's commercial space but it's really only that little strip on 129, everything behind it is all residential.

Mr. Bill Sherrer stated my only point is that to spend time worrying about having a test on October 1<sup>st</sup> or on December 1<sup>st</sup>...

Mr. Wai Man Chin stated we spent time on a lot of cell towers, including the one on 129. We had balloon tests over there where people complained that they couldn't even – when we looked from their sight, we couldn't see the balloon. The wife of one of the neighbors over there said: “where's the balloon?”

Mr. Bill Sherrer stated all I'm saying is that when the trees are in bloom no one is...

Mr. Wai Man Chin stated it was in the summertime they did it – not summertime, it was the wintertime and they couldn't even see the balloon.

Mr. Bill Sherrer stated Verizon could have done all these tests with engineers in a couple of months...

Mr. Wai Man Chin stated this was AT&T, this wasn't Verizon.

Ms. Arcadia Kocybala stated good evening. I'm Arcadia Kocybala. I live at 2122 Quaker Ridge Road. I have a few questions if I may. With respect to the Special Permit, is there a term limit on it or once it's approved is it until Verizon decides it no longer wants to have a cell tower?

Mr. John Mattis responded it has to be renewed every 5 years.

Ms. Arcadia Kocybala stated oh, every 5 years. I see. Secondly, somewhat along the lines of Mr. Sherrer's comments about Verizon providing renderings of the cell tower facility and the vantage points where the adjoining residences. I had mentioned at the last meeting that I was rather surprised in terms of presentation that Verizon has not presented any renderings, any drawing of what the cell tower would look like, what the fenced-in area would look like. Are we dealing with a chain linked fence? Is it a wooden fence? I really think that their presentation to the board and to the community has really been quite inadequate and I would respectfully submit that the board should ask Verizon to provide a decent rendering so it's not up to the imagination of the neighbors to try to envision what is this tower complex going to look like. With respect to the balloon test, I can attest that generally speaking, by mid-November the leaves are almost all gone from the trees so if we can come up with a date that, if not out into December and is not October 1<sup>st</sup>, by mid-November I think that issue of being able to view the balloon when the trees

are without leaves that could happen by mid-November. With respect to the comments that Verizon cell phone users are having problems, Ken, is Verizon able to co-locate on the tower at 129?

Mr. David Douglas responded we've asked them that and they've provided us information to us and part of our decision will be weighing that information they gave us.

Ms. Arcadia Kocybala asked they provided already? And they say they can't or...

Mr. David Douglas responded not that they can't. What they did is they provide information comparing different sites and what the coverage will be in different locations and we've got to look at that and analyze it and make a determination that it is – there is a sufficient enough difference, there isn't one and that's – but they gave us the information. That's one of the very first questions that we asked. I think it may have been mentioned at last month's hearing or maybe the one before, part of the reason it was the very first question is because Mr. Chin and I are very sensitive about that because of where we live. So, one of the very first thoughts that popped into both of our heads is one on 129 so we're definitely looking at that.

Ms. Arcadia Kocybala stated thank you.

Mr. Frank Franco stated this is Frank Franco again. Just since it got brought up, the simulation; did Verizon provide it as far as the coverage? I'm a software architect and that map that they provided is a simulation. Simulations can be tweaked. It was provided by a Verizon engineer so take that for what it's worth. It's not like it was a third party analysis. The coverage map that they showed where they were saying that this was going to drastically improve the coverage in downtown Croton, if you look at that coverage map where it was showing the improved coverage looked like it was more towards the greater Teatown area opposed to downtown Croton. I'd just say, when you review that map take a good look at what is actually red on that map where they're improving the coverage because it didn't look like it was where they wanted the coverage to be. Thank you.

Mr. David Douglas stated just one point you said. In terms of the data and the simulation, we can only base things on what's given to us. We can't force Verizon to give us a third party's analysis. If somebody wants to present to the board information that's a different analysis that's at odds with Verizon's that's more information – the more information we have the best, it's better for us.

Mr. Frank Franco asked so could we request that the board request from Verizon a third party analysis?

Mr. David Douglas responded no, we're not going to request from Verizon that they hire an outside company to do another analysis as a double check on their own but what I'm saying is if anybody wants to provide us with another analysis then we'd take that into consideration too.

Mr. Frank Franco asked so it's our job to do this opposed to the Verizon making three billion dollars a year?

Mr. David Douglas responded Verizon provided us with that information. If somebody believes that that information is not accurate and they can provide a counter to it. That's all I'm saying.

Mr. Frank Franco asked so we would have to provide the town...

Mr. David Douglas responded it's up to you. We can only base our decision on the information that's given to us. We can't say to Verizon: "you've given us your analysis – we've asked for an analysis, you gave us an analysis, go get somebody else to do another analysis." We don't do that. We ask them for the information and they provide it to us. If an expert comes to us and say "wait there's something wrong with that." It's great. The more information we have the better.

Mr. Frank Franco stated we're talking about a report that was provided by Verizon.

Mr. David Douglas stated yes, at our request.

Mr. Frank Franco stated and you don't think that's a conflict of interest?

Mr. David Douglas stated we asked for them to provide information and if...

Mr. Frank Franco stated but it was from Verizon. Verizon's own engineer presented that.

Mr. David Douglas stated yes, but that's how the process works. If the applicant is asking to do something and they provide us information that we've asked for, if somebody is opposed to what the applicant is asking for then they can provide us with information says that the applicant said isn't accurate.

Mr. James Seirmarco stated if an applicant comes in, has a piece of property says it's a one-acre zoning house on it we have to – if they provide us with an architect's or surveyor's piece of information that says it's one acre we can't say "well, go get another architect, we want to see another surveyor do this." We don't have the authority to do that. We have the authority to ask for the information. We have the authority to have the ground rules for receiving the information and where it's got to come from but we can't say "don't like that. Have to have another one."

Mr. Frank Franco stated I guess the difference in this case, surveying versus a simulation that's where I draw the line. I mean, if you can have somebody survey a property – I guess you could have it redone but when you're talking about a simulation, when you come to simulations there's usually a lot of parameters they can be modified so...

Mr. James Seirmarco stated I understand.

Mr. Frank Franco stated I think you're comparing apples and oranges.

Mr. James Seirmarco stated I'm just saying that we ask for certain things with the stipulation that they are accurate and they are done by qualified people. We have no right to question their qualifications and say "hey, I don't like that person. They're not a good surveyor we'd like to have another survey done." We don't have that authority.

Mr. Wai Man Chin stated Mr. Franco, you said before, and this is in your own words; he's saying that Verizon had their engineers give a report and they could have 'tweaked it', that's your words. If you feel that they could have tweaked it then it's up to you to get somebody to respond to that. You know what I mean? You can't say somebody 'tweaked it' and then not prove it.

Mr. Frank Franco stated I don't know for sure.

Mr. Wai Man Chin stated that's what I'm saying. That's what you said in your own words.

Mr. Frank Franco stated that is my words. I'm saying it could be, right, I'm not saying it was. I'm saying...

Mr. Wai Man Chin stated then you would have to hire somebody on your own personal and disprove what was said from Verizon.

Mr. Frank Franco stated I got you.

Mr. David Douglas stated I just want to explain something else to you, that if we've got a record here that has certain data and there's nothing in the record to contradict that data and then if suppose we would say: well we're just going to ignore it then we're just going to get challenged by that and that's going to go to court and that would go to court and we would lose and we'd be back here again. We can't do that.

Mr. Frank Franco stated maybe we can do some research on that. Thank you.

Ms. Karen Wells stated my name's Karen Wells. I represent a neighborhood group called Greater Teatown and I live at 28 Applebee Farm Road. As I'm sure all of you here know, Teatown the area is a treasured part of the Cortlandt community. In given such, we as a community, take everything that happens there very seriously in part because it impacts not just us, the folks who live there, it impacts the broader community: the tourists that come visit, the campers that go to camp at Teatown Reservation, the historical folks who enjoy giving tours to the Croton Dam and the Croton Aqueduct. Also, what happens there impacts New York City because of the watershed and the Ossining community water supply. I'm going to cover a couple of things that we haven't discussed yet and that have the potential to impact over 8.5 million people and I'll get to that in a moment but before we get there I do want to address the question of having some time for us, as a community, to raise some funds so that we can do that coverage analysis. I respectfully request that you give us 60 days to raise the money within our

community for that analysis and to retain someone to do that. Once we retain that person, I can report back to this board about the timeframe for conducting the analysis.

Mr. David Douglas stated in terms of timing, you can rest assured that we're not going to be finished with this next month or I don't think even the next month will be possible, maybe the next month but definitely not next month because the applicant is going to have additional information. The applicant is going to respond to requests that we've made, will be responding to what the Franco's lawyer has submitted, other members of the public may want to submit things so it's not that this is going to be wrapped up next month so you should have time. I can't promise you how long the time will be but we can't possibly get this finished next month.

Ms. Karen Wells stated I completely understand. I've been working with the Town of Cortlandt on many things over the years and I know that the diligence is done and things are not rushed through and trust me, I do appreciate that. Given the timeframe we're talking about I also think that delaying the balloon test to sometime in November and December is not an unreasonable request for a structure that could permanently be in the landscape. I don't know what the balloon test will look like. I have seen some pictures from the initial balloon test that Verizon conducted. I asked that I be able to distribute these via our community email list and I was denied the ability to do that. I do not take something I already had and just send it out without permission. I think giving the community a fair balloon test is really a fairly simple process here. Along those lines, the 175 feet request I think is quite rational because while they do need to come back to this board for approval to extend the height, under, and I love that industries get these things put into legislation like this, under the Middle Class Tax Relief and Job Creation Act of 2012 – and by the way, I'm not an attorney. I learn all these things in my community involvement. Because of that, they have the right this increase and while they have to come back to you, you can't say no.

Mr. David Douglas stated I think we talked – I don't know if you were here at the beginning of this meeting but we talked about this earlier.

Ms. Karen Wells stated yes, I was here.

Mr. David Douglas stated and I think we talked about having a condition that they agree not to increase – if we were to approve there would be a condition and it would be a written agreement. I think we're going to – we may approve this or we may not approve it but I think that would be a condition of any approval unless there's some provision in the law which the lawyers can tell us, that says that private applicants and town boards are not allowed to enter into an agreement that restricts the applicant's right to get that increase. I suspect that the law says nothing of that sort but...

Mr. John Klarl stated but the feds always had the preemption doctrine.

Ms. Karen Wells stated and along those lines, I think given the complexity of some of the legal questions here, I don't know how much Tom Wood has been involved in this process.

Mr. David Douglas stated that's John's job.

Mr. John Mattis stated John does Planning and Zoning.

Ms. Karen Wells stated thank you. I'm getting older, it's harder to see. I think that these – it's certainly important that you, as a town attorney, be involved in this and I know the town has entered into memorandums of understanding agreements. On the chance that that agreement cannot take place, I do think doing the balloon test, and you can put up two balloons: one at 140, one at 175. I think that's a fairly decent compromise and I really don't think it's really too much to ask.

Mr. James Seirmarco asked I have a question for you. You said there was a balloon test already?

Ms. Karen Wells responded yes, there was a balloon test but I didn't know about it. I don't think anybody else in the community knew about it.

Mr. James Seirmarco stated we have no record of it.

Ms. Karen Wells stated I think this was sort of in the discussion of the process and there are some pictures but again, I have seen them but I was not allowed to distribute them.

Mr. Wai Man Chin asked who did not allow you to distribute them?

Ms. Karen Wells responded I was given the pictures by the folks at the Danish home when the application was being put forth.

Mr. John Mattis asked are other people in the community; have they seen them also or is it just you?

Ms. Karen Wells responded not from me certainly, and I don't know if they've shared them with anyone else. And actually that kind of segway's nicely into my next point. At the last meeting I asked that we might get the applicant to repost, because there seemed to be some confusion within the community about what was going on with this. I know they're not required to repost and I would still like to reiterate, I think that would be, again, a nice thing to do. It's also along those lines, if the reason this is being pursued is because of financial concerns I think it would be much better to find a community answer to the organization's financial concerns.

Mr. John Mattis stated the Zoning Board is not concerned with finances. We're precluded from that.

Ms. Karen Wells stated I understand that and I'm just putting this forth so you can understand the type of community that, we in Teatown, have. This is a community where people come together, we help each other. I haven't heard anyone say that this is something they shouldn't pursue. It's their property. It's their right to do that. I firmly believe that. What I think we all

need to do is to make sure that the process goes in a way that is fair to all parties. Now, one of the other components we have not quite touched on is the issue of fire. Again, I learn these things as we go through these different types of projects that come up in the community. I never knew cell towers burnt down but I guess they do and in Teatown we do not have fire hydrants. Because we don't have fire hydrants, if there is a fire it becomes a much more dangerous situation than you would expect in a community with fire hydrants and this comes back to my earlier comment about the potential impact on a broader community of people. Where the cell tower's proposed is within the Croton Watershed which services New York City's water supply. If there is a fire in that area, and it causes the decrease in tree coverage, underbrush, etc, that literally endangers the water resources of New York City and this is a particular watershed that has been under federal mandate to limit the runoff into that particular watershed.

Mr. David Douglas asked can I interrupt you for one second? One of the things we had requested is that the fire plan be provided...

Ms. Karen Wells stated because I haven't heard that that has been yet, has it?

Mr. David Douglas stated I don't recall us receiving it yet but I know that was something that was discussed at the last meeting.

Ms. Karen Wells stated I am certainly looking forward to seeing that. I do want to emphasize as we look at a fire plan because if Verizon is developing the fire plan, there is a strong possibility that they may not be aware of the lack of fire hydrants in the community. It is not a common occurrence in a community just 45 minutes north of New York City. I also ask you, as a committee or as a board, to take into consideration the fact that a fire in that particular area is not just a local fire issue, it really becomes a watershed level issue. Another component I'd like to follow up on this is the co-location on their transmission lines. In fact, you mentioned the transmission lines when I was here last time. Cell companies co-locating transmission lines...

Mr. John Mattis stated it's not allowed anymore. By law it's not allowed because that's a fire hazard.

Ms. Karen Wells stated see, I learn something new all the time.

Mr. John Mattis stated that's what we found out.

Mr. Raymond Reber stated that and the whole issue of terrorism and security, they're really restricting the ability of anybody to go near the towers and even the cell providers said it's gotten so restrictive in terms of the applications and whatever. They've just decided: no more, so it's not allowed. They stopped.

Ms. Karen Wells asked they stopped by law or they stopped because it's too difficult? I'm just getting clarification because this...

Mr. David Douglas stated I'm not sure if it's by law or Con Edison won't let them. It's one or the other but I believe, and maybe Verizon's representative knows off the top of his head, but it was my understanding, which might be wrong, is that Con Ed is not letting them do it anymore. So, that's not an option.

Ms. Karen Wells stated I think one of the steps we would also like to take as a community is reach out to the Con Edison community representative because, as I said, I always learn something new when we're involved in community issues so this will be another learning experience. Ultimately, just to recap the things that I would like to see; some time, and it appears we have some time for the community to raise some funds to do a coverage assessment. We respectfully ask that when you set the balloon test that you do at least one of those balloons at the 175 feet. In addition, because I do think it is a very good idea if we could get some good renderings, as mentioned and on the fire plan, when that does come out I would certainly like some time to have some folks within the community review that to make sure that certain components have been covered. Finally, on the balloon test if we could look to a November/December date and since it appears that this is not something that is going to be decided in the next 30, potentially 60 days, I'm not entirely sure why a delay would be harmful, but thank you for your time. I appreciate it as always.

Mr. John Mattis stated I'd like to make a couple of comments. Eric Anderson, I don't know his title, I think Director, he was at our work session. He's going to put the sign back up but he was waiting because he was going to put the date of the balloon test on the sign.

Ms. Karen Wells stated that's great to know.

Mr. John Mattis stated so whatever we approve he will put that on there. He told us he would put it back up and again, that would be a way for the community seeing what date that the balloon test would be. As far as fire hydrants, Mr. Reber and I walked up to where the pad would be, back in the woods, and there's a fire hydrant up there. How it ever got there and how they ever got water up to that level. It's very, very old.

Mr. Raymond Reber stated it's not functional, we know it's not functional.

Mr. John Mattis stated it's not functional. It hasn't been for years...

Mr. Raymond Reber stated but it's still amazing that it's there.

Mr. John Mattis stated but we asked Eric Anderson: what's a fire hydrant doing up there? And he says he has no idea. Nobody ever knows that it was ever used but it's sitting there not far from where this pad will be. Just a point of interest.

Ms. Karen Wells asked is it actually hooked up or – because I'm asking just out of curiosity because I know the dog park has a fire hydrant as a dog accommodate. Just curious. I learn new things all the time.

Mr. Raymond Reber stated it's an old bona fide fire hydrant sitting there in the woods for some strange reason.

Mr. James Seirmarco asked can you tell me something about the pictures? Do you know when they were taken?

Ms. Karen Wells responded I don't. I can't recall. I'm guessing I probably got them back in May at some point.

Mr. Wai Man Chin asked the balloon that you saw, was it during the wintertime, summertime?

Ms. Karen Wells responded there were no leaves on the trees, no leaves on the trees.

Mr. John Mattis asked can you describe what you saw?

Ms. Karen Wells responded well it's very hard from my perspective but I'll tell you what I saw and this is actually my comment. From what I saw in the pictures, I personally did not see a visual impact. However, I asked to be able to share it because other people would have a much better perspective because I don't know that particular area as well. If you Google where I live you can't see anything so...any other questions?

Mr. Wai Man Chin stated okay, thank you.

Ms. Karen Wells stated well thank you again. See you next month.

Mr. Wai Man Chin stated next month.

Mr. David Douglas asked anybody else from the public? Would Verizon's representative want to address some of the things we discussed?

Mr. Michael Sherridan stated the first thing I would like to address is the balloon test date. At this point, I put forth a date for this board to consider. Again, it is this board's decision to decide the date for the balloon test. As far as one of the last comments that was made about the balloon test, if this isn't going to be decided for the next month or two why put it off? Well, the balloon test is going to be part of the record that this board reviews. It's going to be those visuals that will be done based on the balloon test will be something that will be submitted to this board to review so it will extend it beyond the next couple of months if the balloon test is put off for the next few months. Verizon is looking to get this tower done at this time which is why I'm here, which is why this has been submitted. They're looking to do it in an expedited manner. I will remind the board there is a shot clock under federal law that requires that the review be done in an expedited manner. I believe it's a 150 days in connection with the tower.

Mr. David Douglas stated which you can agree to extend.

Mr. Michael Sherridan responded right, it can be extended.

Mr. David Douglas stated I'm not saying I can force you to but you can agree...

Mr. Michael Sherridan stated correct, it could be extended but under agreeable circumstances and at this point we'd like to get moving – Verizon would like to get moving with this balloon test, get it done. One of the things that the balloon test will provide in response to another comment about renderings, is renderings of the tower and how it will look in the area; it's not that we were errant in doing that, it's that the code provides that this board can request that it is done. This board has requested it and that's why we're trying to move forward with the balloon test as expeditiously as possible. We can get it done and provide those renderings.

Mr. David Douglas stated in terms of the time I think, let me just point out that Verizon made a decision not to respond to the submission by the Franco's attorney yet and to push back that response so I just want to make sure that it's clear that it's – Verizon has been extending this out. I may be mis-remembering but I think there was one month you asked to be pushed back for another month. That might be inaccurate...

Mr. Michael Sherridan stated part of the response will include this balloon test which will certainly be able to, what is in Verizon's estimation, bolster the response as far as the impact that it will have on the community and that is one of the reasons why, another reason why we want to get this balloon test done so we are able to respond and respond in a manner that is encompassing of not only the law and in response to the case law that was provided in that opposition but also with the visuals and how, what if any impact this will have on the community.

Mr. David Douglas stated all I'm saying is that – nothing stopped you from responding on all those other points by tonight. I'm just pointing it out because you raised the spectra of there being a clock. I just want to make sure the record's clear that it's not that Verizon has been pushing to do this immediately, immediately, immediately. You could have submitted things sooner, etc. I'm just trying to be fair.

Mr. John Klarl stated we had a June meeting and we adjourned from June to August. We skipped over July. Just one other question about the transmission lines not being used. Is that based on edict of Con Ed, Homeland Security or a combination?

Mr. Michael Sherridan responded I'm not sure. I'll have to check into that. I believe it's a combination of Con Ed is not as interested, is my understanding, and there's a PSC Commission which I don't want to give a full answer because I don't have it with me tonight.

Mr. John Klarl stated it might have been a combination of the two. The Feds could be involved and Con Ed.

Mr. Michael Sherridan stated I know there is a commission that requires, has very stringent requirements if anything is to be used. I believed it was pushed off for the month for the town engineers to give his comments for the meeting which is why I believe the June was pushed off to August.

Mr. John Klarl stated that was one of the reasons, yes.

Mr. Raymond Reber stated you heard the debate about this 175 foot option in reference to federal regulations that supposedly allows minimal changes and under FCC it's 10% or whatever. Our code, of course, does require that the tower that's approved allows up to 4 co-locations. We would like to reconfirm from Verizon is a letter clearly stating that, in accordance with our code, the tower that is being proposed provides 4 co-locations and that regardless of this federal regulation that would allow a request for an additional height, that there is no need for Verizon ever to ask for that height.

Mr. Michael Sherridan responded well, that was an interesting point that was brought up about the TRA, which I agree is an interesting name: The Middle Class Tax Relief Act. It does provide that in cases of co-locations on existing towers, it's I believe 10% and my understanding is 20 feet. I'm not sure where the going up 35 feet...

Mr. Raymond Reber stated wait a minute, it's irrelevant. We're asking you to say is for Verizon to say they don't want to ever impose this because our code...

Mr. Michael Sherridan stated I don't think there's ever a need for Verizon to increase because Verizon's on top of the tower. I don't know if I can say that federal law can be circumvented by an agreement between this board...

Mr. Raymond Reber stated no, you're not circumventing it. What we're saying is our code requires that your tower has a capability for co-location.

Mr. Michael Sherridan stated which it does.

Mr. Raymond Reber stated therefore there's no reason why anyone would have to go higher above Verizon and we would like Verizon to say they are complying with our code and therefore extending that tower would be ridiculous. Now, okay, maybe sometime in the future something comes up but if we have that letter on file we have grounds to sit here and say: there's four slots so until those four slots are filled and I can't image how there's going to be a need for a fifth beyond, we have the peripheral right to turn people down regardless of the fact that they say: but the law says that you have to cooperate. Not if we want the co-locations. We can turn it down. Let them bring an article 78 or whatever I think we'd be on solid ground but we need – that's got to be on the record that it's there to protect us.

Mr. John Mattis stated as a point of information, those co-locations have to be below the primary which is Verizon and I believe that said, I believe it was 10 feet or each 10 or 15 feet down.

Mr. Michael Sherridan stated that's the way the tower is designed.

Mr. John Mattis stated it's not going to go up. It's going to go down to co-locate.

Mr. Michael Sherridan stated the tower is designed in accordance with your code and allows for the co-location.

Mr. Raymond Reber stated because the original argument when we challenge the height and we were told the only reason why it was going that high is to make sure that there's enough room to co-locate.

Mr. Michael Sherridan stated correct.

Mr. Raymond Reber stated okay, put it in writing, confirm that that's all been complied with.

Mr. Michael Sherridan stated that is why it's designed that way. I will certainly – it's a unique question and I will certainly look into it and get you an answer as to whether that can be put into writing and avoid the TRA...

Mr. Raymond Reber stated can always be put into writing, the question is whether it holds up legally.

Mr. Michael Sherridan stated right and that's something I would have to look into. I don't have an answer for that one tonight.

Ms. Adrian Hunte asked Mr. Sherridan, could you address Mr. Sherrer's comments concerning balloon test versus sight line testing? Are you aware of...

Mr. Michael Sherridan responded I'm not exactly sure what he was saying. It just sounds like he was talking about computer renderings, computer programs that would design the tower. That is what the balloon test is there for. What will happen after the balloon test is there will be computer renderings of this tower shown from different vantage points. Another thing that's to the benefit of the neighbors that a balloon test provides that computer renderings do not is that the neighbors will be able to go out themselves and confirm whether or not they can actually see the balloon...

Ms. Adrian Hunte stated that leads me to my next question, just concerning logistics of having a balloon test. If there are individuals who are living up higher and others who are living down below, how is that information gathered and how are the people who are in these various locations going to be aware of what the test or to give their observations on the test? Or how is that going to happen?

Mr. Michael Sherridan responded what will happen is Verizon will have their engineers who are

conducting the balloon test. The engineers will raise the balloon. They will go around the area, going out in as much sort of concentric type circles as they can, taking photographs from various vantage points including if there's any parks or places of interest, they will make note of that, they will take pictures from there and then those pictures – those where it's visible, those pictures will be turned into renderings which show what the tower would look like from those vantage points in the future.

Mr. James Seirmarco asked were they done last time from an original test last May?

Mr. Michael Sherridan responded I have to look into that. I do not have that test with me so I will contact them and get a copy of that.

Mr. David Douglas asked now for Verizon to take pictures from private property they have to get the approval of the homeowners correct?

Mr. Michael Sherridan responded yes. I mean they can't just go on private property.

Mr. David Douglas stated they would not be able to go on the property unless the homeowner said it was okay.

Mr. Michael Sherridan responded right.

Mr. David Douglas stated the other question: will they take pictures from the dam?

Mr. Michael Sherridan responded yes, if that's one of the places the board wants a picture taken from, certainly.

Mr. David Douglas stated I would want to know what you can or can't see from the dam.

Mr. Michael Sherridan responded right, it's one of the places that I believe they're planning on taking it from because it is such a significant point of interest.

Mr. Wai Man Chin asked according to Mr. Valenti, the property owners have given permissions for a photographer to take pictures from their property. That's already been a given.

Ms. Adrian Hunte asked is there going to be coordination to get this information and...

Mr. Mike Valenti stated we can exchange information. I can exchange phone numbers and all that.

Mr. Michael Sherridan responded certainly. I think that can be done if somebody wants. Also meeting at the gate of the property at 10 a.m. not on the property obviously but...

Mr. David Douglas stated so I guess we have to decide about the date of the balloon test. What

do people think?

Ms. Adrian Hunte stated I'm wondering whether is more information better. Would it serve us to have the October and also a November to see the different...

Mr. Wai Man Chin stated well, all I'm saying is maybe we should have that October one, the October 1<sup>st</sup> one and if we can get the balloon test that was done prior, whenever that was, that was done in the wintertime when there was no leaves on there, maybe that could also be added to our – given to the board members, somehow.

Mr. Michael Sherridan stated I will get a copy of that balloon test. I do not have it with me.

Mr. Wai Man Chin stated okay.

Mr. Michael Sherridan stated and if it in fact done, that's something that I can discuss with the engineers and incorporate into the new balloon test.

Mr. Wai Man Chin stated I'm just saying that somebody had pictures of the previous balloon test and said it was in the wintertime so that might also suffice for wintertime and then take one now when there are some leaves on the trees. I know some leaves are falling down but there's plenty of leaves left.

Mr. David Douglas stated that makes sense to me but the previous balloon test, who owns – who took it? Is it Verizon did it for the Danish home or somebody else?

Mr. Michael Sherridan responded I imagine it would be Verizon if it was done recently.

Mr. David Douglas stated so then if it's Verizon's photos there should be no reason they wouldn't agree to making it public.

Mr. Michael Sherridan stated I'm in agreement with that.

Mr. David Douglas stated and I would think, I know you can't speak for the Danish home but if it's the Danish home's photos I would think there would be no reason for them not to agree either.

Mr. Michael Sherridan stated I can't speak for them but yes they want this project to move forward so I can't imagine they would hold that up.

Mr. Wai Man Chin stated that's it, anybody else?

Mr. David Douglas asked any other thoughts about the date from anybody else? No.

Ms. Karen Wells stated just one comment on the date and using prior winter photos. I know one

of the big concerns in the community, because the Croton Dam is a nationally registered historic landmark and it's very popular tourist site, etc, I don't believe there are any pictures of that initial balloon test from the dam location.

Mr. Wai Man Chin stated I believe Karen said that there will be some pictures taken from the dam.

Mr. Mike Valenti stated I just had one quick point. It's not really much. First, as far as the shot clock, I think respectfully, obviously the board is going to make the right decision either way and they're going to make it on all of the facts available when they make their decision so I – just as, I wouldn't want the board to make a decision under the pressure of any shot clock. My second point, council over here mentioned that Verizon was in a rush to get this tower built. I'm not speaking as a lawyer, right now actually I grew up, my dad was in construction. I worked in construction until I passed the bar; steel construction. I mean, if this is going to be put over two months, we're going to be in December, concrete's not going to be poured in December. It's going to take a little bit of time to put the tower up anyway. That's my only point. If there's any questions. Thank you.

Mr. David Douglas stated if I'm understanding what Mr. Chin was proposing is that your idea was to keep the October 1 date and then use the photos from the winter that already exist as a second vantage point.

Mr. Wai Man Chin stated vantage photos.

Mr. David Douglas stated and if for some reason we don't get those photos, we can address it further.

Mr. Wai Man Chin stated I'm sure those photos are existing somewhere and I'm sure, like Karen says probably Verizon who took them originally.

Mr. David Douglas stated that makes sense to me but I'm just one person.

Mr. James Seirmarco stated that makes sense to me too.

Mr. Wai Man Chin asked anybody else in the audience?

Ms. Rachel Norfleet stated hi, I'm Rachel Norfleet 2087 Quaker Ridge. I just want to add my voice to the chorus of people saying we really want to see what it looks like when there are no leaves on the trees. It sounds like no one knows where these other pictures are and my understanding from what the Verizon representative just said is that the pictures that are – the data from the balloon test is going to be used to do the renderings and we want to see those renderings with no leaves on the trees.

Mr. David Douglas stated I'm not sure that nobody knows where the pictures are. I think people

know where the pictures are, it's just they have to be released to the public and released to the board.

Ms. Rachel Norfleet stated but they won't be taken from people's yards and from the dam. We don't know where they've been taken from.

Mr. David Douglas stated right, but once we see them then we can evaluate. If there's a gap in knowledge then we can address it.

Ms. Rachel Norfleet stated I think many people have said another six weeks when it's gone on so long and when there's a very clear desire from the community to see what this looks like when there's no leaves on the trees, it does seem like a reasonable request. I just wanted to put it out there.

Ms. Nancy Sherrer stated 2126. I cannot speak as eloquently as Karen. I do live directly across, up high, as my husband said, six months a year we enjoy that beautiful view even though it's winter, with no trees, no leaves on the trees. I too would very much appreciate what it looks like for those six months.

Mr. David Douglas stated I think the game plan is to have the balloon test on October 1 and have those additional photos, which supposedly give views from the winter and if they don't then we may need another test. Let's see them first.

Ms. Nancy Sherrer stated but they won't be from my deck. I understand your focus is not just about me.

Mr. David Douglas stated right. You can take a photo.

Mr. James Seirmarco stated you can request they take a photo from your deck.

Ms. Nancy Sherrer stated yes but taking it October 1<sup>st</sup> you will see nothing.

Mr. David Douglas stated you can take it on – we're going to have our next meeting in November, take photos from – our next one's in October and we won't be closing then so you can take...

Ms. Nancy Sherrer stated right but what I'm saying is the balloon test will not be done.

Mr. Wai Man Chin stated October 1<sup>st</sup>, if you see the balloon, take a pictures of the balloon so at least you know where they are.

Mr. David Douglas stated you know where they are and then you can take a photo from – you can see then in relation to...

Ms. Nancy Sherrer stated yes, but it's possible because of the leaves I will not see the balloon then.

Mr. Wai Man Chin stated but that's all you're going to see anyway because the only attached to that balloon is a string. You're not going to see a pole there right now.

Ms. Nancy Sherrer stated I understand. I understand.

Mr. David Douglas stated I think that's the approach we described is what we're going to try and if it turns out that there's some gap and it's not working we'll address it.

Mr. Wai Man Chin stated we'll have to do something else then.

Mr. John Klarl stated we're flexible.

Mr. Wai Man Chin asked anybody else?

Mr. David Douglas asked anybody else want to be heard?

Mr. Michael Sherridan stated I would just like to make one more point, we do want to accommodate with people's and individual properties, there is a limited amount of daylight, so although there are not that many people here, I just want to make sure if we show up on October 1<sup>st</sup> that there's 27 people I think the photos – 27 homeowners, the photos are going to have to be limited to general areas of interest as opposed to going to everybody's home. I just want to set that up that's not what the test...

Mr. David Douglas stated we'll have Verizon work that out with the representative.

Mr. Michael Sherridan stated I just want to make that clear here so if on that day it's just overwhelming, the photos will be taken from major points of interest.

Mr. Wai Man Chin stated right.

Mr. David Douglas stated we understand.

Mr. Wai Man Chin stated and Mr. Valenti...

Mr. Michael Sherridan stated I just wanted to put that in mind because it has to be done when there's daylight, when the balloon's up.

Mr. Mike Valenti stated I believe my client is a major point of interest. They're the closest property to the tower. I think that's a major point of interest. That's all.

Mr. David Douglas stated I can't imagine Verizon is not going to take a picture from...

Mr. Mike Valenti stated thank you. I would like to exchange information before we leave here.

Mr. Wai Man Chin asked anybody else in the audience? I'm going to make a motion on case 2016-10 to adjourn to the October meeting.

With all in favor saying "aye."

Mr. Wai Man Chin stated and also have a site visit on October 1<sup>st</sup> at 10 a.m. for a balloon test.

Mr. David Douglas stated thank you all for your time.

Mr. Wai Man Chin stated thank you.

**B. CASE NO. 2016-14 Michael Casolaro Area Variances for the minimum lot size and lot width in the HC zone for a specialty trade contractor on property located at 2006 Albany Post Rd., Croton-on-Hudson, NY.**

Mr. Michael Casolaro stated good evening.

Mr. John Mattis stated the reason we adjourned was because we did not know where the shed was going. We wanted to see where that would be sited and we haven't received anything. We don't have any drawings where it would be. We have nothing new since last month.

Mr. Ken Hoch stated there's a drawing John.

Mr. John Mattis asked where. Oh, I'm sorry, we do have it. I'm sorry. I'm thinking of something else.

Mr. Michael Casolaro stated you scared me.

Mr. David Douglas stated hit rewind and Mr. Mattis will start again.

Mr. John Mattis stated slap me once and I don't think we have any problem with the location of the shed.

Mr. Wai Man Chin stated during the work session we looked at it and everything else and...

Mr. John Mattis stated we're in concurrence that it's fine. Is there anybody in the audience that wants to speak? I move that we close the public hearing on case #2016-14.

Seconded with all in favor saying "aye."

Mr. John Mattis stated and I move that we grant an area Variance for a minimum lot size from the required 20,000 square feet down to 17,935 square feet, and an Area Variance for the minimum lot width from the required 100 square feet down to 58.5 feet for a roofing Specialty Trade Contractor and an Area Variance for the side yard setback and for the shed as located on the most current drawings. It's a type II SEQRA, there's no further compliance required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated your Variance is granted.

Mr. Michael Casolaro stated thank you. Have a good night.

Mr. David Douglas stated okay, thanks.

**C. CASE NO. 2016-18 Charles McCay for an Area Variance for the rear yard setback for an existing open wood deck on property located at 2 Arthur St., Cortlandt Manor, NY.**

Mr. John Lentini stated good evening Mr. Chairman and members, ladies and gentlemen of the board, I'm John Lentini the architect. I'm here representing Charlie and his wife, Mr. and Mrs. McCay are here. I regret I wasn't here at the first meeting. I had an emergency pickup at the airport. I have five family members flying standby and I know how important it is. I know Charlie tried to explain certain hardships but I'd like to go over them again, especially how his lot was formed. I understand that 1963 Mr. Vega owned the property and made a representation in an application to this board who was sitting on it in 1972, May of 1972 that she appears to have missed the opportunity to build because the zone was just changed. I suspect it was an R20 zone but at the time of her application, May 30<sup>th</sup>, 1972 she made a request to allow her lot to be subdivided into two lots of lesser size. On February 28<sup>th</sup> of 1973 this board approved the subdivision with the smaller lot size and they said: but it's granted subject to Planning Board concurrence. Since the split the lots requires a subdivision. I haven't seen the subdivision. I have talked to Mr. Hoch. I don't know if there's ever been any information on that subdivision requirement but I don't believe that there was anything that changes one fact and that is that although the lot was allowed to become which it is today 19,700 feet from 40, the area for the setbacks wasn't waived and it's still imposed the larger setbacks to the lot. The setbacks for the normal R40 lot which is 200' x 200' would involve 25,000 square feet of property dedicated just to setbacks, to go all the way around the lot. This whole lot is only 19,000 square feet. Right in itself is a hardship to the lot. The house was forced to sit further back because of the 50 foot required front yard then four other houses on the block that all appeared to be at a 30 or 40 foot setback. It's tantamount to allowing somebody with one leg to enter a square dance contest; to allow the smaller lot but leave the larger requirements. Mr. McCay bought the house in 1979 with a small deck and having just had a grandchild he expressed the desire and by doing so got in trouble by enlarging the deck that was there to a 12 foot from a 7 foot deck. But even the deck was there apparently was non-conforming and it was, I believe, if I'm not mistaken I

can let him speak to that, but I believe it was on what he bought in the past [1:36 inaudible] at the time. We are just pleading with the board to allow, to relax the deck as it is. In terms of what it looks like, it looks very normal for the neighborhood. It doesn't really stand out and it's a little unusual that the house is faced that way. Someone suggested that maybe it was intended to turn the house the other way, turn the backyard the other way but Mr. McCay bought the house that's there, the way it's situated; 20 feet and his rear yard is just 20 feet from the fence. There's no other way to get a rear deck on the house except for the rear of the house and in terms of the value of the house, I would say it seriously detracts from the value. Somebody buying homes today in Westchester expects to be able to have everything everybody else has; a rear deck. The smaller deck, while it could be usable, I don't believe that it could be used for six people which is a medium family which is what he would hope to have a table, chairs, six people who could walk all the way around the deck, down the stairs into the house. The minimum he would need is 10 feet out by the width of the deck. The seven feet is impossible. What he has of course is what he wants. I just believe that – I don't know if he made these points before but I felt compelled to make these points.

Mr. John Mattis stated I have a couple of questions: he was allowed a 6 foot deck back; to extend 6 feet. It was built a 7 but there's no record of a Variance and he bought the property in the '70s you said?

Mr. John Lentini responded '79.

Mr. John Mattis stated so from 1979 to 2016...

Mr. John Lentini stated he wouldn't be allowed any deck. If he's required to have a 30 rear yard, six feet of it is forgiven...

Mr. John Mattis stated the zoning code permits a deck to extend 6 feet into the rear yard setback.

Mr. John Lentini responded but his rear yard is only 20 feet, it's supposed to be 30 feet.

Mr. John Mattis stated I'm reading from what Mr. Hoch gave us. Chapter 307-18B of the zoning code permits a deck to extend 6 feet.

Mr. John Lentini stated into a required yard.

Mr. John Mattis stated so he was allowed a 6 foot deck, he bought it with a 7 foot deck. He's had it since 1979. It's now 2016. That deck was adequate for all those years and now all of a sudden without a Building Permit he goes back another 5 feet. He goes to 13 feet, okay, no Building Permit, no permission and now he's only 8 feet from the rear yard and you're saying without a Building Permit, without anything he went ahead and he needs it now for tables and stuff. What did he do for the last 40 years?

Mr. John Lentini responded I don't see this is the crime you seem to be making it out as. It's just a deck in the back yard on a very peculiar piece of property.

Mr. John Mattis stated I would approve that going sideways but to go back – we have to look at this as if it were not there. You know that. When they build it illegally, we have to look at it as if it was not there and we would approve it and I would not give a deck that goes back 13 feet on that property. That’s my opinion.

Mr. John Lentini stated I understand your opinion. I actually watched your minutes right away...

Mr. John Mattis stated it puts us in a bad position when they build these without Building Permits: “Oh it’s a financial hardship to change it.” Well that’s exactly why the code says we cannot look at a financial hardship if it’s self-created because everybody would build it and say “oh it’s a hardship to take it away.” So, that’s why we have to look at it as if it was not there. If that was not there, I would not approve it.

Mr. John Lentini stated I can assure you he didn’t mean to do anything wrong. In fact, until today other communities...

Mr. John Mattis stated it’s unfortunate that the property is like it is but it is what it is.

Mr. John Lentini stated I don’t think he was trying to get away with anything. He didn’t believe he needed a permit and run into this all the time that he just thought wants a wood deck in the back of my house. He didn’t believe he needed it. It’s not like I’m sneaking to do this, I hope you don’t notice.

Mr. John Mattis stated I’ll give him that but at the same time we have to look at it as if it’s still an 11’ x 7’ deck not a deck that goes back 13 feet.

Mr. John Lentini stated right, well I know the position you’re in and I was suggesting to Mr. McCay if we remove it and then come back to the board so now it’s not there and we start from scratch but you’ve already said that you wouldn’t even approve it.

Mr. John Mattis stated I’m only one vote. I could be overruled by the other board members.

Mr. James Seirmarco stated Mr. Lentini, I hear your statement of how it evolved. It started out at 7 and then it was changed and whatever. It must have been very difficult with a 7 foot deck to even have a table up there.

Mr. John Lentini stated I believe it is. As an architect, I sit with people – it’s actually hazardous that you couldn’t get people from one side of the table off the deck without other people standing up. With chairs moving, if you take a table and chairs on both sides, it’s almost – even 12 feet is very difficult.

Mr. John Mattis stated and I would ask Mr. McCay what he’s done since 1979 through 2016.

Mr. John Lentini stated well I've had jobs where people had to raise families in Cortlandt and never knew the house was small until their kids moved out then came back with the grandkids and now they need a bigger house because of the grandkids. They were so busy getting their kids for school...

Mr. John Mattis stated we don't give decks for grandkids visiting.

Mr. John Lentini stated well it's just a wonderful thing...

Mr. John Mattis stated I understand that.

Mr. John Lentini stated especially people coming up from the city. It's a wonderful thing to sit out on a deck and watch the trees.

Mr. John Mattis stated and it was a wonderful thing in 1979, in 1989, in 1999 and 2009 and it was okay. It was adequate and then in 2015 it was adequate but now it's not. I just don't understand that.

Mr. John Lentini stated everybody tries to improve. The whole world is always on the ...

Mr. John Mattis stated and because somebody wants to improve is not the reason to give a Variance.

Mr. John Lentini stated I agree with that. I'm just trying to present that there are certain situations.

Mr. John Mattis stated we're supposed to keep Variances to a minimum.

Mr. John Lentini stated I'm not blaming this board. I don't mean to make you defensive...

Mr. John Mattis stated we're put in a tough position on these.

Mr. John Lentini stated this board is the one that created the lot that he bought that provides this awkwardness to the site and by the way the foundation was put in to allow an R20 house and as a result he has more foundation to the house than he needs. It sticks out into the front yard. The house had to be built on part of a foundation. I didn't understand why they did this but you can see clearly there's a big section of the foundation that came out all because of the confusion with it once being an R20. If you look down the lots, all the rest of the houses are right up against the street. This is the only house that was set back and I haven't researched each one of those houses, but I suspect they were built well before this house was. In fact, the woman who Vega said she would have done it before but they couldn't afford to do it that they intended to do it. Apparently it was one of the things that in Cortlandt they offered certain lots. I was involved with some other off of in Toddville that came with secondary lots that you can buy a lot as an investment. I'm not sure if this was one of them but – she had a hardship that the board recognized and then gave her an inferior lot that Mr. McCay bought. In any event, the ability to put a lot in, Mr. Hoch says 6 feet, the way read it 6 feet is permitted. If you're required to have a 30 foot setback for a deck, it only has to be a 24 foot setback

is the way I read it in the code. It relaxes 6 feet of what's required. So, in fact, you can't put any deck on the house under the code.

Mr. John Mattis stated I'm going by his reference to the code here that allows 6. They're allowed 6, they have 7 and they want 12 and they want to be 8 feet away. That's the problem.

Mr. Ken Hoch stated John, the confusion here is when this lot was created, that 20 foot setback I believe was intended to be the side yard setback and that would be accurate. However, the house was turned and it's facing Arthur Street instead of South Hill. So now, everyone's correct. It should be a 30 foot setback, however it was approved with 20 and there's very little in the historical record that says: well it was the 20 that was the rear or the side. It's speculation to say: well, if it was the side it would be legal. If it's the rear it's not legal it should have had a Variance, that didn't happen and here we are.

Mr. John Lentini stated I suppose that...

Ms. Adrian Hunte asked so do we have a determination as to whether the South Hill Street is a front yard or a side yard?

Mr. Ken Hoch responded technically, they're both front yards and this is the rear of the house. It should have had a 30 foot setback but it wasn't built that way. It was built at 20 and it was given a CO and then a deck was put on sometime before Mr. McCay bought it, without a permit which kind of compounds the issue.

Mr. David Douglas stated at our work session I think what we thought is what we should do is rather than render a decision tonight, we were going to close and reserve so that we could think this through more and then we'll have a decision within the – either next month or the month after.

Mr. John Klarl stated the board would have to give me direction tonight for next month.

Mr. David Douglas stated okay it won't be next month because we're not ready to give you direction so we'd have a decision at the November meeting – we won't be able to tell you anything tonight.

Mr. John Lentini stated so then I request that we adjourn the meeting.

Mr. Wai Man Chin stated we'll close and reserve.

Mr. John Mattis asked anybody in the audience?

Mr. David Douglas asked does anybody else want to be heard?

Mr. John Klarl stated since we're all clocks tonight, we have a 62-day clock here.

Mr. James Seirmarco stated I make a motion that we – on case #2016-18 to close and reserve.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the public hearing is closed and we'll have a decision within 62 days. I'll have to double check that November...

Mr. John Klarl stated that's the time clock for this one; 62 days.

Mr. David Douglas stated right but is November 62 because sometimes...

Mr. John Klarl stated we'll figure it out by next meeting if we extend it. What we like to do is 62 days or if the day occurs earlier.

Mr. David Douglas stated we've got 62 days. Usually, two meetings falls within that 62 days but once in a while it turns out to be 63 or 65...

Mr. John Lentini stated I don't recall if there's a waiver that...

Mr. David Douglas stated I assume that you won't have a problem waiving that.

Mr. John Lentini stated we'll waive the requirement.

Mr. John Klarl stated what you can do tonight is extend to October 20<sup>th</sup>, the day after the next meeting.

Mr. David Douglas stated he's going to agree to it. He waived it.

Mr. James Seirmarco stated let the record indicate that Mr. Lentini waives the time clock if it's greater than 62 days.

Mr. John Lentini stated thank you very much.

Mr. David Douglas stated thank you.

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**NEW PUBLIC HEARINGS:**

- A. CASE NO. 2016-19 Desire Casado Miller for an Area Variance for the front yard setback to construct a porch on property located at 11 Ogden Ave., Cortlandt Manor, NY.**

Ms. Desire Casado Miller stated hello Zoning Board, yes my name is Desire Casado Miller and I

do live at 11 Ogden Avenue. I've never done this before but we are in hopes that we can create a new porch in our front yard, a safe space. It is falling off. It is the original porch when the house was built and we would like to fix it.

Mr. David Douglas stated Mr. Mattis, this is your case.

Mr. John Mattis asked what's the size of that right now?

Ms. Desire Casado Miller responded honestly, I don't know. I think it says it all on the paperwork.

Mr. John Mattis stated because the new drawings say that it's removal and replacement of an existing deck but basically, if I understand it, it's just a stairway and a landing to go into the house.

Ms. Desire Casado Miller responded yes, it's very tiny.

Mr. John Mattis stated so this is kind of misleading. You're proposing to make this 23 feet wide roughly – the width of your – so this is not a replacement. This is a totally new, going from a little porch coming in to a full deck. Is that correct?

Ms. Desire Casado Miller responded yes.

Mr. John Mattis asked and it would be 23 feet wide.

Ms. Desire Casado Miller responded yes.

Mr. John Mattis stated and you're proposing it with the front yard setback would go down by almost four feet and with the allowed 6 feet it would be from 23.1 existing to 19.4 but it's a 35% Variance. Historically, we do not allow decks in the front yard. We've had people put porches that don't come out too far but we do not allow decks in the front yards.

Ms. Desire Casado Miller stated okay so it would be considered a deck, not necessarily a porch.

Mr. John Mattis stated porch is covered, it has a roof over it. A deck is open.

Ms. Desire Casado Miller stated okay that's the...

Mr. David Douglas stated I'm not sure we would approve a porch that's 23 feet.

Mr. John Mattis stated we would have to consider that separately and it extends 6 feet. We generally only give 5 feet for a porch.

Ms. Desire Casado Miller stated so it wouldn't be able to be from the side of the house to the

other side is what you're saying? It would have to be...

Mr. John Mattis responded we're not saying we'd even approve a porch but we would definitely not approve a deck. That's just something that we don't do. The purpose in a neighborhood is not to have a deck in the front where people come and have a party and congregate.

Ms. Desire Casado Miller stated we just wanted a safe space for my child.

Mr. John Mattis stated but that can happen. Once it's there, that can happen and historically we've never done that. It runs against what the code has, especially if you need a Variance.

Ms. Desire Casado Miller asked is it because it sticks out too much, we would have to make it shorter? Is it the length that's the problem? I'm just not understanding.

Mr. Wai Man Chin responded it's the full width.

Mr. John Mattis stated it's the full width.

Ms. Desire Casado Miller stated the width, so coming out.

Mr. Wai Man Chin stated no, the full width of the house, from this side to that side. Before you only had this much, steps coming up the side now you have steps coming up the front and the porch or the deck – it's going completely from side to the edge of the house. That's what Mr. Mattis is trying to say.

Mr. John Mattis stated the way this was brought in, it said "removal and replacement" which means it would have been small and that's on the architect's drawing and now what you're telling us is you want the whole thing and that's something we don't grant.

Mr. David Douglas asked would it make sense for her to speak with Mr. Hoch about what's allowed and what's not allowed and perhaps come back with a revised plan?

Ms. Desire Casado Miller responded yes, we would have to.

Mr. David Douglas stated Ken, I've just volunteered you.

Mr. Ken Hoch stated yes, quite all right.

Mr. David Douglas stated you were pretending you didn't hear me.

Mr. John Mattis stated there may be a way of accommodating this but not the way it's proposed.

Mr. Wai Man Chin stated it's just that the architect drew it on the plans from edge to edge of the house either by your request or his thought and not realizing you can't do that in the front of the

house, the front yard of the house. You have a small little thing where you come up, open your door, you have a little room, that's about it. Usually most people have decks in the back, side or whatever.

Ms. Desire Casado Miller asked houses normally have porches in the front. I don't understand...

Mr. Wai Man Chin stated not in this area.

Mr. John Mattis stated small porches.

Mr. Wai Man Chin stated small.

Mr. John Mattis stated some houses have big porches where they don't require a setback. I mean where they're within the setback.

Ms. Desire Casado Miller stated where they're far enough.

Mr. John Mattis stated where they don't require a Variance.

Ms. Desire Casado Miller stated we're not far away from...

Mr. John Mattis stated because what happens then the porch comes in and it's got a roof and it looks like it's much forward than the rest of the houses in the area and we try to have conformity. That's what the code is all about. You can talk to Mr. Hoch.

Mr. James Seirmarco stated bring your architect in.

Mr. Wai Man Chin stated we can just adjourn it.

Mr. David Douglas stated we'll just adjourn it to next month and have your architect speak with Ken, Mr. Hoch and see if something can be worked out or not.

Mr. John Mattis asked is there anyone in the audience that would like to speak? That's my husband.

Mr. Mike Miller stated good evening board, Mike Miller at 11 Ogden Avenue. So, the reason we were trying to do the extended version was not to have a party in the front yard because nobody wants to have a party in the front yard. Our whole intentions was to just have a place where we could go outside and enjoy a nice sunset in our front yard with our son, maybe put a small rocking chair sort of thing, maybe a little glider, what have you. There was no intention of having a place to put a table and chairs or anything like that. That was not the intention at all. We were just looking for a nice place to enjoy the view of the front yard that we have. That was only our pure intention.

Mr. David Douglas stated if you speak with Ken and he can talk through what might – you're going to need a Variance anyway but you can talk to what might be more acceptable based on...

Mr. Mike Miller stated the possibility of not going the full width of the house but maybe meet in the middle somewhere.

Mr. David Douglas stated right, but we would need to talk it through because we need to be consistent in how we treat you as we've treated 50 years with everybody else in the town.

Mr. Mike Miller stated totally understand.

Mr. Wai Man Chin stated and the proposed thing that you have is only about 5 foot without the railing, about 5 foot 2 wide from the house which is like that.

Mr. John Mattis stated we generally come out 5 feet, not 6. Anyone else? I move on case #2016-18 that we adjourn to the October meeting.

Seconded with all in favor saying "aye."

Mr. John Mattis stated and that will be the third Wednesday – they're always the third Wednesday, that's October 19<sup>th</sup>.

Mr. Mike Miller stated thank you.

**B. CASE NO. 2016-20 John Kane for an Area Variance for the side yard setback to construct a garage with storage above, and an Area Variance to allow an accessory structure, a shed, in the front yard on property located at 14 Buena Vista Ave., Cortlandt Manor, NY.**

Mr. John Kane stated hello everyone, John Kane 14 Buena Vista. I don't know what – I think that pretty much describes everything. The main reasons the request for the Variance is I'm meeting with a designer, going over the plan for the proposed attached garage and storage. The issues are: septic on the other side of the house are septic fields so it would be very difficult to build on that side and also put a driveway over any septic lines. That's probably our main reason. There's also an existing driveway which could lead right into the proposed garage so in consideration of the building cost. That seems reasonable as far as a reason. Another major reason is the configuration of the house. There's an existing stairs on the side which lead up to a garage – excuse me a door, an entryway which is between the bedroom and the kitchen. It seems logical to just make that a door into the garage and also up into the Cape there's an existing window which can be turned into an entryway into the storage above the garage. Those are the main reasons. There's additional reasons as well but I'll just leave it at that because those are sufficient.

Mr. David Douglas stated Mr. Chin this is your case.

Mr. Wai Man Chin stated I was at the site over the weekend and met with Mr. Kane. We were looking at the side – I was looking at drawings and everything else and yes, on the right side of the house, as you look at the front of the house, there's septic field. The back of the house actually has the septic tank right in the middle of the back of the house. What he proposes is a two-car garage and with a storage room above it which from the plans indicating that he would go from his garage into his kitchen, straight into his kitchen and also go down I think it is to, what is it a family room or some kind of room...

Mr. John Kane stated yes, just to elaborate, how the door is, there's a small landing and then there's two steps up into the kitchen which would be off to the right and there's two steps up which go into the bedroom. So there's a small landing and it goes two steps up, the kitchen and the bedroom and then there's also a stairway which goes downstairs.

Mr. Wai Man Chin stated kind of slightly down maybe 3 or 4 steps maybe.

Mr. John Kane responded no, I don't know the exact number of steps but I would think that it's probably more in the area of like 12 steps or so. It goes down to the ground floor which is...

Mr. Wai Man Chin stated the basement I guess.

Mr. John Kane responded yes, it's a finished basement.

Mr. Wai Man Chin stated from what I saw, from the property where he wants to build a two-car garage to the left of it there is a house, I would say probably maybe about 60, 70 feet away and it's a much higher grade than his property. Actually his property starts to slope down a little bit more as you go up towards the back of the property. Mr. Kane, we were talking about this project over at the work session on Monday and we believe that maybe is there any way of reducing that garage by a few feet? I'm trying to look for that plan right now. Instead of 24 feet wide, we believe that you can probably get away with a 22 foot wide garage. It would also give us a little bit better on the Variance instead of 7 feet, propose...

Mr. John Mattis stated I did the calculations. Currently, you would be 8.92 feet away, say 9 feet.

Mr. John Kane stated it's close.

Mr. John Mattis stated that's a 70.3% Variance and I looked this up and it says, generally, the recommended size of a two-car garage is approximately 20 feet wide. It says 22' x 22' is comfortable and you're requesting 24. So, if you go to 22 feet, now you're about 11 feet away from the property line and we're here to give the smallest Variances we can and 20 feet is pretty cramped so we're not telling you to go to 20 feet which is recommended. Go to 22 feet and it's only a 63.6% Variance which I still a very, very substantial Variance compared to what we generally give but the fact that the neighbors are up high and away and everything else but a 22

foot wide garage would probably be acceptable.

Mr. John Kane stated to be honest with you I'd have to speak with my designer about that. Just from the information that I was to look up on line, just researching this and trying to figure out what would be comfortable. We do have SUVs and kids. My wife is doing the soccer mom and everything so we do have larger vehicles which we are trying to get into the garage and just researching over the years, the size of vehicles have – back in the '50s, '60s they've been large. Gas crunch time they got small, now the trend is large again so I'm just trying to accommodate four larger doors, trying not to ding the car next to it and comfortably get kids in and out of the car.

Mr. David Douglas stated 22 feet should – I've got an SUV and I've got an even smaller garage. Yes, we had to become experts in getting backing in there but 22 feet that shouldn't be a problem. I think mine is under – I think mine is 19 and we get in.

Mr. Wai Man Chin stated I think 22 feet is a – as Mr. Mattis said, is a comfortable size garage. I don't mind giving a Variance based on what Mr. Mattis said and I think that's a really good, a good solution and helps us out on the size of the Variance. The only other thing that we also saw was the shed on the back area which is – we had to put onto the new worksheet that we got because we have to give you a Variance because it's also in the front yard.

Mr. John Kane stated yes, there's a long explanation about that which I spoke to Ken about.

Mr. David Douglas stated with the two lots.

Mr. John Kane stated the two lots and everything else. The shed's there. I was asked to provide a revised plot plan, which I did and presented that to him.

Mr. David Douglas asked question, did you want to speak with your design professional again? What we were originally thinking about doing is closing and reserving this and then writing up a decision but if you want to check with your design professional first, we will adjourn it.

Mr. John Mattis stated if we close it you can't testify anymore, then the decision is in our hands.

Mr. John Kane stated it's a done deal.

Mr. John Mattis stated we can ask you questions...

Mr. John Kane stated understood. The things I might need to consider with my wife as well...

Mr. David Douglas stated what we'll do is adjourn it a month and then you'll...

Mr. John Kane stated we would come back a month later...

Mr. David Douglas stated yes, come back in a month...

Mr. John Mattis stated and it's still open for you to come and present.

Mr. John Kane stated and just to kind of, if you wouldn't mind talking us through it. I do appreciate you working with me on this. The one thing which maybe I can talk to him about, there's existing stairs on the side which I'm trying to incorporate into the design of the garage so I'd have to talk to him too. Maybe if you're allowing me that distance, maybe the width of those stairs can be changed to allow additional...

Mr. Wai Man Chin stated those are concrete steps.

Mr. John Kane stated those are concrete steps...

Mr. Wai Man Chin stated that would be inside your garage actually...

Mr. John Mattis asked will it be back passed where the car would be or will it be on the side of the car?

Mr. John Kane responded it will be on the side.

Mr. Wai Man Chin stated it's on the right hand side as you look in the front. As you're going through the door of the house actually and also going down into the door in the basement over there.

Mr. John Kane stated there's currently concrete steps going up.

Mr. Wai Man Chin asked why don't we do this? Why don't you check with your designer and we'll adjourn this for a month?

Ms. Elizabeth Kane stated hi, Elizabeth Kane. I just have a question. How wide do the stairs have to be according to code?

Mr. Ken Hoch responded they might have to be 36 inches wide but again your design professional would have to look into that.

Ms. Elizabeth Kane stated I just have to think about reducing the stairs to 3 feet and then you have the car.

Mr. Wai Man Chin asked were you planning on taking out the concrete steps itself and redo those steps or something like that?

Mr. John Kane responded no, what the design was going to incorporate is since the garage is going to be setback to keep the kitchen window which is on the side so it would be able to look

out onto the driveway. Part of the stairs there's going to be cut off and then the existing landing is going to be retained and the steps are going to start a little bit further back. So we're going to shorten the landing, start the steps a little bit back was the thought process with the design.

Mr. James Seirmarco stated with him as far as the width.

Mr. John Kane stated right, we want to make sure everything is done correctly.

Mr. James Seirmarco stated same railings and stuff like that.

Mr. Wai Man Chin stated maybe we should just adjourn it a month and that way you can talk with the designer, make sure everything is right. You know what we're trying to do for you.

Mr. John Kane stated and I appreciate that very much. Thank you.

Mr. Wai Man Chin stated and talk to Ken before the next meeting, that's all.

Mr. John Kane stated okay, I think that does make sense. And just a question for you; the shed, is that something that needs to be discussed at this point...

Mr. Wai Man Chin stated there's no real setback requirement it's just that you have two front yards. You know what I mean?

Mr. John Mattis stated we have to give it an allowance for the front yard.

Mr. David Douglas stated we have to give a Variance to it but I don't think any of us had a problem with it.

Mr. Wai Man Chin stated we're just going to give you a Variance for the front yard.

Ms. Adrian Hunte stated an accessory structure.

Mr. Wai Man Chin stated of your other street.

Mr. John Kane asked okay, so that is acceptable at this point? Yes, okay, thank you for that.

Mr. Raymond Reber stated the only issue I would have is we never talk about anything in the front yard usually so since we're looking at considering allowing that I would ask that there'd be some real serious privacy put up on that street so that neighbors don't go by and see an say: wait a minute, what's this shed doing here?

Mr. John Kane stated there's currently vegetation.

Mr. Raymond Reber stated if I drive by there...

Mr. Wai Man Chin stated there's a couple of trees over there also?

Mr. John Kane stated I think there is.

Mr. Wai Man Chin stated some trees are on that back side.

Mr. Raymond Reber stated if I drive down the street, I don't want to see that shed. If vegetation blocks it fine, if it doesn't do something...

Mr. John Kane stated just to be honest, how it is, is there's a tree that fell. From the survey you can see it; there was an existing fence on there.

Mr. Raymond Reber stated because this is so unique and so against what we're supposed to allow, I don't want to see that shed if I drive down this street.

Mr. John Kane stated done.

Mr. John Mattis stated we have to worry about setting a precedent.

Mr. John Kane stated understood.

Mr. David Douglas stated and also because it's a unique situation what we'll probably do is after next month, we'll probably close – we'll do what we did with the prior or two applicants ago, we'll close and reserve so that we can issue a written decision because we want to make sure, as Mr. Reber said, this is unique. We want to make sure that we write it out so it's clear to future applicants that what we're doing is because of the unique situation and spell it out. Otherwise what will happen is, you know, six months from now somebody is going to come in and say: I was looking in that Kane case you had. You gave him a shed in the front yard. You gave him this and the other and then...

Mr. John Kane stated watching reruns of the session.

Mr. Raymond Reber stated the logical defense we have is your whole yard is a front yard. You have no alternative so we understand that but we have to be careful how we...

Mr. Wai Man Chin stated we have to give you the right wording on it and everything else so it's not setting a precedence on other ones.

Mr. John Kane stated understood. Thank you and I think the right move is to adjourn just so I have time to discuss it with the designer.

Mr. Wai Man Chin asked anybody in the audience? I make a motion on case #2016-20 to adjourn to the October meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated it's adjourned until October.

Mr. John Kane stated I'm sorry, and that date was October?

Members stated October 19<sup>th</sup>.

Mr. John Mattis stated it's always the third Wednesday of the month.

Mr. John Kane stated October 19<sup>th</sup>, third Wednesday.

Mr. Wai Man Chin stated talk to Mr. Hoch on steps and everything else on that.

Mr. John Kane I will. Thank you.

- C. CASE NO. 2016-21 Michael M. Lanzano** for a Special permit for an Accessory Apartment in an accessory structure; an Area Variance for the height of the accessory structure with the accessory apartment, an Area Variance for accessory structures in the front yard on property located at **1419 Washington St., Cortlandt Manor, NY.**

Mr. David Douglas stated thank you for your patience. You had to battle up to be the last people tonight.

Mr. Michael Lanzano stated interesting performance. My name is Michael Lanzano. I live at 1419 Washington Street. It's an interesting property. It had been an old dairy farm complete with: two barns, one former barn which exists only in the foundation. There's a stone building where they used to produce milk. It's a historical site. When I bought the property in 2010 there were four residential units there, two units in each of the larger structures. We did renovation on the front structure a few years ago, reducing the square footage and also reducing the number of units contained in the structure from two down to one. We would like to further bring the property into conformity and to continue modernize the property as well because we intend to live in the property ourselves as opposed to the previous owner who had operated it as summer bungalows for many, many years. And here I am.

Mr. David Douglas stated Mr. Reber, this is your case.

Mr. Raymond Reber stated yes, this is my case and as you can imagine because of the uniqueness it took quite a bit of discussion to fully understand, also to get clarification from Mr. Hoch as to the rulings on the site. The fact, like you said, briefly you had two, two-family. You reduced one to one and now you're reducing the other to one so then we're talking about

accessory but it makes sense finally is what you're saying is: the only uniqueness here is usually – are accessory apartments are in the primary residence but there's no law against being in a second building and so that makes it legit. Then the only question was since it's an accessory building, there's another criteria which says living space can't be more than 50% of the primary. Then I went through a very detailed review because again, you look at the pictures and the single-family looks like a big building but I understand how you modified it, went through the numbers and as the numbers state that has 713 square foot habitable space. Meanwhile, you're revamping and expanding the other building which conveniently brings you to double that number and I've looked over the numbers. They seem to be valid so you're in compliance. Based on all of that, I see no reason why not to approve this. There are also some issues: you've got some three minor structures. There's a well house building and some others. Again, these have been there forever. Technically, they're in your front yard but your front yard is set back. It's not by the road. It's way up in the back. Again, I don't see any problem. I don't think our board sees any problem with approving those structures because they've been there forever. They haven't bothered anybody and so I think you're basically in compliance. An accessory, technically I think it's in the front yard too, but again, it's the strange way the property is situated.

Mr. Michael Lanzano stated the cell tower is in the back though.

*Members of the board laughing.*

Mr. John Mattis stated I was just going to ask you if you would see the proposed cell tower.

Mr. Michael Lanzano stated yes, it's on the deck in the back.

*Members of the board laughing.*

Mr. John Mattis asked actually, can you see the one that's behind Amberlands? You probably didn't even know it's there.

Mr. Michael Lanzano responded only on our way to the store but I'm in favor of better cell service. I'm sorry but I like talking on the phone.

Mr. Raymond Reber stated to me, I don't think we have any problems in approving what you're proposing.

Ms. Adrian Hunte stated I see no adverse impact in the neighborhood in having the accessory structure in the front yard and also I think we discussed, once again a closed and reserved situation on this.

Mr. Michael Lanzano asked do we have to?

Mr. David Douglas responded we do because this is unique.

Mr. John Mattis stated this is pretty convoluted. I want to make sure that the attorney can draw it up properly so it's stated properly in details.

Mr. David Douglas stated I don't know if you were listening with one of the prior ones. We're going to close and reserve, which means that we'll have a decision – I think we'll be able to have it for next month but...

Mr. John Klarl stated I think we can do that for October 19<sup>th</sup>.

Mr. David Douglas stated so the goal is we'll have a decision next month and we'll have a written decision which spells out what we're doing and why we're doing it and why it's unique because it took all of us a little bit of time to get our hands around the situation.

Mr. Michael Lanzano asked so we'll come back next month then?

Mr. John Mattis responded yes.

Mr. David Douglas stated yes, it should be a favorable decision.

Mr. John Klarl stated and if the board couldn't make a decision...

Mr. Raymond Reber stated there'll be no further discussion because we're closing but we will present the results.

Mr. John Mattis stated what happens; we either close the public hearing or we adjourn it. We adjourn it so they can come back, like the last case. When we close it, we have 62 days when we reserve our decision if we don't give it immediately that night so that gives us time, as he said. It's pretty convoluted. We want to make sure that...

Mr. David Douglas stated what will happen next month will be, we will probably have Mr. Klarl – we'll have a written decision which Mr. Klarl will probably read or summarize. We'll then vote on it but there won't be any further give-and-take or discussion.

Mr. Michael Lanzano asked should I come next month?

Mr. David Douglas responded you don't have to but...

Mr. Wai Man Chin asked don't you like it?

Mr. David Douglas stated you'll get to hear more about the cell tower.

Mr. John Mattis stated you're in the agenda but you'll still be after the cell tower.

Mr. David Douglas stated you're still going to be after the cell tower.

Mr. Michael Lanzano stated yeah I'm sure. It sounded like they were going to be here for a while.

Mr. John Mattis stated since it's closed, there's no requirement but I mean you may want to hear the summary of it but...

Ms. Adrian Hunte asked do we need to make a motion?

Mr. David Douglas responded yes, but we want to explain it to him first.

Mr. Raymond Reber stated on case #2016-21 Michael Lanzano for a Special Permit for an Accessory Apartment in an accessory structure and an Area Variance that the height of the structure with the Accessory Apartment, an Area Variance for the accessory structure in the front yard as well as three small accessory structures, we are closing and reserving the decision.

Seconded with all in favor saying "aye."

Mr. John Mattis stated just from reading that you know you're getting your money's worth here.

Mr. Michael Lanzano responded yes, absolutely.

Mr. David Douglas stated I want to thank you. I learned a new word because of you. They've been making fun of me. I didn't know what re-fenestration meant and everybody looked at me like "what? How could you not know that?" But, I learned it on Monday.

Mr. Michael Lanzano stated it's better than defenestration but probably more expensive so.

Mr. Wai Man Chin stated he's not an architect.

Mr. James Seirmarco stated speaking of that, those two windows that are in front of the chimney, are they sliding glass doors?

Mr. Michael Lanzano responded they're not. They're fixed and they are tempered.

Mr. James Seirmarco stated that was my question.

Mr. John Mattis stated and leaving that open to the ceiling got you down to the 700 and something feet which is...

Mr. Michael Lanzano stated yes, we opened up the second floor.

Mr. John Mattis stated if you hadn't opened that up, you would have a problem.

Mr. Michael Lanzano stated we were thinking about putting a door there but it was like \$5,000 for the door so we got windows.

Ms. Adrian Hunte stated thank you Mr. Lanzano. Are we making a motion?

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### **ADJOURNMENT**

Mr. John Mattis stated I make a motion that we adjourn the meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the meeting is adjourned.

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**NEXT MEETING DATE:  
WEDNESDAY, OCT. 19, 2016**