

TOWN OF CORTLANDT
PLANNING AND ZONING BOARDS

BOARD MEETING

Town Hall
1 Heady Street
Cortlandt Manor, New York 10567
September 6, 2022
7:00 - 10:16 p.m.

September 6, 2022

MEMBERS PRESENT:

Loretta Taylor, Chairperson

Thomas Bianchi, Vice Chairperson

Suzanne Decker, Member

Robert Foley, Member

Nora Hildinger, Member

Stephen Kessler, Member

Peter McKinley, Member

Jeffrey Rothfeder, Member

1 September 6, 2022

2 (The board meeting commenced at 7:00 p.m.)

3 MS. LORETTA TAYLOR: Pledge.

4 MULTIPLE: I pledge allegiance to the
5 flag of the United States of America and to the
6 Republic for which it stands, one nation under
7 God, indivisible, with liberty and justice for
8 all.

9 MR. CHRIS KEHOE: Ms. Hildinger?

10 MS. NORA HILDINGER: Here.

11 MR. KEHOE: Mr. Rotherfeder?

12 MR. JEFFREY ROTHFEDER: Here.

13 MR. KEHOE: Mr. Kessler?

14 MR. STEPHEN KESSLER: Yes.

15 MR. KEHOE: Ms. Taylor?

16 MS. TAYLOR: Here.

17 MR. KEHOE: Mr. Bianchi?

18 MR. THOMAS BIANCHI: Here.

19 MR. KEHOE: Ms. Decker?

20 MS. SUZANNE DECKER: Here.

21 MR. KEHOE: Mr. Foley?

22 MR. ROBERT FOLEY: Here.

23 MR. KEHOE: Mr. McKinley?

24 MR. PETER MCKINLEY: Here.

1 September 6, 2022

2 MS. TAYLOR: Tonight there are a couple
3 of changes to the agenda. The first is the
4 removal of PB 2022-4, the Gurdjieff Foundation.
5 They have been asked, they have asked the board
6 to bring them back in December, on December 6th.
7 They will not be here tonight. So we are removing
8 them from the agenda for tonight. And the other
9 change, we just decided on, we're going to switch
10 two of the items on the agenda in terms of their
11 positioning. The last item, which is an item of
12 new business will be moved up and will take the
13 place of 2019-5, which is the Towers, the
14 Homeland Towers. That item will be moved to the
15 final item on the agenda. So there's just a
16 switch in terms of position on the board, I mean
17 on the agenda, sorry. Okay. Very good.

18 Alright. So before we begin, I'd like to
19 introduce the two new members of the board. We're
20 finally back to our full strength and we've got
21 two excellent people to take the spots that were
22 vacated. First is Nora Hildinger. She has been
23 appointed the regular member. She lives in
24 Verplanck, has a broad background across a number

1 September 6, 2022

2 of areas in her work experience, including
3 computers, manufacturing and real estate. She
4 owns a business, which helps Westchester property
5 owners to obtain building permits. Nora says that
6 Cortlandt is a wonderful place to live, I will
7 bring an open mind to the board and it is my goal
8 to have the town continue to be a welcoming place
9 for all people to reside, to work, to play and to
10 grow. So we welcome Ms. Hildinger, Nora, welcome.

11 MS. HILDINGER: Thank you. [applause]

12 MS. TAYLOR: And the second member to
13 the board is Peter McKinley. He has been
14 appointed the alternate member. He lives in
15 Montrose and is a principal of The Shop, which is
16 a full service creative agency, created in 2016.
17 Peter has spent most of his design career working
18 on, on Fortune 500 brands in the financial
19 sector. He creates and he implements brand
20 strategies and supervises creative teams. At
21 present, he is also a member of the Hudson Valley
22 Chamber of Commerce and Peter enjoys photography
23 in his spare time. Welcome, Peter. [applause]

24 Alright. We're going to begin our agenda

1 September 6, 2022

2 at this point. The first item --

3 MR. BIANCHI: The minutes.

4 MS. TAYLOR: Oh, excuse me, the minutes,
5 did I skip them again?

6 MR. BIANCHI: Yes.

7 MS. TAYLOR: I think they'll be a
8 pitfall to me. Can I get a motion, please to
9 adopt the minutes of the meeting of July 12th?

10 MR. KESSLER: So moved.

11 MR. BIANCHI: Second.

12 MS. TAYLOR: Great. Alright, all in
13 favor?

14 MULTIPLE: Aye.

15 MS. TAYLOR: Opposed? Good, okay.
16 Alright. The first item, correspondence, there's
17 a letter date, PB 2020-6, a letter dated August
18 24, 2022, from Ralph G. Mastromonaco, P.E.,
19 requesting modifications to the previously
20 approved site plan for Palisades Enterprises LLC,
21 for property located at 2058 East Main Street.

22 MR. MASTROMONACO: Good evening.

23 MS. TAYLOR: Hi, Ralph, how are you.

24 MR. MASTROMONACO: You had approved this

1 September 6, 2022
2 site plan and based on the, the resolution, there
3 were some conditions. Our corporate executives
4 looked at the site plan resolution, decided to
5 make a change. The change really consisted of
6 removing the driveway that was behind the
7 building and in doing that, they were able to
8 squeeze a little more space into the ground floor
9 of the proposed convenience store, by about 400
10 or 500 square feet. I think I listed that, and
11 that, the parking is in excess of what is
12 required and that is basically the only change.
13 The remaining conditions of the resolution were
14 only that my client pay \$10,000 fee and he, I
15 have that check at my office, and the chair
16 approved and signed and the board signed the
17 actual map.

18 That's the only change we've, you know,
19 broken down in a letter to you the various
20 changes and I think that this is generally
21 actually more in line with some of the
22 discussions we had during the approval phase.

23 MS. TAYLOR: There were a couple of
24 members who had some questions for you regarding

1 September 6, 2022

2 this.

3 MR. BIANCHI: Well, I'll start off with
4 the building size. You indicated that the size
5 of, the length of the building and the square
6 footage of, excuse me, the square footage
7 increased by 560 square feet.

8 MR. MASTROMONACO: Right.

9 MR. BIANCHI: Could you talk to that a
10 little bit.

11 MR. MASTROMONACO: Yeah. If you're
12 standing in the, where the pumps are, you're
13 looking at the building, there used to be a
14 driveway on the right side of that building. So
15 now that driveway is gone and we just extended
16 the building into that area where there was a
17 driveway. So the building just got a bit longer.

18 MR. BERGER: What, what was the need in
19 the revision versus what you originally proposed.
20 Why was there a need to increase the size of the
21 building from what you originally proposed?
22 Regardless of what happens to the driveway?

23 MR. MASTROMONACO: Well basically, the
24 economy has changed and that was a decision that

1 September 6, 2022

2 was made by corporate, that they wanted to have a
3 slightly larger store.

4 MR. BIANCHI: And we heard at the work
5 session that the second floor was going to have
6 offices. Is --

7 MR. MASTROMONACO: It always was. We,
8 today, or I guess this afternoon, we got a
9 letter, a review from Martin Rogers, who's the
10 building inspector, which is a little unusual,
11 you know, to get a building review, an internal
12 building review at site plan approval. But that
13 is the second floor, whether you call it a
14 mezzanine or what, you're looking down over the
15 floor below. It's a sort of a half floor.

16 MR. BIANCHI: I guess my concern is you
17 have, I don't know how many desks there, right?

18 MR. MASTROMONACO: Yeah.

19 MR. BIANCHI: And if they're all
20 occupied, how does the parking on the site
21 accommodate all those people plus the patrons?

22 MR. MASTROMONACO: I don't know if
23 they're all used at once. I'm not, I mean that's
24 an architect's rendering. I'm not sure whether,

1 September 6, 2022

2 you know, that would be -- this is, this is a
3 graphical display of what could be done there,
4 but the number of parking spaces is -- is --

5 MR. BIANCHI: Is it rented out as an
6 office?

7 MR. MASTROMONACO: The number -- no, no,
8 that's the office for the -- for Palisades.

9 MR. BIANCHI: For the whole company? The
10 corporation?

11 MR. MASTROMONACO: No, not for the whole
12 cooperation.

13 MR. BIANCHI: But you have 13 offices.

14 MR. MASTROMONACO: No, it's for, for
15 that store.

16 MR. KESSLER: For the convenience store?

17 MR. BIANCHI: Thirteen offices?

18 MR. MASTROMONACO: Yeah. Yeah. I don't
19 know --

20 MR. KESSLER: Eight, eight, whatever, 12
21 desks.

22 MR. MASTROMONACO: Right. But the, the
23 parking --

24 MR. KESSLER: To manage the store?

1 September 6, 2022

2 MR. MASTROMONACO: The parking plan is
3 based on the square footage, not the number of
4 chairs.

5 MR. KESSLER: I understand, but you can
6 squeeze a lot of chairs in there, I understand
7 that. It's one per, what is it, it's one per 400
8 square feet, for an office.

9 MR. MASTROMONACO: What's that?

10 MR. KESSLER: The, the requirement for
11 parking is one parking spot per 400 square feet.

12 MR. MASTROMONACO: Right.

13 MR. KESSLER: And, but, you know, what
14 we're seeing here is you're squeezing a lot of
15 desks into those, into that space, so yes, I
16 understand what the code is, but certainly you
17 would overwhelm the parking if you were to occupy
18 all those desks.

19 MR. MASTROMONACO: Well, you're not
20 approving that plan. That would be -- when you
21 get -- when my client gets to the building
22 department, if Mr. Rogers thinks that that's in
23 excess of something, then he would, you know,
24 make that claim.

1 September 6, 2022

2 MR. KESSLER: So how big is the second
3 floor?

4 MR. MASTROMONACO: It's a little over
5 1,000 square feet.

6 MR. KESSLER: Okay. So, can't we then,
7 as part of an approval, say that, ensure that
8 there are, there's no more than three office
9 spaces up there, to accommodate the one per 400
10 square feet, so that the parking is adequate.

11 MR. KEHOE: Well, that's sort of a legal
12 question. Ralph's position is, as you've
13 discussed, it's based on square footage, but in
14 looking at that --

15 MR. KESSLER: Right. The square footage
16 is assuming that there's an office every square
17 feet.

18 MR. KEHOE: Not 13 desks.

19 MR. KESSLER: Not 13 desks, right.

20 MR. MICHAEL CUNNINGHAM: If that's an
21 issue that you think will reflect on parking,
22 then you can add a condition in, in any sort of
23 approving resolution.

24 MR. KESSLER: Well, it certainly would

1 September 6, 2022

2 affect parking. I mean if you have 12 desks and
3 there's only 18 parking spots in total. You know,
4 patrons, park, they go in, they leave.

5 MR. FOLEY: I have the same concerns. It
6 just seems like it's really expanding it and
7 you're going to have a lot of activity in and out
8 and you're going to have conferences there.

9 MR. MASTROMONACO: We have no objection
10 to you limiting the number of desks.

11 MR. KESSLER: Okay.

12 MR. KEHOE: Because Ralph had already
13 touched upon that it may be a little bit out of
14 order, but Martin Rogers has already started his
15 building permit review of this application. You
16 have that memo. Now, I think it's the applicant's
17 position that it's premature for Martin to be
18 reviewing it because they haven't submitted
19 anything to him for the issuance of a building
20 permit yet, but that's the type of information
21 that Martin will want. And he's pointed out
22 various issues and problems that he has with it,
23 so the expectation is when the applicant comes
24 back for the building permit, they will have

1 September 6, 2022

2 changed those things to Martin's satisfaction You
3 know, I don't understand a lot of the building
4 code stuff. Martin had a lot to say about access
5 and staircases and a whole variety of things that
6 he deals with in his world. But Martin has
7 started to look at it and has concerns with
8 whether that layout will work with respect to his
9 issuance of a building permit. It's a fine line
10 about what role you have in the interior, but
11 then it also gets into if you start actually
12 building real walls up there and turning those
13 spaces into offices, because there aren't walls
14 up there now, that also impacts his building
15 permit review. So I guess what you're saying is -
16 - I mean are you saying that you don't want 13
17 desks up there, or are you saying you want two
18 offices and if you give him two offices, does he
19 just put six desks in each office? You know, I
20 don't know how we solve that.

21 MS. TAYLOR: Well, Martin has to have --
22 he has to be concerned with the number of parking
23 spaces, so whatever is designed, I'm sure he will
24 take a look and say --

1 September 6, 2022

2 MR. KEHOE: Well, they've added four
3 parking spaces and if you calculate based on our
4 code, they meet the requirement of the code. But
5 when they've actually laid it out like this, you
6 know.

7 MR. BIANCHI: Well, wouldn't there be a
8 fire department occupancy requirement then for
9 that kind of space?

10 MR. KEHOE: That's what I'm getting at,
11 I would, I would think there would be additional
12 concerns with that, so I'm not sure if that
13 layout that you're seeing there conceptually is
14 ever going to get a building permit.

15 MR. MASTROMONACO: Right. And that's --

16 MS. TAYLOR: That's [unintelligible]
17 [00:13:22].

18 MR. MASTROMONACO: That's correct. Chris
19 is correct. It was a conceptual plan. I don't
20 believe that that's going to be the plan exactly
21 like that. It, we just needed a plan to show the
22 second floor.

23 MR. BIANCHI: You could have left it
24 empty.

1 September 6, 2022

2 MR. MASTROMONACO: It would have been
3 smarter.

4 MR. BIANCHI: Right.

5 MR. ROTHFEDER: So we can add this as
6 advice to Martin?

7 MR. BIANCHI: Yeah.

8 MR. KEHOE: Yes.

9 MR. ROTHFEDER: Because the point being,
10 yeah, I mean it's different whether there's one
11 office per 400 square feet, per 400 square feet
12 or if it's going to have a conference up there,
13 every week let's say, which probably they won't,
14 but you know, with 12 people. So, so the uses
15 would seem to be important in Martin's, in
16 Martin's decision too.

17 MS. TAYLOR: And again, is this solely
18 for the use of the company?

19 MR. MASTROMONACO: Yes.

20 MS. TAYLOR: Or, can they just invite
21 other people to come in and use that space at
22 some point?

23 MR. MASTROMONACO: No, what was told to
24 me was that that's their office for this space.

1 September 6, 2022

2 And there's a lot of pumps, you know, there's a
3 lot of action going on here, a lot of ordering
4 that needs to take place and that's their office.

5 MR. FOLEY: So it's not the office for
6 his Ossining facility or his Croton facility,
7 just this location?

8 MR. MASTROMONACO: Oh, I wouldn't know.
9 I mean I don't think you can limit him to not,
10 you know, limiting him to a certain business, but
11 it, it's 1,000 square feet of office space. I, I
12 think, you know, if there's something he's doing
13 illegal, that's, that's an enforcement issue.

14 MR. KEHOE: But the big thing was that
15 you eliminated the drive through.

16 MR. MASTROMONACO: That's right.

17 MR. KEHOE: Right. Which was, in theory,
18 was what the planning board wanted, right, no
19 drive through, you've eliminated it, there's no
20 window on the back, more grass area, more
21 parking.

22 MR. MASTROMONACO: Less impervious.

23 MR. KEHOE: But then you had to enlarge
24 the building, which is why the planning board

1 September 6, 2022

2 wanted you to come back to explain why you had to
3 enlarge the building. If you had simply
4 eliminated the drive through, that would have
5 been fine. And you've explained that you've
6 enlarged the building because you had the space
7 to be able to enlarge the building.

8 MR. MASTROMONACO: That's exactly right.
9 But still, in all of the zoning calculations that
10 we do, the amount of floor space that we could
11 put there, this is much less, way less than, how
12 much floor space we could put there, so.

13 MR. BIANCHI: And I, the point is that
14 you came back. We, we ended this with an approved
15 site plan.

16 MR. MASTROMONACO: Right.

17 MR. BIANCHI: And then you come, go
18 ahead, I should say, and you increase -- you
19 change it, you increase the size of the building.

20 MR. MASTROMONACO: Yes.

21 MR. BIANCHI: You eliminate the
22 driveway.

23 MR. MASTROMONACO: Right.

24 MR. BIANCHI: We had a lot of

1 September 6, 2022

2 discussions on that. And it's very, I think,
3 inappropriate to do that, to come back to us. We,
4 we have to make you come back to us because of
5 that. We're wasting a lot of time doing this. And
6 I think you know better. It's just a comment.

7 MR. MASTROMONACO: Well, first of all,
8 as I said, you wrote a resolution and in that
9 resolution, you put certain conditions. For me to
10 comply with those conditions, it didn't make
11 sense to put the driveway in the back. So
12 therefore, if we didn't put the driveway in the
13 back, we had all this extra room and all we did
14 was lengthen the building some.

15 MR. BIANCHI: But that's a change to the
16 site plan.

17 MR. MASTROMONACO: The site plan is not
18 quite approved yet. And that's why we're here.
19 We're trying to get, to understand --

20 MR. BIANCHI: Well, what we --

21 MR. MASTROMONACO: -- what we're trying
22 to get you to understand is how minimal the
23 changes are. I mean, you know, the, the, it's 500
24 square feet is basically the small little area in

1 September 6, 2022

2 front of your lectern.

3 MR. BIANCHI: I know. It's a change to a
4 site -- not my point.

5 MR. KESSLER: But it's 20 percent more
6 than what we approved.

7 MR. MASTROMONACO: Right. But it's still
8 way below what we could, we could build there.

9 MR. KESSLER: But, but, when you came
10 in, you didn't come in with what you could build
11 there, you came in with what you wanted to build
12 and that's what we approved.

13 MR. MASTROMONACO: Well, because it was
14 limited. The size of that building was limited by
15 the fact that we were building a driveway around
16 it. We had a right size driveway and we had a
17 left side driveway. So that limited the size of
18 the building.

19 MR. KESSLER: But, Ralph, Ralph, when
20 you first came in with your, with your driveways,
21 you didn't have the window, right. You added that
22 later on.

23 MR. MASTROMONACO: Right.

24 MR. KESSLER: So --

1 September 6, 2022

2 MR. MASTROMONACO: No, I mean it was
3 always there, you know, it was always an intended
4 -- there was always an intent to have the
5 driveway behind the building for whatever reason.

6 MR. KESSLER: Right.

7 MR. MASTROMONACO: Yeah.

8 MR. KESSLER: That, that's how you
9 proposed it, and then you came back and wanted a
10 window, we said no window, and you said okay, no
11 window, let's get rid of the driveway and let's
12 expand the building.

13 MR. MASTROMONACO: Slightly. Slightly.

14 MR. KESSLER: That's the sequence.

15 MR. MASTROMONACO: Yeah. Right. That's
16 exactly right. And that's exactly why we're here.
17 We're asking you to see how minimal this is and,
18 you know, let the, you know, if you want to do
19 another -- modify the resolution, whatever you
20 want to do. But, we do have an approval on a
21 previous plan. And if there's so much opposition
22 to this, we could go back to the original plan if
23 you want. I mean my client, you know, through his
24 executive offices, wants to do this plan instead

1 September 6, 2022

2 and we told them, we advised them well that would
3 be fine for this board, because they didn't want
4 us to do that in the beginning anyway, they
5 didn't want us to put that road behind there
6 anyway, so maybe I misled them, but, you know,
7 we're, we're just hoping that you see how minimal
8 the changes are and you let this move along.

9 MR. BIANCHI: Well, first of all, you
10 didn't ask us, we asked you to come, to come back
11 here because of this. So you thought this was
12 going to go and be fine?

13 MR. MASTROMONACO: Oh no.

14 MR. BIANCHI: And it wasn't. I don't --

15 MR. MASTROMONACO: Oh, no, no, no.

16 MR. BIANCHI: -- a request that you put
17 in to ask us to review this plan.

18 MR. MASTROMONACO: No, I did. I wrote a
19 letter on August 24th.

20 MR. KEHOE: Well, no, what happened is
21 Ralph started with staff.

22 MR. MASTROMONACO: Yeah.

23 MR. KEHOE: And staff thought we could
24 approve it at a staff level, and we ran that by

1 September 6, 2022

2 you and you disagreed.

3 MR. BIANCHI: Okay.

4 MR. KEHOE: So that's why it's here now.

5 MR. BIANCHI: That's --

6 MR. KEHOE: So.

7 MR. MASTROMONACO: I wasn't trying to
8 avoid --

9 MR. BIANCHI: And the issue is timing, I
10 guess. Again, we approved a certain plan, and you
11 changed it, and that's a problem for me.

12 MR. FOLEY: I agree with what Tom is
13 saying, and as you know, Ralph, from the
14 beginning, I had my issues on this, even the way
15 you came in with it after the approval of Gasland
16 across the street, you know, you waited a few
17 months and then you start [unintelligible]
18 [00:19:41], you know, hiring your own consultant
19 and so forth. So I had problems from the
20 beginning. And also we did go back and forth on
21 different things, which you improved, but the
22 pumps still remain the same amount and in my
23 view, why I voted no, was that the volume of
24 activity on the site wouldn't have really been

1 September 6, 2022

2 reduced. There were safety measures that were
3 taken but now with this additional thing, I feel
4 you're going to bring more cars and people in,
5 okay.

6 MS. TAYLOR: Okay. We're back and forth
7 on this, and it's time for us to either --

8 MR. ROTHFEDER: Well, should we just
9 sort of give a memo that, that goes to Rogers
10 about what our, our sense is, rather than --

11 MR. KEHOE: Well, you could in theory
12 say you're pleased with the elimination of the
13 drive through, but you don't want the building to
14 be any bigger. You want the building to be the
15 exact same size you approved. But you'd have to
16 have a reason for that. I think Ralph is saying
17 the building is 500 square feet bigger. It's not
18 that big a deal, it's got 1000 square feet of
19 office on the second floor, so you could say
20 you're okay with the bigger building subject to
21 Martin doing something to guarantee that the
22 upstairs second floor is not over occupied.

23 MR. ROTHFEDER: Right.

24 MR. KEHOE: But the state building code

1 September 6, 2022

2 and the fire codes sort of governs that anyway.

3 MS. TAYLOR: I just think the problem
4 here is, is that this second floor, the
5 mezzanine, adds something to the feelings about,
6 in the board, on the board, that it wouldn't, it
7 wouldn't be as bad if that mezzanine didn't
8 suddenly show up with 14 or 12 extra spaces and
9 chairs and desks, I, we weren't really looking at
10 that initially. So you've got a site plan that
11 was approved, and then you come back and now
12 we've got a mezzanine full of, you know, desks
13 and --

14 MR. MASTROMONACO: Well, that was always
15 there. I'm sorry, Loretta, that was always there.
16 The second floor was always there.

17 MS. TAYLOR: Did it have -- did you show
18 us all these desks and, and chairs and
19 everything? I don't recall seeing --

20 MR. MASTROMONACO: I don't, I don't,
21 well, the architects --

22 MS. TAYLOR: I don't think you did. I'm
23 sure you didn't.

24 MR. MASTROMONACO: No, the, the second

1 September 6, 2022

2 floor --

3 MR. BIANCHI: I don't recall it either.

4 MS. TAYLOR: No, I don't recall it
5 either.

6 MR. MASTROMONACO: The second floor was
7 always there. If you look back on the site plan,
8 we had always --

9 MS. TAYLOR: What I'm saying is by the
10 time we look at it now, we've got 11 or 12 desks
11 here, there's a conference room. The site plan
12 looks as though this changed fairly
13 significantly. Although you say it's just a
14 matter of square feet, so many square feet.

15 MR. MASTROMONACO: Right.

16 MS. TAYLOR: And, and lengthening the
17 building. I don't know, I guess --

18 MR. FOLEY: Is the elevation of this
19 plan, the building is still the same elevation,
20 right?

21 MR. MASTROMONACO: Yes, well we -- the
22 architect sent you a rendering. I don't know if
23 you saw it.

24 MR. KEHOE: Yeah, that's in your packet.

1 September 6, 2022

2 MR. FOLEY: It's the same, okay.

3 MS. TAYLOR: So what do we want to do
4 now? Do we want to --

5 MR. KEHOE: So you want me to craft a
6 memo to Martin Rogers, which I'll run by you,
7 expressing concern about too intensive a use of
8 the second floor.

9 MR. BIANCHI: Yeah, giving the
10 limitations on the parking there, yeah.

11 MR. KEHOE: Okay. I'll craft something
12 up with our attorney.

13 MR. BIANCHI: Okay. Alright. So Madam
14 Chair, we'll see how this goes. I move that we
15 approve the amended site plan with, as discussed,
16 with a letter to building department as to our
17 concerns on the, on the density of the second
18 floor usage.

19 MR. ROTHFEDER: Second.

20 MS. TAYLOR: You seconded?

21 MR. ROTHFEDER: Yeah.

22 MS. TAYLOR: Okay. Very good, on the
23 question?

24 MR. FOLEY: Yeah, on the question, I'll

1 September 6, 2022

2 still be no on this when I vote.

3 MS. TAYLOR: Okay. Alright. So let's
4 vote. All in favor?

5 MULTIPLE: Aye.

6 MS. TAYLOR: Opposed?

7 MR. FOLEY: No.

8 MR. KEHOE: Ms. Hildinger?

9 MS. HILDINGER: Aye.

10 MR. KEHOE: Mr. Rothfeder?

11 MR. ROTHFEDER: Aye.

12 MR. KEHOE: Mr. Kessler?

13 MR. KESSLER: Aye.

14 MR. KEHOE: Ms. Taylor?

15 MS. TAYLOR: Aye.

16 MR. KEHOE: Mr. Bianchi?

17 MR. BIANCHI: Aye reluctantly.

18 MR. KEHOE: Ms. Decker, oh, sorry, Mr.
19 Bianchi, aye?

20 MR. BIANCHI: Aye, reluctantly I said.

21 MS. DECKER: Aye.

22 MR. KEHOE: Mr. Foley?

23 MR. FOLEY: No.

24 MR. KEHOE: The motion is carried six to

1 September 6, 2022

2 one.

3 MR. MASTROMONACO: Alright. Thank you
4 everybody, except Bob Foley. [laughter]

5 MS. TAYLOR: Alright. The next item on
6 the board is under public hearings adjourned,
7 public hearings, and we --

8 MR. KEHOE: Oh, I'm sorry, is there any
9 way you could switch the two public hearings as
10 well, because MCAS I don't believe is going to
11 have any comments. I don't know why they weren't
12 organized that way in the first place, right,
13 Connolly comes before MCAS?

14 MR. BIANCHI: You want to do MCAS first
15 is what you're saying?

16 MR. KEHOE: Yes, yes.

17 MS. TAYLOR: Yeah. Yeah, we can do that.

18 MR. KEHOE: Okay.

19 MS. TAYLOR: So then, let's just say
20 that we're going to now switch and I think I'm
21 going to have them vote on that, okay, just
22 because. We want to switch the PB 2022-7, which
23 is the application of MCAS Roofing & Contracting
24 and put that up above the -- in terms of the

1 September 6, 2022
2 order. We would have that come where we are
3 currently now, at the adjourned previous public
4 hearing, so we're just going to switch positions
5 and MCAS moving now and bring the Connolly
6 hearing down into the agenda. Okay. Alright. is
7 that alright with everybody?

8 MR. BIANCHI: Mm-hmm.

9 MS. DECKER: Aye.

10 MR. BIANCHI: So moved.

11 MS. TAYLOR: Okay. Very good. So, we
12 have somebody who's moved and second. Do we have
13 a second?

14 MR. ROTHFEDER: Second.

15 MS. TAYLOR: Great. Alright. On the
16 question? All in favor?

17 MULTIPLE: Aye.

18 MS. TAYLOR: Opposed? Okay. Very good.
19 Alright, so we're going to do MCAS Roofing &
20 Contracting at the moment. Is he here?

21 MR. KEHOE: Yeah.

22 MS. TAYLOR: Where? Oh, okay, come on
23 up. PB 2022, let me just read this for the
24 record. Application of MCAS Roofing & Contracting

1 September 6, 2022

2 for the renewal of a special permit for a
3 specialty trade contractor located at 2006 Albany
4 Post Road, as shown on a drawing entitled amended
5 site plan for MCAS Roofing & Contracting, Inc.,
6 prepared by Josph Correct. Riina, P.E., dated
7 October 7, 2020. Okay.

8 MR. KEHOE: Michael, just briefly.

9 MR. MICHAEL CASOLARO: Yeah, this is my
10 third time to renew the permit. Everything is in
11 good standing, everything is going well. I'm open
12 for questions, but I really have nothing to speak
13 of. Business is going well, and everything's
14 good.

15 MS. TAYLOR: Yeah, everything looks
16 straightforward. And we do have a -- did you want
17 to add anything? We have a resolution.

18 MR. KEHOE: Well, it's a public hearing.

19 MS. TAYLOR: Public hearing, okay. Is
20 there anybody here who wants to speak to this
21 particular application? Okay. Good, thank you.

22 MR. BIANCHI: Madam Chair, I move that
23 we adopt Resolution number 12 --

24 MR. KEHOE: Close the hearing.

1 September 6, 2022

2 MR. BIANCHI: -- oh, close, okay, excuse
3 me. Madam Chair, I move we close the public
4 hearing.

5 MR. KESSLER: Second.

6 MS. TAYLOR: On the question? All in
7 favor?

8 MULTIPLE: Aye.

9 MS. TAYLOR: Opposed? Okay.

10 MR. BIANCHI: And Madam Chair, I move
11 that we adopt Resolution 12-22, granting the
12 renewal.

13 MR. ROTHFEDER: Second.

14 MS. TAYLOR: Okay. On the question? All
15 in favor?

16 MULTIPLE: Aye.

17 MS. TAYLOR: Opposed? Alright.

18 MR. CASOLARO: Thank you, have a good
19 night.

20 MR. KEHOE: Yeah, see you in three
21 years.

22 MS. TAYLOR: We have a resolution for
23 you. Alright. Let's see, now we're going to go
24 back to the public hearing for PB 2022-3, which

1 September 6, 2022

2 is a, the application of James Connolly for
3 preliminary and final subdivision approval for a
4 two-lot minor subdivision of an approximately
5 1.49-acre parcel of property, located at 49 Dutch
6 Street. The latest drawings were revised March
7 21, 2022. Okay.

8 MS. HEATHER GUSHUE: Good evening, my
9 name is Heather Gushue and I am counsel on behalf
10 of the applicant from Shapiro Gettinger Waldinger
11 and Monteleone. So this is, as the board is
12 aware, this matter was before, for a public
13 hearing on May 3rd and it was adjourned in order
14 for Mr. Connolly to address concerns that have
15 been raised by his neighbors and a town attorney,
16 Mr. Cunningham regarding the ability to subdivide
17 on the private lot, any impact that the road
18 maintenance agreement would have on the right to
19 subdivide and ownership of Sycamore Court. There
20 were additional issues discussed concerning the
21 engineering and the site plan and location of a
22 driveway accessing the proposed home.

23 First, I would like to address a
24 statement that was raised by Mr. Connolly's

1 September 6, 2022

2 neighbor, Therese O'Sullivan-Sinks in a
3 submission that she sent to the board by email on
4 September 1. Ms. Sinks claim that Mr. Connolly
5 did not respond to concerns raised concerning
6 drainage and other related engineering issues.
7 That is not correct. Cronin Engineering, on
8 behalf of Mr. Connolly, did submit a letter and a
9 sketch plan on or about June 28 addressing those
10 issues.

11 I also want to note that the, the issues
12 that were raised during the last public hearing
13 surrounding legal issues and the right to
14 subdivide, whether any impact, if any, that the
15 road maintenance agreement had on Mr. Connolly's
16 right to access Sycamore Court, which is a
17 private road, and ownership of Sycamore Court
18 have been resolved by a submission, a letter
19 submission of my firm and there has been a memo
20 issued by the town attorney, Mr. Cunningham, that
21 address those issues and provided that Mr.
22 Connolly does have the right to subdivide on a
23 private road, and discussed about ownership
24 rights to Sycamore Court, and also found that the

1 September 6, 2022
2 road maintenance agreement is a private agreement
3 that's outside the jurisdiction of the planning
4 board, I don't see that there's any reason to
5 delay this public hearing any further. Mr.
6 Connolly has received two title reports
7 indicating that heirs of Mr. McManus own Sycamore
8 Court and Mr. Connolly does have, he's spoken to
9 all of those heirs and has received approval from
10 them, that that they would be willing to permit
11 Mr. Connolly to access Sycamore Court to connect
12 the water line to the water main that runs along
13 that road.

14 The neighbors had indicated in that
15 letter, email from Ms. Sinks that they wanted to
16 obtain their own title report. However, it was,
17 ownership of Sycamore Court was raised in May,
18 and there's no reason that they could not have
19 obtained their own title report then, or in June,
20 when we submitted a copy of a 2004 title report
21 if they wanted to dispute ownership of Sycamore
22 Court. If the planning board has any questions, I
23 would be willing to answer those.

24 MS. TAYLOR: Anybody? Okay.

1 September 6, 2022

2 MR. KEHOE: Do you want Keith to briefly
3 mention any issues? I mean, you know, as I think
4 the attorney mentioned, Keith responded back in
5 June, but we did talk a little about some
6 engineering stuff at the work session. I don't
7 know Keith, if you have anything to add before we
8 have the public speak?

9 MR. KEITH STAUDOCHAR: Good evening,
10 Keith Staudohar, Cronin Engineering. We were here
11 last I think in June or July, at which point we
12 discussed the property. It's 1.49 acres, we're
13 chopping off a 30,000 square foot lot in an R-25
14 zone, R-15, excuse me. The lot itself is flat.
15 Those of you who were here at the site inspection
16 remember that, the lot is flat. There's no steep
17 slopes, there's no steep slopes per code. There
18 are only two trees being removed and we have a
19 driveway that has to cut into an embankment to
20 get up to the flat level, it's about ten foot
21 high. So basically, it's a fairly straightforward
22 cookie cutter lot. We've already been out there
23 with the health department, we dug deep test
24 pits. We have shown, we have shown a septic

1 September 6, 2022
2 system that has both primary and expansion area
3 required by the county. At the last site
4 inspection, I believe we submitted, there was, I
5 think Mr. Bianchi brought it up, what about
6 moving the driveway to the other side of the
7 house. We submitted this sketch. Essentially,
8 it's the same. Either way, the driveway on the
9 left, driveway on the right, we still have about
10 a ten-foot rise to get up to the flat area.

11 In terms of drainage, that's something
12 that will be designed during the site plan
13 approval process with the building inspector and
14 town engineer. But basically, we're just, we have
15 a house, we're going to take care of the roof
16 leaders and the driveway will take care of most
17 of the runoff from the driveway. There's been
18 talk about accessing this lot through McManus,
19 McManus road, which is private. Currently McManus
20 Road is narrow and has four houses that access it
21 now. I don't believe local law number five would
22 permit an additional lot off of that private
23 drive. So, what we're showing is, well, let me go
24 back to McManus, McManus would require removal of

1 September 6, 2022

2 some very, very large specimen type oak trees to
3 widen the road a little bit and I mean beautiful
4 trees up and down that road, so the only thing we
5 need to do is connect to the water main out in
6 Sycamore with the water service. That's the only
7 disturbance that we have proposed to Sycamore
8 Court is a two-foot wide trench to connect the
9 water. So that's what we have up to date, and if
10 there's any questions, I'd be glad to answer
11 them.

12 MR. FOLEY: Are the four homes that you
13 just mentioned, that access to McManus, existing
14 homes and driveways and vehicles --

15 MR. STAUDOCHAR: Yes.

16 MR. FOLEY: -- they manage the access
17 through McManus, coming up from the main road.

18 MR. STAUDOCHAR: Yes, correct.

19 MR. FOLEY: Are they all --

20 MR. STAUDOCHAR: But I don't think local
21 law permits --

22 MR. FOLEY: -- is that legal or --

23 MR. STAUDOCHAR: -- any more houses off
24 of private drives.

1 September 6, 2022

2 MR. FOLEY: You do know, or you're not
3 sure? I didn't hear you.

4 MR. STAUDOCHAR: I have to confirm that
5 with the town attorney, but I believe that's what
6 local law number five says. I don't have it with
7 me tonight.

8 MR. FOLEY: So the existing four homes
9 that are there are legal or grandfathered in or
10 what? I don't know. It seems like they use
11 McManus without a problem and one more home or
12 one more --

13 MR. STAUDOCHAR: Well, based on history
14 in this town and based on recent projects that
15 we've been working on like over on Revolutionary
16 Road, the town has required an improvement of the
17 road to access three houses. So if this board
18 feels that the road that it's there now is in
19 good enough shape to add another house, we would
20 consider that. Our preference is to come out the
21 way we're coming, because it makes the most sense
22 in how to develop this. Again, this is a two-lot
23 minor subdivision with the creation of one new
24 house. This is, this is as simple as it's

1 September 6, 2022

2 supposed to be in terms of subdividing, except
3 for the legal issues regarding the right-of-way.
4 That driveway there is 13 percent. It's well,
5 it's under the code route limit. It's just a
6 short distance to get up to the flat and the rest
7 of the lot is flat as a pancake.

8 MR. FOLEY: So you're saying it's all
9 engineering, it has nothing to do with any
10 aesthetics or anything like that coming into
11 McManus as opposed to Sycamore, the newer road.

12 MR. STAUDOCHAR: I didn't follow that.

13 MR. FOLEY: You're saying it's all based
14 -- you're the engineer, so obviously it's all
15 based on engineering locating the house where you
16 have it?

17 MR. STAUDOCHAR: Right. Having a house in
18 that location with a separate driveway onto
19 Sycamore Court is preferable, yes, absolutely.

20 MR. FOLEY: And the fact that McManus is
21 somewhat of a road that's not up to code has
22 nothing to do with it, in bringing an occupant of
23 the new house in.

24 MR. STAUDOCHAR: I don't think we're

1 September 6, 2022

2 permitted to do it, number one. Number two, it
3 would require improvements that would impact a
4 lot more land and disturbance and trees than what
5 we're showing right here.

6 MS. TAYLOR: Are you done?

7 MR. FOLEY: Yeah, I'm sorry.

8 MR. BIANCHI: I guess, I hear what
9 you're saying, but I just don't see why that's
10 true, what you just stated. Or you can, I know
11 you have septic fields located next to McManus
12 Road, proposed septic areas. Is that right?

13 MR. STAUDOCHAR: We have --

14 MR. BIANCHI: They would have to be
15 relocated probably, if we were to come off of
16 McManus Road. But it doesn't appear to me that
17 the work that's involved in getting a driveway
18 off of McManus Road exceeds the impacts of what
19 you're proposing on Sycamore Court.

20 MR. STAUDOCHAR: I mean I'm not quite --
21 if I may, I'm not quite sure what impacts you're
22 referring to.

23 MR. BIANCHI: Oh.

24 MR. STAUDOCHAR: There's no tree impact,

1 September 6, 2022

2 there's no steep slopes impact, there's no
3 wetland impact. All we're doing is cutting in a
4 driveway. That's the only impact. So --

5 MR. BIANCHI: And what's happening along
6 McM- sorry, Sycamore Court, what's happening
7 along that road? What would have to happen along
8 that road? You said something about putting in
9 water service or something.

10 MR. STAUDOCHAR: Well, we have to connect
11 to the water main for, for our water service.

12 MR. BIANCHI: Okay.

13 MR. STAUDOCHAR: So it would be a cut
14 across the street a two-foot wide cut, a standard
15 water service cut, four feet deep to connect to
16 the water main. That's on Sycamore.

17 MR. BIANCHI: And that's the only impact
18 to the road?

19 MR. STAUDOCHAR: Yes.

20 MS. TAYLOR: What's the width of
21 McManus?

22 MR. STAUDOCHAR: Ten to 12, sometimes,
23 it's a little less than say ten feet, ten, 12 in
24 some spots, maybe a little wider in a couple, but

1 September 6, 2022

2 it's, it's narrow.

3 MR. FOLEY: So the neighbor's concerns
4 about possible runoff off this new driveway, that
5 little slope of what, 14, you said 14 foot slope.

6 MR. STAUDOCHAR: It's a 13 point, it's a
7 13 percent grade we've got going up. So, you
8 know, we can address that with, we can put more,
9 we can, we can design more Cultecs easily on the
10 property to collect that drainage from the
11 driveway. It's not a big deal. But typically, we
12 would design that as part of the site plan
13 approval when we go for a building permit. All
14 houses in town go before Mike, Mike's office and
15 Martin's office for approval for site plan for
16 houses. At that time, we nitty-gritty design all
17 those sorts of things.

18 MS. TAYLOR: Any other questions from
19 the board. Does anybody have any questions? Okay.
20 This is a public hearing and at this point, we're
21 asking anyone who has a comment for or in
22 opposition to his project to come up and state,
23 make your comments. You need to give us your name
24 and your address.

1 September 6, 2022

2 MS. THERESE O'SULLIVAN-SINKS: Good
3 evening, my name is actually Therese, not
4 Theresa, Sinks. I live at 7 Sycamore Court. I
5 know the board is in receipt of my email from the
6 1st, I believe it was. First I want to thank you,
7 Mr. Foley, for making a subsequent site visit
8 beyond the initial site visit, because I think
9 you got a real sense for what was not, I think,
10 truly seen initially. How can, how can I explain
11 this? I understand that the engineer is saying
12 that they can do more of this and that to address
13 runoff. But you have to understand that when you
14 look at rain, like we're having today and is
15 forecasted for tomorrow, you can say that until
16 you're blue in the face, but I'm very, very
17 concerned, as are my neighbors, who are all here,
18 with what's going to happen in the real world.
19 Not what's on a plan, but what's truly going to
20 happen in the real world?

21 Additionally, in addition to drainage,
22 site, the line of site to where this driveway
23 could be, or has been, it's been in three
24 different locations. To make that turn coming out

1 September 6, 2022

2 of that driveway onto Sycamore Court, there will
3 be blind spots. And I invite you to come back,
4 but I can tell you we are on a cul-de-sac, we all
5 have children. As cars come up that hill, we
6 always tell our kids be careful, because delivery
7 trucks come in, other trucks come in, you know,
8 people driving up, not realizing that it's a
9 private road or it's a dead end. And it is a
10 severe blind spot. So to make a left or a right,
11 depending on where you're coming from, out of
12 that driveway, there is a real blind spot. So it
13 may not look like it on paper, but again, come
14 back and take a look.

15 Lastly, for some reason, you know, I
16 understand, Mr. Connolly doesn't want to make the
17 improvements to McManus Road to build this home.
18 However, he was able to do it when he built his
19 own home in the late '90s. So I cannot understand
20 why we now have to impact our road which, if he
21 has rights to it, fine, build your house, we will
22 welcome anyone who lives there. But I don't know
23 understand why McManus cannot be used for this
24 purpose at this point. I just want to make sure

1 September 6, 2022

2 that's it.

3 Yes, and the last thing, the engineer is
4 stating that the lot is flat. Great. The lot is
5 flat. The driveway is not. As it comes down and
6 slopes onto Sycamore, it's not. Thank you.

7 MS. STACEY RETALICK: My name is Stacey
8 Retalick, I'm also a resident on Sycamore Court.
9 I would just like to address, as Ms. Sink said,
10 when Mr. Connolly built his house in the late
11 '90s, there were no issues using McManus Road for
12 access. Now, yes, there are large oak trees on
13 the right side of McManus Road as you are going
14 up. There is nothing on the left side. There's no
15 reason if there were, if the road has to be
16 widened, there's no reason it can't go that way
17 and not impact the trees, because I get it,
18 they're very large trees. And I wouldn't to see
19 them come down. But if the road does have to be
20 widened, there's plenty of room on the other
21 side. It's completely empty there. There are no
22 trees that would even have to come down.

23 And yes, we do have the standing issue
24 of water coming down. My property is directly

1 September 6, 2022

2 across from the first proposed driveway. The
3 water, as Ms. Sinks said today, when we have
4 extended rain especially, the water is going to
5 run right down into my yard. The second proposal
6 that we saw had the driveway further down, which
7 is right across from Mr. and Ms. Martin's
8 property. Now, where that proposed driveway is,
9 it's directly across from her driveway, and it's
10 directly into her house, so they're going to come
11 down this hill into her house, and especially
12 right at that specific part of the road, that's a
13 blind hill. We already have an issue with Ms.
14 Martin's house, which was there originally, so
15 there was nothing that could have been done about
16 it. But if they're backing out of their driveway
17 and we're coming up the hill, it is hard to see
18 them until you're right on top of their driveway.
19 So putting another driveway there is just, it's,
20 to us, it's unacceptable, it's just not going to
21 work.

22 Let's see. Oh, and then also, if, if the
23 driveway were to be across from Ms. Martin's,
24 then the water is just going to go into her house

1 September 6, 2022

2 instead of mine. Okay. I think that's it. Thank
3 you.

4 MS. TAYLOR: Okay. Are there any other
5 comments to be made? Okay. We're not --

6 MS. GUSHUE: If I could just address
7 some of those comments, if that's okay with the
8 board?

9 MS. TAYLOR: Yeah.

10 Ms. GUSHUE: Okay. I just want to note
11 that Sycamore Court is, it is a private road, but
12 it isn't owned by Ms. Sinks, as she's referring
13 to it as our road. As the title report indicates,
14 it is owned by the heirs of Edward McManus and
15 Mr. Connolly has been in touch with those heirs
16 and they have given their approval to, to him to,
17 for, to access Sycamore Court for the water line
18 connection to the water main. Mr. Connolly also
19 has an easement for ingress and egress across
20 Sycamore Court. He has the right to use this
21 road. Proposing another driveway won't in any way
22 overburden the road. There are only a handful of,
23 of homes on that road, and there already is a
24 right for the lot that is currently there to

1 September 6, 2022

2 access Sycamore Court. And if the board has any
3 other questions, I'll be happy to answer those.
4 Okay. I would request that the public hearing be
5 closed tonight and the approval be granted to Mr.
6 Connolly. Thank you.

7 MR. BIANCHI: I have a question for
8 Keith again. I'm sorry to belabor this, but you
9 put on in red what the layout would look like if
10 you were to move the access road further down on
11 Sycamore court.

12 MR. STAUDOCHAR: Right.

13 MR. BIANCHI: And again, could you
14 address what the issues are there, because I
15 don't know if I understand with that access
16 point.

17 MR. STAUDOCHAR: You talking about the
18 one in red?

19 MR. BIANCHI: Yeah.

20 MR. STAUDOCHAR: Well, that just moves
21 the access up about 100 feet or so away from the
22 cul-de-sac. It has the same, it's the same drop,
23 right, the road is this elevation, where the
24 proposed house is this elevation, and we've got

1 September 6, 2022

2 to cut driveway in, whether it's on the left
3 side, or the right side, it's the same cut, same
4 slope roughly.

5 MR. BIANCHI: Okay. Same removal, same
6 amount of removal?

7 MR. STAUDOCHAR: Yes, exactly.

8 MR. BIANCHI: So would that alleviate
9 any drainage issues that could occur with this? I
10 guess it's a question based on what some of the
11 residents are saying.

12 MR. STAUDOCHAR: Well, you know, standard
13 practice is we would design it per code, we would
14 probably put what they're called Cultecs under
15 the ground to capture the roof drainage, which
16 we're showing already. And there's going to be an
17 overflow, right. It can't fill up and not have an
18 overflow, it's going to be an overflow, but it's
19 going to be released at a slower rate than what
20 would currently exist and we'll try to capture as
21 much of the driveway drainage as we can.

22 MR. BIANCHI: So I'm not sure if that's
23 a yes or a no.

24 MR. STAUDOCHAR: What was the yes or no

1 September 6, 2022

2 question? I'm sorry. [laughter]

3 MR. BIANCHI: Would it alleviate some of
4 the drainage issues that --

5 MR. STAUDOCHAR: Yes, it would yes.

6 MR. BIANCHI: -- are occurring or could
7 occur, what you're proposing in the original
8 drawings by your proposal?

9 MR. STAUDOCHAR: Yes. We're farther away
10 from the cul-de-sac, so yes.

11 MR. BIANCHI: Okay. And same amount of
12 cut and fill, etc.?

13 MR. KEHOE: I think the argument though,
14 setting aside whether there are drainage issues
15 or not, I think the argument is you're simply
16 moving the drainage from down below to up above.
17 Whatever the drainage impacts are, it's the same,
18 it's just moving it 100 feet.

19 MR. BIANCHI: Right.

20 MR. KEHOE: So the, it's moving across
21 the street from a different person's house.

22 MR. BIANCHI: Okay.

23 MR. STAUDOCHAR: Potential impacts, I
24 said potential impacts.

1 September 6, 2022

2 MR. FOLEY: But is there, what Tom's
3 talking about, as I recall when I went there and
4 walked on Sycamore, there is a bit of a rock
5 outcropping further away from the cul-de-sac and
6 a wooded area.

7 MR. STAUDOCHAR: Right.

8 MR. FOLEY: If it came, if the driveway
9 came through there, I don't know, it may
10 alleviate the sight line thing that one of the
11 residents was talking about as far as blind spot.

12 MR. STAUDOCHAR: Right.

13 MR. FOLEY: And then you just answered
14 the question about possible drainage mitigation.
15 So I don't know --

16 MR. STAUDOCHAR: Well, it gives us more
17 room to mitigate, right. So before it goes down
18 slope, so we can mitigate longer, because we're
19 100 or feet shorter than where we were.

20 MR. KEHOE: Well, one thing, which I've
21 asked you is when the drainage leaves the site
22 and goes down the driveway into Sycamore, where
23 does it go and what are you doing with it?

24 MR. STAUDOCHAR: There's a drain inlet

1 September 6, 2022

2 near the corner of the -- I guess northwest
3 corner of the property.

4 MR. KEHOE: So --

5 MR. FOLEY: By corner, you mean away
6 from the cul-de-sac?

7 MR. STAUDOCHAR: Right here, no, right
8 there.

9 MR. KEHOE: Keith, I think it's right
10 here.

11 MR. STAUDOCHAR: Yeah. You see, it says
12 drain inlet.

13 MR. KEHOE: So the water comes off, gets
14 into an existing ditch?

15 MR. STAUDOCHAR: Well, it's an existing
16 travel path along the edge of the road, yeah.

17 MR. KEHOE: And then goes into that
18 inlet?

19 MR. STAUDOCHAR: Yeah.

20 MR. FOLEY: By inlet, you mean --

21 MR. KEHOE: There's a structure in the
22 road, right?

23 MR. STAUDOCHAR: Yes.

24 MR. KEHOE: Keith, there's a structure

1 September 6, 2022

2 in the road?

3 MR. STAUDOCHAR: Yes.

4 MR. KEHOE: And that crosses Sycamore?

5 MR. STAUDOCHAR: No, I think it goes down
6 and to the right behind, towards Round Tree, I'm
7 not -- down that way to the right.

8 MR. FOLEY: To the right as you're
9 coming out of the proposed driveway?

10 MR. STAUDOCHAR: If you're going, if
11 you're driving towards the end of Sycamore, at
12 our property corner, at the drain inlet, that
13 drainage goes down further and then turns right
14 into I believe, from the old Round Tree Land
15 subdivision, or a part of the Dominick Santucci
16 approvals, I forget which is what.

17 MR. KEHOE: And does the, on the red
18 driveway, does the water go the same direction?

19 MR. STAUDOCHAR: Yes.

20 MR. KEHOE: So in either driveway, it
21 gets into that, that --

22 MR. BIANCHI: It goes across the street
23 and then --

24 MR. STAUDOCHAR: No, nothing goes --

1 September 6, 2022

2 MR. KEHOE: No, it goes down the street.

3 MR. STAUDOCHAR: -- across the street.

4 MR. BIANCHI: And so it would be on your
5 side of the street?

6 MR. STAUDOCHAR: Yes.

7 MR. KEHOE: Until it hits the inlet.

8 MR. BIANCHI: And what is it, a gravel
9 ditch?

10 MR. STAUDOCHAR: It's just a road edge.
11 It's where water kind of conveys.

12 MR. FOLEY: Like a swale or something?

13 MR. KEHOE: But it, it conveys to a
14 structure, to a drain inlet, and then into a
15 pipe.

16 MR. STAUDOCHAR: Part of it's -- yeah,
17 right.

18 MR. BIANCHI: So there's a drain and a
19 pipe underneath that goes somewhere?

20 MR. STAUDOCHAR: Yes.

21 MR. FOLEY: But it's all away from the
22 houses on the cul-de-sac?

23 MR. STAUDOCHAR: It's right there at the
24 corner, yes.

1 September 6, 2022

2 MR. FOLEY: So is there any --

3 MR. STAUDOCHAR: There's another drain
4 inlet on the north side of there, so the water
5 goes here and goes this way.

6 MR. BIANCHI: I, could you, I'm not sure
7 if I see it yet.

8 MR. KESSLER: Chris, is there an arrow
9 on that thing that you could --

10 MR. FOLEY: Is there any history of when
11 we've had heavy rains or floods and I guess only
12 the people who live there could attest to it,
13 where maybe that inlet or that drainage ditch or
14 whatever you want to call it, isn't functioning
15 right? Or overflows?

16 MR. STAUDOCHAR: I have no idea. I'm not
17 aware of any.

18 MR. BIANCHI: So just to be clear, this
19 whole drainage issue would be taken up by when,
20 at --

21 MR. KEHOE: Well, I don't totally agree
22 with Keith. I mean Joe is your engineer, and Joe
23 would have to be comfortable that the concept
24 shown on this plan work. I think what Keith is

1 September 6, 2022

2 saying that's done again when a building permit
3 is issued. But they're looking at this plan when
4 a building permit -- I mean you can't just punt
5 on it here and expect them to catch it at the
6 building permit. But I think Joe has been
7 reviewing this and I can't speak --

8 MR. JOSEPH FUSILLO: I do believe I
9 provided the board with a memo. I did review this
10 property at an earlier time and a lot of these
11 things do go back to site plan review. The septic
12 system, for instance, has to be approved by the
13 Department of Health for approval and I also did
14 speak to the storm drainage, which is part of
15 site plan, so at that point, it is, it is
16 reviewable. And it is approvable at that point. I
17 have looked at the driveway. Steep slopes are 15
18 percent or greater. This is at 13.3 percent for
19 approximately 50 feet, Keith.

20 MR. STAUDOCHAR: Roughly.

21 MR. FUSILLO: And about four percent
22 coming down to Sycamore, so you do have a steep
23 slope and it does flatten out as you come into
24 Sycamore, so some of that runoff, that drainage,

1 September 6, 2022

2 is going to slow before it gets to the road. But
3 again, that site plan review, we kick that back
4 to them.

5 MR. FOLEY: When was your memo, Joe?

6 MR. BIANCHI: Yeah, I don't remember
7 seeing it.

8 MR. FUSILLO: I don't remember.

9 MR. KESSLER: Yeah, I'm looking at my
10 file here and I don't see anything.

11 MR. KEHOE: It would have been right
12 around the June meeting. If you don't have it,
13 I'll track it down.

14 MR. STAUDOCHAR: April 19th.

15 MR. FUSILLO: No, I think it was April
16 19th?

17 MR. KEHOE: Oh, April.

18 MR. FUSILLO: Maybe a page and a half,
19 if that?

20 MR. BIANCHI: Oh, there, LaBella?

21 MR. KEHOE: Yeah. You guys always make
22 me nervous, thinking I didn't give it to you.

23 MR. BIANCHI: In your opinion, the
24 proposed driveway, the runoff from that proposed

1 September 6, 2022

2 driveway, is that storm drain or whatever you
3 call it, on Sycamore Court, sufficient to handle
4 the runoff?

5 MR. FUSILLO: I haven't sized that and
6 looked at that.

7 MR. BIANCHI: Okay. Because that --

8 MR. FUSILLO: And, and again --

9 MR. BIANCHI: -- that's really a key
10 question.

11 MR. FUSILLO: -- that does get kicked
12 back to site plan review on that. So I did make
13 comment in that memo --

14 MR. BIANCHI: Yeah.

15 MR. FUSILLO: -- that, you know, make
16 sure you take a look at the storm water, what we
17 have out there, or what they have out there with
18 the Coltecs.

19 MR. BIANCHI: Well, who's going to take
20 a look at that, Keith?

21 MR. STAUDOCHAR: We will submit something
22 to the town engineer at the time.

23 MR. CUNNINGHAM: I mean, submit it now,
24 because I think that seems to be the major issue

1 September 6, 2022

2 and this board is the lead agency for SEQRA. So I
3 think drainage has to be determined now.

4 MR. STAUDOCHAR: Okay.

5 MR. BIANCHI: Right, I agree.

6 MR. FOLEY: Okay. So we want to adjourn
7 this, right? It seems like there's more to it.

8 MR. BIANCHI: Let me just go back to
9 the, the right of McManus. So do you have
10 something in writing from the heirs of McManus
11 now that allows you to use Sycamore?

12 MS. GUSHUE: Right now we have an
13 easement for ingress and egress, so in terms of -
14 -

15 MR. BIANCHI: A legal document signed by
16 the heirs?

17 MS. GUSHUE: I -- right now, what I have
18 is an easement for ingress and egress. In terms
19 of what I would need to get is to, permission to
20 connect the water line on Sycamore Court, and I
21 can get something in writing.

22 MR. BIANCHI: Permission from whom?

23 MS. GUSHUE: The owners of Sycamore
24 Court, which are the heirs. And I could get

1 September 6, 2022

2 something in writing.

3 MR. BIANCHI: So right now, all you have
4 is the ability to use that road, just for, for
5 traversing?

6 MS. GUSHUE: That is correct.

7 MR. BIANCHI: And what you're missing is
8 the water connection allowance?

9 MS. GUSHUE: That's right, and I did
10 speak to, as my letter, dated August 24 noted, I
11 spoke with Eileen Curinga, who is one of the
12 heirs of Edward McManus and she has been in touch
13 with I believe there are four or five other heirs
14 of Mr. McManus, and they have provided that they
15 would give approval for the use, just for that
16 water line connection, and I can get something in
17 writing.

18 MR. BIANCHI: There comes Ms. Curinga.

19 MS. EILEEN CURINGA: Yes. I would just
20 like to say that I'm one of the heirs and I have
21 contacted the other four heirs of this, and they,
22 they said that they would be happy to sign a
23 letter or to do whatever if that were necessary.

24 MR. BIANCHI: For the water connection?

1 September 6, 2022

2 MS. CURINGA: Yes. And this was only a
3 few days ago, so that's why she has not connected
4 them. But there was no problem.

5 MR. BIANCHI: Okay. Thank you.

6 MS. CURINGA: They're all my cousins and
7 okay, thank you.

8 MR. BIANCHI: I know what that can be
9 like.

10 MR. FOLEY: So the, the August 24th
11 letter is in the -- it's a lot of legal documents
12 that we received. That's what you're talking
13 about?

14 MS. GUSHUE: Right. So I believe there
15 are also exhibits to the letter, but it's only --
16 the letter is only a few pages. That's correct.

17 MR. FOLEY: Okay. The [unintelligible]
18 [00:59:49] --

19 MS. GUSHUE: It's Shapiro Gettinger
20 Waldinger & Monteleone is the letterhead, yeah.

21 MR. FOLEY: Okay. Okay.

22 MR. BIANCHI: Okay. Just a recap, I'd
23 really like to see some type of analysis or
24 further analysis of the potential runoff on the

1 September 6, 2022

2 proposed driveway and whether or not the storm
3 drain in the road is capable of handling that
4 volume of water.

5 MR. KESSLER: Yeah, I think that's
6 right. I think if you could show perhaps a more
7 expanded view of where, where the water would
8 come down on Sycamore, where you think it'd come,
9 because you seemed a little unsure where it
10 eventually goes.

11 MR. STAUDOCHAR: It goes -- there's an
12 easement behind, yeah. There's a --

13 MR. KESSLER: So if you could do a
14 little more research as to where it actually
15 winds up.

16 MR. STAUDOCHAR: I will do that.

17 MR. KESSLER: And, and how well that
18 drain is -- the condition of that drain.

19 MR. STAUDOCHAR: That's fine. Is the main
20 concern now the drainage?

21 MR. KESSLER: Yeah.

22 MR. STAUDOCHAR: Everything else seems to
23 be --

24 MR. KESSLER: Well, I think there's two

1 September 6, 2022

2 issues. There's still the access, the Sycamore
3 Court issue as well as --

4 MR. STAUDOCHAR: See the way we
5 understand is that the heirs of McManus are the
6 owners of the roadbed and that the folks at the
7 end of the road have an easement over that, so
8 they, that they can grant the ability to put the
9 utility connection in.

10 MR. KESSLER: Right. Water, just talking
11 water?

12 MR. STAUDOCHAR: Just the water service.

13 MR. KESSLER: You have utilities coming
14 somewhere else? Electric?

15 MR. STAUDOCHAR: I think that's --

16 MR. KESSLER: It's overhead?

17 MR. STAUDOCHAR: Yeah, I don't know.

18 [laughter] I don't want to misrepresent, I think
19 so, but I'm not 100, I had something I haven't
20 looked at right now.

21 MR. KESSLER: Okay. Yeah, let's confirm
22 that the only need that you have on Sycamore is
23 for the water and the, and the agreement by the
24 heirs.

1 September 6, 2022

2 MR. STAUDOCHAR: It's overhead.

3 MR. KESSLER: It's overhead?

4 MR. STAUDOCHAR: Yes.

5 MR. FOLEY: And also, before I make a
6 motion to adjourn, we cannot ignore the
7 possibility of McManus. I'd like to know more
8 information. I know what you've told us, Keith.
9 I've read our own attorney's memo from August
10 29th, but I just think and feel that that would
11 solve this whole problem, but and also Mr.
12 Connolly was very nice when I went there and I
13 also have concern for the neighbors, as I stood
14 there and looked out. So I mean I'm, there's
15 something that still needs work.

16 MR. KEHOE: Planning staff and legal
17 staff, and maybe engineering will try to get you
18 a memo, because we talk about this local law five
19 a lot. It's local law five of 1999, so that may
20 address how all of the houses on McManus can
21 exist, because this local law didn't come into
22 effect until 1999, and it was an attempt by the
23 town to regulate the number of lots that could be
24 added to existing private drives. And previous

1 September 6, 2022
2 town engineers had one way of interpreting it,
3 the current town engineer has a different way of
4 interpreting and it really comes down to what
5 improvements would need to be made to McManus in
6 order to make the fire department happy and in
7 order to be able to make the road safe. And I
8 think as I said at the work session, you know,
9 depending on what we find with local law, the
10 answer may be that yes, they could put a house
11 there, but they would have to do X, Y and Z
12 improvements to McManus and then you would have
13 to weigh whether that was reasonable if they have
14 legal access off of Sycamore. You'd have to
15 balance those two things. But depending on what
16 we find out about local law five, it may not even
17 be possible to get another house approved on
18 McManus, but I'm not sure of that. We have to
19 research that.

20 MR. ROTHFEDER: And just to set
21 expectations, since we're adjourning this to the
22 next meeting, so the, the public that spoke
23 today, are you planning to respond with some
24 material?

1 September 6, 2022

2 UNIDENTIFIED FEMALE: We are.

3 MR. ROTHFEDER: Okay.

4 MR. KEHOE: Alright. So, I've been
5 looking at my -- the deadline would be -- well,
6 we're not going to talk about the deadline
7 necessarily. I mean you need to have everything -
8 - I don't think we're going to have the work
9 session on October 6th. I think we're going to
10 combine it, like we have been doing recently, on
11 October 11th. So the work session and the meeting
12 will be combined on October 11th. So that gives
13 everyone a little more time. But I would be
14 delivering your packets to you sometime around
15 October 3rd and October 4th, you know, before
16 that meeting. So, I believe it's, the ball would
17 be in the neighbor's court to get something in by
18 like September 20th, which would then allow the
19 applicant -- the applicant then has to respond to
20 it.

21 MS. TAYLOR: But they may not need much
22 more than they already have. I mean --

23 MR. KEHOE: Well, if you're not -- but -
24 - they're going to get something in, right. and

1 September 6, 2022

2 then if you choose not to respond to it, we're
3 going to be at this meeting and the board is
4 going to be saying hey, how come you haven't
5 responded to the neighbor's concerns yet. So I
6 want the neighbor's concerns to be in, you to
7 respond to the neighbor's concerns well in
8 advance of October 3rd.

9 MR. STAUDOCHAR: So what's the deadline?

10 MR. KEHOE: October 3rd.

11 MR. STAUDOCHAR: October 3rd for us?

12 MR. KEHOE: But, that's the drop dead
13 deadline. The neighbors have to be in and then
14 you have to respond. But the neighbors --

15 MR. ROTHFEDER: They're coming in by the
16 20th. Well, they're coming in by the 20th. That
17 gives you --

18 MR. KESSLER: Two weeks basically.

19 MR. ROTHFEDER: A couple of weeks.

20 MR. KEHOE: Right. But then the
21 neighbors, or the process will never end. If the
22 neighbors wait 'til October 2nd to give you
23 something, then there's no time for you to
24 respond, so the neighbors have to try to get

1 September 6, 2022

2 something in early enough that you can respond,
3 and then both documents will be in front of the
4 planning board, about, you know, eight or nine
5 days before their October 11th meeting.

6 MR. STAUDOCHAR: Okay.

7 MS. GUSHUE: If I could, since -- if we
8 could just confine any additional issues to the -
9 - submissions speaking about the three issues we
10 just spoke about, because then what's going to
11 happen is we're just going to keep having more
12 issues raised and submissions and then reply and
13 then somebody want to rebuttal. I'm not sure if
14 that's something the board would want to
15 consider. As I see it, there are three issues
16 left. One is the drainage, two would be getting a
17 statement from the heirs and then third is this
18 issue about utilizing McManus Road and local law
19 number five.

20 MR. ROTHFEDER: I don't think we can
21 limit them to what --

22 MS. GUSHUE: Okay.

23 MR. ROTHFEDER: -- what they address.
24 But if you, you know, they send something in that

1 September 6, 2022

2 you feel is irrelevant, just say so.

3 MS. GUSHUE: Okay. Thank you.

4 MR. FOLEY: And what you just said, not
5 just the drainage on the proposed driveway, but
6 the possible problem with the blind spots that
7 the neighbors mentioned.

8 MS. GUSHUE: Okay.

9 MR. FOLEY: If the curvature of the
10 proposed driveway could be a little different.

11 MR. KEHOE: So, if we can give the
12 neighbors until September 23rd, which is a
13 Friday, and then give the applicant until October
14 3rd, and then I'll deliver the packets on October
15 3rd.

16 MS. GUSHUE: That sounds good, thank
17 you.

18 MR. BIANCHI: Thank you.

19 MR. FOLEY: Okay. I make a motion that
20 we adjourn --

21 MS. RETALICK: Could I just say one more
22 thing --

23 MR. KEHOE: You just have to come up to
24 the mic.

1 September 6, 2022

2 MS. RETALICK: So on the red proposed
3 driveway, if you look closely, you can see
4 directly across the street, there are two asphalt
5 driveways. Those are Mr. and Ms. Martin's
6 driveways. This, so what they're proposing is
7 they're going to put this driveway in between the
8 two existing driveways she has, which is right
9 where her house is also. So now this water from
10 that steep driveway is going to be coming right
11 across into her home basically because her garage
12 is right there.

13 MR. KESSLER: I don't think it's their
14 proposal. I think we, we asked them --

15 MS. RETALICK: No, I'm just saying this
16 drawing in general --

17 MR. KESSLER: Right. Right.

18 MS. RETALICK: -- just so you have a
19 background on it.

20 MR. KESSLER: Certainly, the staff and
21 engineering is going to evaluate both of those.

22 MS. RETALICK: Yeah. So that, that's
23 directly across from her home and that is right
24 at the top of the hill. That will not drain into

1 September 6, 2022

2 --

3 MR. KESSLER: Okay.

4 MS. RETALICK: the cul-de-sac. There are
5 two drainage points on Sycamore Court, one of
6 them is in the cul-de-sac and the other one is
7 down at the bottom of the hill by Dutch Street.

8 MR. KESSLER: Okay. So if you had to
9 have a preference you're saying you prefer the
10 driveway on the left if it was ever to go that
11 far?

12 MS. RETALICK: No. I don't prefer that.
13 No, because that's across from my house and then
14 now --

15 MR. KESSLER: Oh, I see.

16 MS. RETALICK: -- the water is going to
17 come into my yard.

18 MR. KESSLER: I got you.

19 MS. RETALICK: Either basically neither
20 one of them are really great options --

21 MR. KESSLER: I understand.

22 MS. RETALICK: -- as far as we're
23 concerned.

24 MR. KESSLER: Okay.

1 September 6, 2022

2 MS. RETALICK: Because of the impact it
3 will have on our properties.

4 MR. KESSLER: Okay. I got it.

5 MS. RETALICK: Okay. Thank you.

6 MR. KESSLER: Thank you.

7 MR. FOLEY: Also, Joe, from our staff,
8 as you're evaluating, or further assessing that,
9 could you visit there and see what the neighbors
10 are concerned about.

11 MR. STAUDOCHAR: Could we be notified so
12 we can meet them?

13 MR. FUSILLO: We'll do lunch.

14 MR. FOLEY: What?

15 MR. STAUDOCHAR: Can we be notified so we
16 ca meet them out there?

17 MR. BIANCHI: Sure.

18 MR. FOLEY: Yeah, why not.

19 MR. KEHOE: Yeah, I mean Joe is acting
20 as your engineer, so if it was Mike Preziosi
21 going out there, Mike would let people know. So
22 Joe will let people know.

23 MS. RETALICK: Does that include us or
24 just [unintelligible] [01:09:09] present or not?

1 September 6, 2022

2 MR. FOLEY: Yeah, why not.

3 MR. KESSLER: Well, as long as it's on
4 public property, I mean it's, you know.

5 MR. CUNNINGHAM: Right, I mean they
6 wouldn't have to allow anybody else on private
7 property, but if you're on the street that you
8 have easement rights to.

9 MR. KEHOE: I can let you know when
10 we're going to be there.

11 MR. FOLEY: Give them a heads up.

12 MR. BIANCHI: Although you can invite
13 people onto your property if you think it's
14 relevant.

15 MS. RETALICK: Well, if he's looking at
16 the drainage, that is our property.

17 MR. BIANCHI: Okay. So you guys can
18 invite people onto your property, that'd be fine.

19 MR. FOLEY: Okay. So I, okay. Yes?

20 MR. BRIAN RETALICK: Brian Retalick, 5
21 Sycamore Court. I just have a question about the
22 piece of property contiguous, I guess it's to the
23 left of the driveway on this subdivision. Yeah,
24 on the bottom left-hand corner. Is there going to

1 September 6, 2022

2 be any proposal for another driveway next to this
3 driveway? As you see, the property line runs
4 right to the road.

5 UNIDENTIFIED FEMALE: That was the
6 original [unintelligible] [01:10:03].

7 MR. RETALICK: It's --

8 UNIDENTIFIED FEMALE: [unintelligible]
9 [01:10:07].

10 MR. FOLEY: You mean another house?

11 UNIDENTIFIED FEMALE: Yeah.

12 MR. RETALICK: Yeah, there's actually
13 another house there already. There's a rental
14 house.

15 MR. KESSLER: But they come off of
16 McManus?

17 MR. RETALICK: That's correct.

18 UNIDENTIFIED FEMALE: They park there,
19 and that's [unintelligible] [01:10:18] they
20 always use McManus.

21 MR. KEHOE: You may not remember on the
22 site inspection, but they may get to that house
23 by McManus, but there's a dirt road or sort of
24 old driveway that goes down to Sycamore, or dirt

1 September 6, 2022

2 --

3 UNIDENTIFIED FEMALE: It's grade.

4 MR. KEHOE: -- grass area that goes down
5 to Sycamore. But they're, Keith, they're not
6 using that for access down to Sycamore.

7 MR. STAUDOCHAR: No, no, we're not.

8 MR. RETALICK: So I just want to go on
9 record, there's no driveway being proposed for,
10 for that property?

11 MR. STAUDOCHAR: No.

12 MR. RETALICK: Correct? Okay.

13 MR. BIANCHI: They would have to come
14 back to us if they wanted to propose that, at a
15 future date.

16 MR. RETALICK: Okay.

17 MR. BIANCHI: We're approving what
18 they're showing us, there's no driveway, you
19 know, if three years from now, they want a
20 driveway, they'd have to come back and explain
21 why they need a driveway.

22 MR. RETALICK: Exactly. Okay. And then
23 for the, the drainage that runs into the storm
24 drains, all that drainage does run to the

1 September 6, 2022

2 wetlands. Everyone's aware of that, right?

3 MR. BIANCHI: Well, he's going to go
4 back and show us where it goes.

5 MR. RETALICK: Okay. Thank you.

6 MR. BIANCHI: Thank you.

7 MR. FOLEY: Then the driveway that leads
8 to the garage under the house that's there,
9 that's close to one of the houses on the cul-de-
10 sac, I saw water, a little, on the day I was
11 there, in subsurface water. That, that's not what
12 you're talking about, no? That existing old
13 driveway?

14 MR. RETALICK: Yes.

15 MR. BIANCHI: Alright, Bob.

16 MR. FOLEY: Yeah, look at it all, Joe.

17 MS. TAYLOR: Fine, Bob.

18 MR. FOLEY: Alright. I make the motion
19 again to adjourn until October.

20 MR. BIANCHI: Second.

21 MR. ROTHFEDER: Second.

22 MS. TAYLOR: Two, no, give the date
23 again please.

24 MR. FOLEY: What?

1 September 6, 2022

2 MR. BIANCHI: What's the date?

3 MR. FOLEY: October --

4 MR. KEHOE: 11th.

5 MR. FOLEY: -- 11th. Okay.

6 MR. KEHOE: Subject -- sorry, go ahead.

7 Is there a second?

8 MR. BIANCHI: Second.

9 MS. TAYLOR: Yeah.

10 MR. KEHOE: Subject to meeting the
11 deadlines that were discussed for the applicant,
12 for the neighbors to get their comments in and
13 the applicant to respond.

14 MR. BIANCHI: Right.

15 MR. FOLEY: Okay.

16 MS. TAYLOR: I'm not sure why you're
17 saying subject.

18 MR. KEHOE: The applicant has to get
19 information to me by September 23rd and the
20 applicant has to respond to it by October 3rd.

21 MS. TAYLOR: Right.

22 MR. KEHOE: That's just for the record
23 and then the hearing is adjourned until the 11th.

24 MR. FOLEY: Okay.

1 September 6, 2022

2 MS. DECKER: But if they miss those
3 deadlines, we'd have to adjourn further, right?

4 MR. KEHOE: Well, if they -- if they
5 miss the deadlines, the hearing is still going to
6 happen on October 11th, but it's going to not be
7 resolved one way or another.

8 MS. TAYLOR: Well, is there some sense
9 that we're really going to be able to resolve
10 this on next time?

11 MR. KEHOE: Well, I mean the applicant
12 thinks it should be resolved now, so [laughter],
13 so, the hope is that both, both sides will make
14 good faith efforts to get their information in
15 and you'll have it in advance.

16 MS. TAYLOR: We really hope so, we
17 really, really hope so. Okay. very good.

18 MR. FOLEY: Okay motion was made.

19 MS. TAYLOR: Okay. On the question? All
20 in favor?

21 MULTIPLE: Aye.

22 MS. TAYLOR: Opposed? Okay.

23 MR. STAUDOCHAR: Thank you.

24 MR. BIANCHI: Thanks.

1 September 6, 2022

2 MS. GUSHUE: Thank you.

3 MS. TAYLOR: Alright. We're going to
4 move down to the application of, I think this is
5 Assumption?

6 MR. BIANCHI: Yeah.

7 MS. TAYLOR: Yes?

8 MR. BIANCHI: Yeah.

9 MS. TAYLOR: Yeah. Application of
10 Assumption Cemetery for amended development plan
11 approval for a new --

12 UNIDENTIFIED MALE: Turn your microphone
13 on please, we can't hear you.

14 MS. TAYLOR: I'm sorry.

15 UNIDENTIFIED MALE: Thank you.

16 MS. TAYLOR: PB 2022 --

17 UNIDENTIFIED MALE: You turned the mic
18 off.

19 MS. TAYLOR: The mic is on. PB -- can
20 you hear me? Better?

21 UNIDENTIFIED MALE: Yes.

22 MS. TAYLOR: Good. Okay. PB 2022-8, the
23 application of Assumption Cemetery for amended
24 site development plan approval for a new seasonal

1 September 6, 2022

2 chapel and other site improvements for property
3 located at 1055 Oregon Road. The drawings are
4 dated July 7, 2022.

5 MR. KEHOE: Is there anyone here for
6 that application? Alright. So, I guess we decided
7 that we will refer this application back for
8 traditional review. Staff will do a review memo,
9 I'll get in touch with the applicant to make sure
10 that they're present at the October meeting.

11 MS. DECKER: I move to refer back to
12 staff.

13 MS. TAYLOR: Okay.

14 MR. BIANCHI: Second.

15 MS. TAYLOR: Thank you. On the question?
16 All in favor?

17 MULTIPLE: Aye.

18 MS. TAYLOR: Opposed? Okay. Very good.
19 Alright. I think this is, will be the final item
20 tonight. The application of, I'm sorry, PB 2019-
21 5, the application of Homeland Towers LLC and New
22 York SMSA Limited Partnership, dba Verizon
23 Wireless, for the property of Bezo Enterprises,
24 LLC for site development plan approval and a

1 September 6, 2022

2 special permit for a proposed public utility
3 personal wireless facility, which is a
4 telecommunications tower on a portion of a six-
5 acre parcel of property located at 52 Montrose
6 Station Road. The latest revised drawings are
7 August 10, 2022.

8 MR. KEHOE: Just for the record, before
9 the applicant starts, our telecommunications
10 consultant is on Zoom, so he's listening in. I
11 haven't actually -- that's not Mike Musso, that's
12 a person that works for Michael Musso, so if
13 during the hearing, we need to hear from him, we
14 can ask him directly, or Colin can raise his hand
15 if he has something that he needs to add and
16 we'll promote him and be able to talk. Also
17 waiting on Zoom is the attorney for the
18 neighbors. So after the applicant's presentation,
19 I would think the next thing that we would do
20 would be promote the attorney for the neighbors.

21 MR. VINCENT XAVIER: Can I ask a
22 question? Vincent Xavier, manager for Homeland
23 Towers. As we give our presentation, I also
24 logged into Zoom two members of my team that

1 September 6, 2022

2 would also like to speak. Is it possible for me
3 to share my screen while they speak, or do you
4 want them to individually be able to share their
5 screen or how would you prefer we do that?

6 [laughter]

7 MR. CUNNINGHAM: Sure, they can be
8 promoted and they can share their own screen if
9 that would be easier.

10 MR. XAVIER: They're able to?

11 MR. CUNNINGHAM: Yeah.

12 MR. XAVIER: Alright. So, Martin and
13 Matt, if you're listening, if you could have your
14 presentation available, if not, let us know and
15 we'll find another way. Alright. Thank you.

16 MR. MICHAEL SHERIDAN: Good evening, my
17 name is Michael Sheridan, attorney with Snyder &
18 Snyder. We're the attorneys for Homeland Towers
19 in New York SMSA Limited Partnership, dba Verizon
20 Wireless. As the chair stated, we're here in
21 connection, tonight in connection with the
22 location of a wireless facility at 52 Montrose
23 Station Road. The facility will consist of a
24 monopole tower and communications equipment

1 September 6, 2022
2 within a fenced compound at the base of the
3 tower. As you can see, Vincent Xavier from
4 Homeland Towers is here tonight. Colleen
5 Connolly, a New York State PE with Scherer Design
6 Group, the engineers for this project is also
7 here present in person tonight. We also have, as
8 Vincent said, Matt Allen from Saratoga
9 Associates, who did the visual analysis, actually
10 both visual analyses and Martin Lavin from C
11 Squared Systems is also ready to speak. He did
12 the coverage maps for the site.

13 Just to sort of give a little background
14 without going into too much detail, so it's not
15 every complete thing that's been done, but it's
16 just a general overview, I would like to remind
17 this board that the application was first filed
18 back in February of 2019. At that time, it was a
19 different design, same property, roughly the same
20 location, a different design tower, it was
21 actually a lattice tower located about 150 feet
22 away and Ms. Connolly can go through that in a
23 little more detail, and the equipment compound
24 was a separate fence compound. We received some

1 September 6, 2022

2 comments from the town engineer as well as the
3 town's consultant, which at that time was the
4 Center for Municipal Solutions. And also met with
5 this board and scheduled a balloon test, which
6 was conducted on May 4, 2019, with leaf off
7 conditions.

8 After the balloon test, the visual
9 analysis for that balloon test was prepared by
10 Saratoga Associates. We submitted that analysis
11 with response to comments to the town engineer
12 and comments to the consultant at that time,
13 again, Center for Municipal Solutions on or about
14 August 28th, we got that back and to the board.
15 There were some meetings in October, on October
16 10 --

17 MR. KEHOE: What year, sorry.

18 MR. SHERIDAN: -- sorry, 2019, still on
19 2019. And, we had, I believe we were at the
20 September meeting, but at the October meeting in
21 2019, this board may or may not remember, the
22 members who are here, we went through that visual
23 analysis, which showed that the site is not very
24 visible from almost all locations. There's a few

1 September 6, 2022

2 locations where it is visible from, but for the
3 most part, it is not visible, it is a location
4 back behind the barn up on the hill.

5 Then we received more comments from the
6 town engineer and from the Center of Municipal
7 Solutions. Some of those comments requested us
8 reviewing the location of the tower on the
9 property as the initial design had it closer to
10 the rear property line, which may have required
11 variances. Verizon Wireless went back to the
12 site, ended up redesigning it to the current
13 design, which took a little time. And as you can
14 imagine, what happened in 2020, so by the time
15 August 18, 2021 came around, the revised design
16 was submitted to this board.

17 But at that time, Verizon decided to put
18 it on hold and a few months went by and it was
19 reintroduced with Homeland Towers as a co-
20 applicant in April of this year, 2022. Just a
21 note, the current design is 150 foot monopole,
22 which is the same height as the previous lattice
23 tower, however, the monopole is in a different
24 location. The location it is, the elevation, the

1 September 6, 2022
2 ground elevation is 34.5 lower, so the top of the
3 tower, although again, it's 140 foot tower, it's
4 essentially 34.5 feet lower. It now meets all the
5 setbacks, and meets the code requirements that
6 allows this board to grant the special permit.
7 Again, here tonight, I'd like to introduce the
8 people who helped prepare this and first up is
9 Colleen Connolly from SDG to go over the plans.
10 Thank you.

11 MS. COLLEEN CONNOLLY: Hi, good evening,
12 just for the record, I want to say that I am
13 talking to plans that were created by my office,
14 Scherer Design Group. They are revision six, they
15 are dated 8/10/2022. And as Mr. Sheridan was
16 saying, this is a design that has been revised,
17 based on comments that came in from the board and
18 the board's consultants. The plans now show 140
19 foot monopole, as opposed to the 140 foot lattice
20 tower, so same height of the tower itself. This
21 is a more slender, more sleek, a cleaner design.

22 We have also changed the location. In
23 the new location of the tower, the existing grade
24 elevation, we're kind of moving it down the slope

1 September 6, 2022

2 if you will, approximately 150 feet to the
3 northwest and the grade at the base of the tower
4 will be 35 feet lower. So although the tower is
5 the same height, the elevation to the top of the
6 tower will be dropping by approximately 35 feet.

7 The other modification that we made was
8 to consolidate into one compound that encompasses
9 both the equipment and also the monopole at the
10 base of the tower. That allowed us to reduce the
11 overall size of the compounds. So we have a 930
12 foot, square foot, irregularly shaped compound
13 now that's proposed. Previously, we had two
14 compounds, which totaled approximately 425 square
15 feet.

16 As the result of these changes and our
17 shift in the locations, we are able to meet all
18 of the setbacks. And additionally, we were able
19 to reduce the number of trees that needed to be
20 removed as part of this application. Now, we are
21 proposing to remove 19 trees, that is versus 35
22 trees that were proposed under the initial
23 application, or the initial set of plans I should
24 say.

1 September 6, 2022

2 The fenced in compound, it will be a
3 gravel compound, it will be fenced in with an
4 eight foot high fence. We have added some brown
5 privacy slats to that to offer a little bit of
6 screening of the equipment that's within that
7 fenced compound. Additionally, the generator,
8 there has been a change in the size of the
9 generator. It will be a 50-kilowatt generator. It
10 will be within a sound attenuating enclosure and
11 therefore will meet the sound levels required at
12 the closest property line, which is approximately
13 64 feet away. Let me just confirm that. Yes,
14 we're 62 feet from the closest side yard property
15 line. And that's basically all I have, just to
16 explain the changes that have happened since the
17 previous plans.

18 MR. SHERIDAN: Thank you, Colleen. So in
19 addition to revising the design of the facility,
20 when we came back to this board in April and I
21 guess a little later, this board, as you know,
22 went out and hired a different consultant to
23 continue this project. That's HDR, which is Mr.
24 Musso. We received comments from him on July 7th

1 September 6, 2022
2 of this year, and some of those comments involved
3 doing a second balloon test. So we had done the
4 original balloon test back in May of 2019 in leaf
5 off conditions, and despite our contention that
6 that was sufficient because the tower, again, is
7 located in essentially the same area, a little
8 bit over, but again, approximately 34, 35 feet
9 lower, Mr. Musso still suggested that we do the
10 second balloon test, which we did.

11 The balloon test was conducted on July
12 23rd, again, by Saratoga Associates, who
13 conducted the original balloon test. That visual
14 analysis report was prepared and submitted, just
15 on August 24, 2022. And we have on Zoom tonight,
16 Matt Allen of Saratoga Associates who prepared
17 the report and conducted the balloon test, so I
18 would like to turn it over to Matt if he is
19 available to take it over.

20 MR. MATT ALLEN: Good evening, can you
21 hear me?

22 MR. BIANCHI: Yes.

23 MR. KEHOE: Yes.

24 MR. ALLEN: Yes, my name is Matt Allen

1 September 6, 2022

2 and I'm a principal with Saratoga Associates. I
3 am a landscape architect. And I've been
4 practicing in the discipline of visual impact
5 assessment for over 30 years. Okay. I'm sorry,
6 can you hear me?

7 MR. KEHOE: Yes, and we're working it
8 out where you should be able to share your
9 screen.

10 MR. ALLEN: Okay. Okay. I am screen
11 sharing.

12 MR. KEHOE: Yes, we can see it.

13 MR. ALLEN: Okay. You should be able to
14 see, are you looking at a view shed map, an
15 aerial photograph?

16 MR. KEHOE: Yes.

17 MR. ALLEN: Okay. Yeah, my name is Matt
18 Allen with Saratoga Associates and I prepared the
19 visual impact assessment for the project. As Mr.
20 Sheridan said, we work closely with Michael Musso
21 at HDR, the town's consultant in developing a
22 scope and procedure and follow through of the
23 visual impact assessment report. As Mr. Sheridan
24 said, a visual impact assessment was prepared for

1 September 6, 2022

2 the original tower proposal in 2019 and I also
3 prepared that report. And as part of that, we did
4 do a view shed analysis and conducted a balloon
5 visibility study as well as an inventory of
6 visually sensitive resources and photo
7 simulations illustrating the degree and character
8 of project visibility.

9 We repeated that process for this
10 current application and as Mr. Sheridan said, we
11 conducted a balloon visibility test in July of
12 this year, just a couple of months ago. And in
13 preparation for that balloon visibility test, we
14 did a couple of early action analysis, the most
15 relevant of which is the view shed analysis. And
16 that's what you're looking at on your screen.

17 Very simply, a view shed analysis is a
18 mapping exercise that identifies the geographic
19 area where the high point of the tower is
20 theoretically visible above intervening landform
21 vegetation and structures. To conduct this
22 analysis, we used LiDAR Point Cloud data, so we
23 used the highest quality data available to
24 identify where trees and structures and landform

1 September 6, 2022

2 would block the line of sight.

3 The end result is what you're looking at
4 in this map. The area of potential visibility of
5 the high point of the tower is the darker purple
6 area, mostly clustered in the immediate vicinity
7 of the product site. I'll zoom in a little bit.
8 So you can see these purple areas and I'm sure
9 the image is a little bit fuzzy online, but the
10 purpose areas are the areas where a direct line
11 of sight to the top of the tower is likely based
12 on the high resolution data sources. So what you
13 see is we would expect visibility in the
14 immediate vicinity of the project and that would
15 be at the end of Montrose Station Road and some
16 of the open landscape to the north of the
17 property.

18 We also found some visibility to the, to
19 the east, very small areas where there's open
20 land and also some very small areas of visibility
21 within the adjacent Blue Mountain Reservation.
22 And importantly, about that visibility, the only
23 places we found visibility were in the open gas
24 transmission corridor, the cleared corridor area,

1 September 6, 2022

2 where there happened to be an -- where the
3 facilities on axis looking down the corridor from
4 where the service road, which is often used as a
5 trail, happens to cross the gas transmission
6 line. So if you're looking straight down that
7 corridor, there is an area where you have a
8 direct line of sight to the tower. And in the
9 report, you'll find a photo simulation from that
10 location.

11 And I mentioned that the view shed
12 analysis was put together as an early action
13 item. We use the view shed analysis in
14 consultation with the, the town of Cortlandt,
15 specifically working with Mr. Musso to identify
16 places that we would visit during the balloon
17 visibility study. We had an inventory of places
18 that we identified during the 2019 visual impact
19 assessment. And those were also selected in
20 consultation with a municipality. We brought
21 those to Mr. Musso's attention and he largely
22 agreed with those locations, however Mr. Musso
23 also added about a half a dozen other locations
24 that he felt were worthy of visiting during the

1 September 6, 2022

2 balloon visibility study simply because of the
3 sensitivity of those locations, even though they
4 were not theoretically visible based on view shed
5 analysis, it was worth visiting just to confirm.

6 We were also in contact directly with
7 Mr. Musso during the balloon visibility study.
8 Mr. Musso was in the field driving to look at, to
9 look for balloon visibility, visit sensitive
10 visual resources and basically confirm the
11 accuracy of the view shed analysis and have
12 direct personal observation to compare when the
13 visual impact assessment was completed.

14 While we were in the field, Mr. Musso
15 did contact me and suggest a specific location
16 where found visibility of the balloon that was
17 not previously identified and that was the
18 location within the Blue Mountain Reservation
19 along the gas transmission line where we did not
20 originally identify some places we visited, but
21 Mr. Musso identified it and we subsequently went
22 out there and took a photograph and included a
23 photo simulation in the application.

24 I'm going to zoom out here. So with the

1 September 6, 2022

2 balloon in the air, we took photographs from the
3 28 locations that we identified in consultation
4 with the municipality. We visited each and every
5 one and took photographs in the direction of the
6 tower. Because from most locations, the balloon
7 was not visible, we used a hand held GPS unit to
8 help us point in the right direction. Of course,
9 we had a good sense of which direction the
10 balloon was in, but it can be very disorienting
11 when you're looking through woodland landscape.
12 So the GPS gave us a direct bearing to where the
13 balloon was, so we always knew we were pointing
14 the camera in the right direction.

15 So there's a photo log, which is
16 Appendix D, Individual Impact Assessment that
17 documents the view we found in the direction of
18 the facility during the balloon test. Of the 28
19 photographs, photo locations we visited, we found
20 visibility of the balloon from just six
21 locations. And of those six, three of them were
22 on Montrose Station Road, directly in front of
23 the project site. So it's a bit skewed in that
24 immediate vicinity, however, that's where one

1 September 6, 2022

2 would expect to have the greatest visibility of
3 the tower looking across the existing horse farm
4 from the end of Montrose Station Road.

5 We also found a location on Montrose
6 Station Road which is photo number four, that's
7 the image on the screen. That happened to be one
8 location where the road bends and the alignment
9 toward the tower is directly on access with the
10 road. The remainder of the road is skewed enough
11 that roadside vegetation fully screened the view
12 of the balloon. As you can see from photograph
13 number three on the top of this image, we put a
14 circle roughly where we expected the balloon to
15 be, and obviously it's not on access with this
16 portion of Montrose Station Road, so it's a good
17 comparison of a condition where the tower would
18 be visible from Montrose Station Road as you're
19 driving westward compared to an area slightly
20 east of Montrose Station Road where the tower is
21 not on axis.

22 And as I mentioned, we weighted
23 photographs from the immediate vicinity of
24 Montrose Station Road, in the vicinity of the

1 September 6, 2022

2 project site, directly adjacent to the existing
3 horse farm, and the reason we skewed this, as I
4 mentioned, is because that's the area of most
5 direct visibility, but also it's representative
6 of the views from the residential properties that
7 are in this area. So given that these photographs
8 were taken from Montrose Station Road, and all
9 the properties, the affected properties, are to
10 the north of Montrose Station Road, these
11 represent worst case examples of visibility. And
12 for all of these we do provide photo simulations
13 of what the project would look like.

14 We also focused a couple of locations
15 within the adjacent Blue Mountain Reservation,
16 knowing that that's a sensitive and popular
17 recreational area with miles of trails. We walked
18 trails in the, from Montrose Station Road into
19 the reservation, and in all cases we found that
20 the balloon was completely screened by the dense
21 vegetation. There really was very little
22 opportunity for view.

23 But I did mention the one location that
24 we found where the balloon is visible, and I'll

1 September 6, 2022

2 quickly scroll down to that location, just so you
3 can see what I'm referring to. So photo 30, the
4 bottom photo on this page, you can see the
5 balloon low to the tree line and this is where
6 the existing service road, which is used as a
7 trail in the reservation, crosses the gas
8 transmission line, so the trees are removed and
9 you do have a line of sight into to the tower
10 location. Now keep in mind this is the only
11 location in all of the Blue Mountain Reservation
12 where we found any hint of visibility and you can
13 see that the balloon was very low, actually
14 falling within the gap caused by the removal of
15 trees within the gas transmission line.

16 And one more photograph from Montrose
17 Station Road, directly in front of the project
18 site here, you can see how the balloon was
19 visible directly across the corral at the horse
20 farm.

21 From there, we prepared photo
22 simulations, and I'm just scrolling through all
23 of these other locations were places that Mr.
24 Musso asked us to stop and in all locations, you

1 September 6, 2022

2 can see the balloon was not visible and in most
3 cases, the balloon would be well below tree line
4 the further you get from the project site,
5 obviously in perspective. The tower would appear
6 relatively small if it were visible and it would
7 appear very low or behind trees. So you obviously
8 have availability to look at the visual
9 assessment report and confirm what may be
10 difficult to see in these images.

11 We prepared I believe five photo
12 simulations. This image I showed earlier in the
13 photo log from Montrose Station Road driving I
14 believe it's westward toward the project site and
15 the balloon became visible as you came around the
16 bend and the road was on axis, and you can see
17 the balloon here, and we prepared a photo
18 simulation based on that, that shows what the
19 tower would look like with the degree and
20 character of the tower. And as you can see, it's
21 the upper portion of the tower that becomes
22 visible above the trees in this location.

23 The town also asked us to look at an
24 alternative showing a different color tower just

1 September 6, 2022

2 to compare if something other than the standard
3 galvanized tower might be more compatible with
4 the landscape that it's viewed within, so we
5 prepared a second simulation, coloring the tower
6 an earth tone brown. And that was prepared at Mr.
7 Musso's request.

8 And we did several simulations from the
9 horse farm area, so here's the existing condition
10 photograph and the simulated condition and the
11 brown color tower condition and again, probably
12 200 or 300 feet west of that previous location,
13 another view, direct view of the balloon and the
14 simulated tower and the simulated tower using a
15 brown color.

16 MR. FOLEY: May I ask if you have any
17 pictures of, from the house closest to the
18 stables and where you're proposing the towers.
19 The houses on Montrose Station Road, I don't know
20 the address numbers, the people who have written
21 in letters expressing their concern. Are there
22 any viewsapes from there? I don't see them in
23 the printed material.

24 MR. ALLEN: Yeah, the previous photo

1 September 6, 2022

2 simulations are taken from Montrose Station Road,
3 directly in front of those houses, so those
4 houses would be set back further from those
5 previous simulations.

6 MR. FOLEY: What photo numbers?

7 MR. ALLEN: Photo number six is from in
8 front of or near 49, number 49 and number 57
9 Montrose Station Road.

10 MR. FOLEY: Near, but not, not in front
11 of or --

12 MR. SHERIDAN: It's in the road, it's in
13 Montrose Station Road, right in the middle of the
14 road.

15 MR. FOLEY: So the houses, when you come
16 up Montrose Station Road --

17 MR. SHERIDAN: They would be behind
18 them, behind that photo for the most part.

19 MR. FOLEY: No, I think I'm talking
20 about this is the stable area and the house in
21 front of the stable. But when you come up the
22 road before you get there, there are houses, some
23 new ones and some old ones coming up Montrose
24 Station Road, I don't know, I went through all

1 September 6, 2022

2 your printed photos. I don't know the address
3 numbers.

4 MR. ALLEN: This location is, as you're
5 coming up Montrose Station Road, right before you
6 reach the stables, I think that's the area that
7 you're describing, this is the first location
8 where the tower becomes directly visible, where
9 the trees open up. And this would be number 26
10 and 39 Montrose Station Road, again, taken from
11 Montrose Station Road.

12 MR. XAVIER: That's right before you get
13 to the paddock where you can take a left.

14 MR. FOLEY: So that photo would be right
15 near one of the last houses before you get to the
16 stables?

17 MR. SHERIDAN: Yes, that's correct.

18 MS. DECKER: Yeah, this is 26.

19 MR. ALLEN: And then, let me go back a
20 little bit. This, this location is further up
21 Montrose Station Road near number 20 Montrose
22 Station Road.

23 MR. FOLEY: Near 20, I see that on the
24 printout. Okay. I guess I'm looking for to put it

1 September 6, 2022

2 in perspective, the actual house that was
3 possible, I'd shot the picture showing the house
4 but, or the houses.

5 MR. SHERIDAN: Yeah, this, this
6 photograph was taken from adjacent to the garage
7 and I believe that is, is 20 Montrose Station
8 Road, so the house --

9 MR. KEHOE: Mr. Foley, but are you
10 asking, I think, no photographs were taken from
11 private property.

12 MR. BIANCHI: Right.

13 MR. KEHOE: Right.

14 MR. SHERIDAN: Correct.

15 MR. FOLEY: Taken from the road?

16 MR. KEHOE: Only -- the photographs were
17 only taken from public --

18 MR. SHERIDAN: They, they were taken
19 from the public right of way in front of -- in
20 the middle of the street in front of --

21 UNIDENTIFIED MALE: [unintelligible]
22 [01:45:23] road [unintelligible] [01:45:24].

23 MR. FOLEY: So does it really give a --

24 UNIDENTIFIED MALE: That's my house. And

1 September 6, 2022

2 I invited the photographer on my land and he
3 refused to come on our property.

4 MR. FOLEY: It just seems to me that if,
5 to get a true picture from what I'm reading in
6 some of these letters --

7 UNIDENTIFIED FEMALE: [unintelligible]
8 [01:45:43] --

9 MR. FOLEY: -- it would have --

10 UNIDENTIFIED FEMALE: She has a picture
11 on her phone from our three properties.

12 MR. FOLEY: It would have been a better,
13 from my standpoint, a better presentation. Give
14 me an idea what the people are writing letters in
15 that are expressing the concerns. I don't know
16 what the house numbers, but maybe it's 20, 29,
17 whatever to better show what they are saying is
18 going to impact them visually. Okay. Now, I
19 understand about the private, privacy issue, but
20 maybe there should have been a better outreach to
21 reach the people.

22 MR. SHERIDAN: Right, but I think what
23 this visual analysis shows is there are limited
24 areas where you're going to see this tower. The

1 September 6, 2022

2 tower is --

3 CROSSTALK

4 MR. SHERIDAN: Yes, limited areas and,
5 and by those areas at the end of Montrose Station
6 Road, you can see, and that's what this visual
7 analysis describes, is you're going to be able to
8 see the tower at end of Montrose, well, if you're
9 at the end of Montrose Station Road.

10 MR. FOLEY: Yeah, I saw the
11 [unintelligible] [01:46:42].

12 MR. SHERIDAN: Where you're not, where
13 you're not going to be able to see the tower is
14 from almost anywhere else in the town. That's
15 where, that's why --

16 MR. FOLEY: No, what I'm saying is I was
17 at, Mr. Sheridan, I was at the site visit. And
18 after I came up to where Mr. Allen was, and I met
19 him and his associate, we see the balloon
20 clearly. But when I was coming up the road, there
21 was a big new house on a rock promontory with a
22 young mom loading a car with a kid, she didn't
23 know anything about it. I tried to look to see if
24 I could see the balloon from there, I couldn't.

1 September 6, 2022

2 And then I find out later that there's another
3 smaller house of which people have written
4 letters in, and I just was trying to picture
5 what, you know, what view they're going to see of
6 this tower from their deck, their backyard, their
7 front whatever. And I wish, you know, I wish you
8 could have gone on the property, but.

9 MR. SHERIDAN: I think what this visual
10 analysis shows, and the whole point of the visual
11 analysis is to show that although it's going to
12 be visible from certain locations because it's
13 not an invisible tower, unfortunately that
14 technology doesn't exist. It's going to be
15 visible. This is, this is an idea of where it's
16 going to be visible from. And this is show a, a
17 simulation of what it's going to look like. So I
18 think the idea is it's located in an area of town
19 where you're only, there's only limited discreet
20 views of this tower in a very small area. The
21 rest of the area around that town, you can't see
22 it. And that's one of the reasons why the
23 facility was determined to be located here,
24 because it is amongst the trees, hidden back up

1 September 6, 2022

2 away from an area of large visibility and that's
3 what Mr. Allen's report shows on the initial, on
4 the initial maps, that it's not really an area
5 that's visible from many locations, and what this
6 analysis shows is that the simulations give you
7 an idea of what, what you're going to be seeing.
8 And again, what you're going to be seeing is just
9 the monopole tower, which, which has been
10 redesigned from the original application which
11 was a lattice tower, to give it a better slender
12 design.

13 MR. FOLEY: I understand all that.

14 MR. SHERIDAN: Which, which decreases
15 visibility again.

16 MR. FOLEY: I'm just talking about the
17 houses closest to coming up the road towards the
18 stables. And what I observed when, and then I
19 went back, back and forth, you could see it
20 definitely from the stable, from one street
21 further up, totally out of the area, that it's
22 not higher. But I'm just wondering, without the
23 tree cover, whether those houses along Montrose
24 station road, the people who have been writing

1 September 6, 2022

2 the letters in, what they would see when there's
3 no tree cover. And I'm just imagining they would
4 see this structure. But --

5 MR. KEHOE: Is that information in the
6 2019 visual analysis?

7 MR. SHERIDAN: There is a 20- yes, there
8 is a 2019 visual analysis which has --

9 MR. FOLEY: When the trees weren't that
10 [unintelligible] [01:49:40]?

11 MR. KEHOE: Well, they were racing that
12 time, so the leaves had started to come up, but
13 it was in May.

14 MR. BIANCHI: And I understand what you
15 were going to do was compare the two leaf off and
16 leaf on pictures and show which ones were visible
17 with the leaf off and which ones were not visible
18 -- I'm not sure if I'm saying this right.

19 MR. SHERIDAN: No, I --

20 MR. BIANCHI: You know what I mean.

21 MR. SHERIDAN: I understand what you're
22 saying and I think --

23 MR. BIANCHI: And compare the two and
24 how many locations does that involve?

1 September 6, 2022

2 MR. SHERIDAN: The, the pole was, and
3 Matt, you can correct me if I'm wrong,
4 essentially visible from the same locations it
5 was visible previously. And the reason for that
6 is where it's located, yes, there are areas where
7 you're going to be able to see it and you're
8 going to be able to see it whether there's leaves
9 on the trees or leaves off the trees. But the
10 other areas, you really cannot see it regardless
11 of whether the leaf on or off the trees when you
12 compare the May 4, 2019 visual analysis to the
13 August 24, 20-- or July 23, 2022 analysis. The,
14 the difference, you really can't tell because
15 there's a significant amount of tree cover
16 whether the leaves are on or leaves are off the
17 trees, hard to see it through the existing mature
18 vegetation.

19 MR. BIANCHI: Okay.

20 MR. SHERIDAN: So where you can see it,
21 I think Matt, you can, Mr. Allen can correct me
22 if I'm wrong, the -- because of the difference in
23 location, where the tower was moved 150 feet, you
24 can see Mr. Musso found a small area in the park

1 September 6, 2022

2 along the gas line run where you could see it.
3 And that was more of a function of the tower
4 being moved over right into that area where the
5 trees were cut down for that gas transmission
6 line.

7 But the other locations, there's one
8 location where it was framed in the previous May
9 2019 report, it was framed at the end of a road,
10 when the road is coming from the north, you could
11 see it. Now you can't see it anymore in the 2022
12 and that's a function of again, being moved
13 slightly, but also, it's now 34, 35 feet lower,
14 so it dropped below the line of that hill or the
15 tree line, so you can't see it there anymore.

16 MR. BIANCHI: Okay. But I understand
17 what you're saying, but my question still is how
18 many locations was it visible before, with the
19 leaf off conditions that are not visible. The
20 other way around, actually, how many locations is
21 it not visible with the leaf on situation versus
22 the leaf off situation?

23 MR. SHERIDAN: Matt, do you have that
24 number? I think it was somewhere like six or, six

1 September 6, 2022

2 -- five to seven photos in the first one and it's
3 five to seven photos in this one where it's
4 visible, from the leaf -- from the 2019 report to
5 this report.

6 MR. BIANCHI: And those --

7 MR. ALLEN: I haven't counted because
8 that is -- it's not a direct comparison. I've got
9 a photo here and I'll drag it over. It's roughly
10 the same location on Montrose Station Road. This
11 is the 2019 report taken much close to leave off
12 condition, and in the previous location, it may
13 be hard to see, but the balloon is right here. So
14 it's still well below the horizon line formed by
15 the trees. Looking through a gap you can see it
16 more clearly than the previous photo simply
17 because there are less leaves on the trees, but
18 it is still somewhat obscured or filtered by
19 existing vegetation. And here is the photo
20 simulation prepared at that time, and you can see
21 a lattice framed tower instead of a monopole
22 tower. You know, effectively, it's the roughly
23 the same degree of visibility between the two
24 locations. So you are seeing lower

1 September 6, 2022

2 [unintelligible] [01:53:31] --

3 MR. FOLEY: Are the pictures you're
4 showing now, Mr. Allen, is that, what are those
5 house numbers?

6 MR. ALLEN: I don't --

7 MR. FOLEY: Is this closer to where you
8 come in off the main road?

9 MR. XAVIER: This is near number 20.

10 MR. ALLEN: Yeah, this photo is also
11 labeled near number 20, so it's very close to the
12 same location as the previous photo.

13 MR. FOLEY: But, not, in other words, is
14 it closer to the main road, when, when you come
15 in off Montrose Station Road? I was there back
16 and forth. Okay.

17 MR. XAVIER: I think I know what you're
18 looking for. And we were about to get there. So
19 Matt, if you can go back to the most recent VRA
20 and then go to the next photo simulation you were
21 about to show, get past, get past this one,
22 please.

23 MR. ALLEN: Okay. Is this the one you're
24 looking for?

1 September 6, 2022

2 MR. XAVIER: No, I thought there was
3 another one from in front of the stables.

4 MR. FOLEY: While you have that one on -
5 -

6 MR. XAVIER: Yeah.

7 MR. FOLEY: That's by number 26 and 39.
8 When I came back, I drove around, it would be the
9 eastern side of the stable house and the riding
10 track or whatever. I went down below, met a very
11 nice horse and her little barn, ran away and came
12 back to the fence line. And I drove all the way
13 up the back to see what I could see. And yeah,
14 you could see the balloon from that side angle,
15 which I think would be easterly.

16 MR. XAVIER: Well, I think --

17 MR. FOLEY: I mean I did a pretty
18 thorough drive around.

19 MR. XAVIER: It sounds like you did.

20 MR. FOLEY: I spent a lot time.

21 MR. XAVIER: You know, I think the point
22 here is that the current application and the
23 current site is less visible than the original
24 site. And both of them are very minimally visible

1 September 6, 2022

2 throughout the one mile radius of around the
3 tower. There is visibility directly to the homes
4 that are in the cul-de-sac at the end of Montrose
5 Station Road. And although we didn't go onto
6 those properties to take photos, the photo that
7 showed the stable in front of it was taken in the
8 road in front of those houses, even closer to the
9 tower than taking a photo from those private
10 properties would be.

11 So although we did not take a photo from
12 that private property, that photo is
13 representative of what you're going to see from
14 there. And yes, it does show that you're going to
15 see the top half of this tower. And whatever
16 photo is going to be the same, you're going to
17 see the top half of this tower from the
18 properties that are immediately adjacent to it.
19 It's unavoidable.

20 But in the grand scheme of things as far
21 as the community, the visibility is very minimal
22 for this type of tower of a 140-foot piece of
23 necessary infrastructure, the visibility is
24 minimal. We've done two VRAs here, we've asked

1 September 6, 2022

2 for this board and the consultants to opine as to
3 everywhere you want us to take a photo from. Our
4 phone numbers are available that day. I was in
5 the field as well. If you wanted to go somewhere,
6 I would have been available to --

7 MR. FOLEY: I may have passed you coming
8 up the road.

9 MR. XAVIER: I was driving all over the
10 place that day too, yes.

11 MR. FOLEY: I didn't see Mr. Musso, but
12 I did see Mr. Allen.

13 MR. XAVIER: Mm-hmm.

14 MR. FOLEY: [unintelligible] [01:56:29]
15 and his associate. And I saw a guy coming up when
16 I came back the second time. It could have been
17 you in a small SUV.

18 MR. XAVIER: A little Jeep Cherokee,
19 that's me.

20 MR. FOLEY: Yeah.

21 MR. XAVIER: So, yes, I just wanted to
22 point out that we did take a photo, worst case
23 scenario, right in front of the tower to show the
24 worst possible visibility of this thing, and that

1 September 6, 2022

2 was represented in I think two photo simulations
3 before this one.

4 MR. FOLEY: No, I saw those photos.

5 MR. XAVIER: Yeah. So it's not like
6 we're trying to now show what the visibility is
7 from those neighboring homes.

8 MR. FOLEY: No, I'm not saying that.

9 MR. XAVIER: I feel we did that.

10 MR. KEHOE: We have a lot of get to.

11 MR. SHERIDAN: Alright. So we were just
12 going to go over the coverage maps and then,
13 yeah.

14 MR. KEHOE: So who do you want to
15 promote?

16 MR. SHERIDAN: Martin Lavin, from C
17 Squared. Thank you, Matt.

18 MR. BIANCHI: Let me just, I'm sorry,
19 just one second. Just for the record, Table 1 in
20 Exhibit 1 in your submission just references what
21 locations it's viewable without the leaves and
22 with the leaves. And there are about six
23 locations, just for the record.

24 MR. SHERIDAN: Thank you.

1 September 6, 2022

2 MS. DECKER: What was the name?

3 MR. SHERIDAN: Martin Lavin, L-A-V-I-N.

4 MR. MARTIN LAVIN: I'm Martin Lavin, C
5 Squared Systems on behalf of Verizon. I'll just
6 go through the two coverage plots. Let's see, the
7 first plot shows our existing coverage situation
8 in Cortlandt. The yellow dot is the proposed
9 site, the red dots are existing sites. And
10 coverage levels are minus 85 and minus 95, the
11 green and blue respectively. They correspond to
12 in building and in vehicle coverage and white is
13 an area that does not have reliable coverage.

14 MS. DECKER: Sorry, can you clarify
15 which colors are -- I couldn't hear you well.
16 White is where there's no coverage or where there
17 is coverage?

18 MR. LAVIN: There isn't reliable
19 coverage.

20 MS. DECKER: Okay. There's not reliable
21 coverage?

22 MR. SHERIDAN: Is not.

23 MS. DECKER: Okay. Got it.

24 MS. DECKER: So white is like holes?

1 September 6, 2022

2 MR. SHERIDAN: Correct.

3 MR. LAVIN: Green is where there is in
4 building coverage, blue is where there is in
5 vehicle coverage. This is what we have right now.
6 It's, you know, patchy, based on the terrain in
7 this area, which I'm sure everyone is familiar
8 with, it's very hard for sites to reach very far,
9 over one hill to the next, which is why the
10 coverage is patchy as you see it there. So you
11 can definitely see we have a significant gap in
12 these areas. The white is areas that lack
13 reliable coverage at the moment.

14 And let's move on to our next plot,
15 which shows the coverage with the proposed site.
16 It fills in a lot of areas up toward Peekskill,
17 it brings new coverage to the Blue Mountain
18 Middle School and Furnace Woods Elementary.
19 Further down to areas along, that's area around
20 Charles Cook Pool there in terms of public
21 facilities that get extra coverage, a lot of
22 coverage afforded to the area in general. We have
23 coverage to about two square miles of area, about
24 2,000 in population, based on the U.S. Census.

1 September 6, 2022

2 That does not include anyone who is hiking
3 through the park there. And in terms of road
4 coverage, it's a total of almost nine and a
5 quarter miles, 1.8 miles of main roads, and 7.4
6 miles of secondary roads.

7 MR. SHERIDAN: Thank you, Martin. Yes,
8 so, I appreciate it Martin. If anybody had any
9 questions, we'll move on to again, Vincent Xavier
10 is here from Homeland Towers to discuss the
11 facility.

12 MR. XAVIER: So I just wanted an
13 opportunity to wrap it up. I know it's getting
14 late here, and there's a lot of technical data
15 that, you know, is boring to watch. You know, as
16 I've said before, I'm a member of this town. I've
17 lived here for 12 years now. So it was very
18 important to me that when we brought this
19 application that it was as good as possible and
20 the site was as good as possible and that it was
21 needed. You may hear, you know, arguments tonight
22 that no, we don't really need a site. If you've
23 been in this area, you know that a site is needed
24 there. The coverage maps that Martin just went

1 September 6, 2022

2 through do show that you have significant areas
3 of not reliable service, you know, between the
4 communities such as Chapel Hill, which I know was
5 discussed during the work session, you've
6 received numerous letters from which we were not
7 involved with organizing in any way. There was no
8 coordinated effort with them. We were just told
9 contemporaneously with you that they had reached
10 out.

11 Blue Mountain Preserve itself is going
12 to get better coverage from this for anybody who
13 is going through there for their own safety
14 needs. Blue Mountain Middle School, you know, as
15 I've said here before, my kids went to the sports
16 program that was there and even out in the open
17 field, you do not have coverage to call for help
18 if a child gets hurt. It's been very important to
19 me, and like I said before, I've been fighting
20 with my board of education to focus on this in
21 the Lakeland School District. This is the Hen-Hud
22 School District. But anything I can do to help
23 the community as far as bringing this necessary
24 piece of infrastructure to an area that has

1 September 6, 2022

2 demonstrated need for it is a good thing.

3 But we can't just put it wherever we
4 want. We do have to make sure that when we put it
5 somewhere, we put it in the place that is least
6 intrusive for the community. And I brought
7 numerous applications over the past 15 years I've
8 been doing this and the view shed from this is
9 one of the smallest I've ever seen. And although
10 I can't make it invisible, and yes, neighbors are
11 going to see this if they're immediately adjacent
12 to this property which has a preexisting
13 nonresidential use. The area itself is low
14 density residential, the visibility is very
15 minimal. This is the least intrusive way to
16 remedy this gap in coverage that is real. All you
17 have to do is drive through here or go to the
18 school to know it. And this site will provide the
19 coverage that our community needs. We're
20 available to answer any questions you may have.
21 And that's it. Thank you.

22 MR. FOLEY: Yeah, I have two questions.

23 MR. XAVIER: Sure.

24 MR. FOLEY: Mr. Xavier, is that your

1 September 6, 2022

2 first name or last name?

3 MR. XAVIER: That's my last name.

4 MR. FOLEY: Oh, Mr. Xavier.

5 MR. XAVIER: Yes.

6 MR. FOLEY: No, I appreciate your
7 comments.

8 MR. XAVIER: Yeah, people call me as my
9 first name all the time, but it's okay.

10 MR. FOLEY: Are you within the view shed
11 of this tower?

12 MR. XAVIER: No, I am not.

13 MR. FOLEY: Okay.

14 MR. XAVIER: Only people that live on
15 Montrose Station Road --

16 MR. FOLEY: Okay.

17 MR. XAVIER: -- and in that immediate
18 area would be. And I don't live there.

19 MR. FOLEY: Yeah, I understand the need
20 for service, but also at least I do, have to
21 balance it between a negative impact to a
22 residential area.

23 MR. XAVIER: Absolutely. And that's
24 what's important is that balance, the balance of

1 September 6, 2022

2 a minimal impact to a few residences to the
3 greater good of our entire community. This, the
4 coverage footprint from this is great and vast
5 and covers important areas. And yes, so we cannot
6 -- and the concern to the neighbors are real and
7 they should be respected. And they are going to
8 see it and you need to do that balancing test as
9 a member of this board. But when you do it,
10 remember the other side as well, which is the
11 rest of the community. And all the other people
12 who will benefit from this, even those people who
13 can see it from their homes, will one day use
14 this tower potentially to call for help, or to
15 call a loved one. They're going to be using the
16 tower as well. So, all are going to benefit in
17 this area from this tower. And I hope that when
18 you consider the application, you do balance it.

19 MR. FOLEY: It would seem that elevation
20 is important with cell towers.

21 MR. XAVIER: It is.

22 MR. FOLEY: I know from experience, from
23 family members, one on Tinker Hill in Putnam
24 Valley, one of the first cell towers in the whole

1 September 6, 2022

2 area and the other one is up in Lake Mahopac, up
3 high on a hill, has very little impact to the
4 residential areas below them. What I'm wondering
5 is, is there higher ground someplace else?

6 MR. XAVIER: It doesn't work like that.

7 MR. FOLEY: Then you could service
8 better Chapel Hill, Valeria and some other places
9 that have no services.

10 MR. XAVIER: The answer is no, there is
11 no taller spot or anywhere else in the area that
12 I can put this in --

13 MR. FOLEY: Not Spitzenberg Hill?

14 MR. XAVIER: -- order to eliminate a gap
15 in service.

16 MR. FOLEY: Not Spitzenberg Mountain or
17 --

18 MR. XAVIER: It's not just about height
19 anymore. Back when this technology was new, and
20 you know, Martin can probably opine on this
21 better than me, because I'm not an RF engineer,
22 the signals were operated at a lower frequency
23 and there were a lot less users of the wireless
24 service. So then you could put, you know, these

1 September 6, 2022

2 tall towers, especially AT&T, over 200 foot
3 towers on top of mountains and broadcast in every
4 direction at a low frequency, which had low speed
5 and high latency and cover the people in there.

6 In the same area now that one tower on
7 top of a hill would cover, the number of users of
8 devices has gone up exponentially and there is a
9 limited capacity that each antennae and tower can
10 actually maintain. And as the frequencies get
11 higher and we get into 4G, 5G, which has better
12 data speeds and lower latency, the signal at
13 higher frequency actually traveled less far. So
14 no, there is no top of a mountain you can put
15 this, especially in the terrain here. There would
16 be shadowing from other mountains and hills
17 anyway. If you have a Sirius satellite radio, you
18 see, you get shadowing from other mountains.

19 But maybe that's too much of a tangent.
20 The point is, no, there is no other spot. If you
21 know of one and you'd like me to evaluate it, I
22 would be willing to do that. But I can tell you,
23 no, there is no tall mountain I can just put a
24 tall tower on top of and cover the entire town of

1 September 6, 2022

2 Cortlandt. It just doesn't work like that.

3 MR. FOLEY: Not necessarily a tall
4 mountain, just higher ground.

5 MR. XAVIER: Low mountain, short
6 mountain, valley --

7 MR. BIANCHI: Guys, could I just --

8 MR. XAVIER: -- there is no other spot.

9 MR. KESSLER: Guys, it's a public
10 hearing. We haven't heard from the public yet.

11 MR. FOLEY: Oh, I'm sorry.

12 MR. KESSLER: Can we please give the
13 opportunity for the public to speak?

14 MR. KEHOE: Now, along those lines,
15 there is an attorney that I believe is represent--
16 -- would you wish for him to speak first?

17 MR. KESSLER: Yeah.

18 MR. KEHOE: Okay.

19 MR. ANDREW CAMPANELLI: Good evening,
20 can you hear me?

21 MR. BIANCHI: Yes.

22 MR. CAMPANELLI: For some reason, Zoom
23 is not letting me start my video. I'm not sure
24 why. It says you cannot start your video because

1 September 6, 2022

2 the host has stopped it. So, as the host, if you
3 would unblock my video, I would like to join you
4 by video if I can.

5 MR. KEHOE: We're working on it.

6 MR. CAMPANELLI: No problem. Take your
7 time.

8 MR. CUNNINGHAM: Why don't you just
9 start?

10 MR. CAMPANELLI: Sure, okay. Good
11 evening. I'm pleased to be before the board. My
12 name is Andrew Campanelli. I'm an attorney. I
13 actually represent 17 homeowners in the town of
14 Cortlandt. They retained me. I handle cell tower
15 cases not merely across the state of New York,
16 but across the entire United States. I've
17 litigated cases on the Federal Telecommunications
18 Act for decades. My interest this evening is not
19 merely to persuade you to deny Homeland Towers
20 application for a special permit, but to make
21 sure that if you do deny it, you number one, deny
22 it for a legally permissible reason and that you
23 do so in a manner which doesn't violate the
24 requirements of the Telecommunications Act of

1 September 6, 2022

2 1996.

3 Based upon the submissions by the
4 applicant, I submit to you that their submissions
5 are so inherently defective that respectfully, as
6 a matter of law, you cannot grant this
7 application. So I'd like to accrue some of those
8 things and the problems with them. I will tell
9 you I was pleased to hear some of the questions
10 raised by the board because they were very valid
11 inquiries with regard to the evidence that's been
12 submitted by the applicant.

13 So the first issue I have with this
14 application and I will tell you I've been up
15 against Homeland Towers and its attorneys many,
16 many, many times, and the first problem I have is
17 with their alleged visual impact assessment. Now,
18 the whole purpose for which an applicant submits
19 a visual impact assessment to a local planning
20 board is to provide the board with an accurate
21 depiction of the actual adverse aesthetic impacts
22 that a proposed cell tower, in this case, 150-
23 foot cell tower, will inflict upon the nearby
24 properties. Not surprisingly, in an effort to

1 September 6, 2022

2 mislead a board to believe that the adverse
3 aesthetic impacts will be far less than what they
4 will actually be, applicants will typically omit
5 from its visual impact analysis any photographs
6 taken from the perspectives of the actual homes
7 which will suffer the worst impact.

8 This problem became so broad and so
9 severe that it actually made it up in litigation
10 to the United States Court of Appeals for the
11 Second Circuit in a case called Omnipoint, which
12 is cited in my brief. And in Omnipoint, a federal
13 judge ruled that a visual impact assessment
14 submitted by an applicant and was defective and
15 should be basically disregarded by the board
16 because in the words of the judge from the Second
17 Circuit said none of the images submitted in the
18 visual impact assessment were taken from the
19 residents' backyards, much less their second
20 story windows. That's a direct quote from the
21 Second Circuit Court of Appeals.

22 Now, what's most troubling in terms of
23 this application is that decision came down in
24 2005. It is the law from the highest federal

1 September 6, 2022

2 court, second only to the United States Supreme
3 Court. Homeland knows about this, their attorneys
4 know about this, and yet still, they came before
5 you and submitted a visual impact analysis where
6 they once again omit any images taken from the
7 backyards. And there was nothing preventing them
8 from doing so.

9 In most cases, when applicants want to
10 provide legitimate visual impact analysis, it's
11 really a simple process. They approach the
12 homeowners and they ask their permission to go on
13 the property and take pictures of the balloon
14 test. And in 30 years of doing this, I've never
15 heard a homeowner say no, because they want
16 images taken from their backyards, so the board
17 can see what they will suffer if the application
18 is granted.

19 Now, under the Telecommunications Act,
20 any denial of a cell tower application must be
21 based upon substantial evidence. So I can't just
22 argue that it's going to have an adverse
23 aesthetic impact, I have to submit substantial
24 evidence. Fortunately, federal judges have ruled

1 September 6, 2022

2 that the persons in best position to know and
3 understand both the nature and the extent of an
4 adverse aesthetic impact a homeowner will suffer
5 are the homeowners themselves. They can write
6 letters attesting to what's going to happen.

7 That's exactly what I've submitted to
8 you in addition to my brief. I've submitted
9 exhibits and support. And in there, you will find
10 letters from the homeowners detail how if this
11 15-story tower goes up as close as 60, 63 feet to
12 their property line, it's going to dominate the
13 views from inside their house, in their
14 backyards. It's going to not really dominate the
15 skyline, but it's going to dominate the views
16 from most of the areas on their properties. So I
17 ask you to look at my memorandum for those of you
18 who haven't read it, and I ask that you review
19 the letters from the homeowners detailing the
20 actual adverse aesthetic impacts they're going to
21 suffer and take a look at the Omnipoint case,
22 take into account that it was decided 17 years
23 ago and Homeland Towers and its attorneys know
24 about it and they still deliberately submitted to

1 September 6, 2022

2 you a visual impact assessment which has zero
3 photographs taken from the homeowners' backyards.
4 You can draw what conclusion you want from that
5 as you may.

6 And by the way, if anybody has any
7 questions as I speak, please don't hesitate to
8 ask. I represent many, many municipalities in New
9 York, assisting them in drafting ordinances and
10 using their powers to regulate the placement of
11 wireless facilities.

12 Now, the other tenet of evidence that
13 they've submitted that's problematic is what they
14 call a coverage map. And this is what appears to
15 be presented to you as a coverage map of coverage
16 for Verizon at 750 megahertz. I submit to you
17 that based upon everything they have submitted in
18 terms of coverage, they have failed to establish
19 any gap in coverage as a matter of law. It's not
20 even a question of fact. It's as a matter of law.
21 And I'll explain exactly what I mean.

22 The burden is on, under both state law
23 and federal law, the burden is on Homeland to
24 prove that Verizon has a significant gap in

1 September 6, 2022

2 service. Now significantly, on July 29th of this
3 year, a significant decision just came down from
4 a federal court in Eastern District of New York
5 on one of my cases. It's called ExteNet v.
6 Village of Flower Hill and that case galvanized
7 the power of local governments to determine as a
8 factual question, whether or not an applicant has
9 established a significant gap in service. That's
10 critical.

11 The reason it's critical is one of the
12 constraints the Telecommunications Act of 1996
13 imposes upon you is that if an applicant
14 establishes that a carrier has a significant gap
15 in service and that a proposed installation is
16 the least intrusive means of remedying that gap,
17 then you must grant their application even if it
18 would otherwise violate your local zoning code.
19 The good news is the question of who gets to
20 determine whether they've proven both of those
21 things is you, the planning board. You get to
22 decide if they've proved one or both of those
23 things. You get to determine what evidence to
24 consider, and you get to determine the weight of

1 September 6, 2022

2 the evidence.

3 However, based upon the new decision
4 that just came down in Flower Hill, this evidence
5 is defective as a matter of law and here's why.
6 In the ExteNet case, another site developer
7 called ExteNet, and when I say site developer,
8 Homeland Towers is a site developer. Homeland
9 Towers doesn't provide any wireless services, you
10 cannot get a phone contract with Homeland Towers.
11 Its interest in this is purely financial. In the
12 ExteNet Case, a company called ExteNet wanted to
13 build a distributed antennae system in the
14 village of Flower Hill where my office is on Long
15 Island.

16 And what they did is they came in and
17 they provided maps, better maps than this where
18 allegedly they're drive tests. This isn't even a
19 drive -- doesn't even purport to have drive test
20 data. But they showed two maps where they
21 proposed that it showed drive test data showing
22 that Verizon, gaps in its wireless service
23 because there were gaps in two of the frequencies
24 through which Verizon provided wireless coverage.

1 September 6, 2022

2 Now, what does that mean, two of the
3 frequencies? Verizon, as a wireless carrier,
4 provides wireless services to its end use
5 consumers at a dozen different frequencies. A 4G
6 service, they provide service at 700 megahertz,
7 850, 1700, 1900, 2100, 3.5 gigahertz and 5.2
8 gigahertz. This map purportedly shows 750
9 megahertz. There's no data to back it up, but
10 let's assume that's correct.

11 Now, why is it relevant that you have
12 multiple frequencies? Well, as a federal judge,
13 the senior federal judge in the district court in
14 the Eastern District of New York said, even if
15 they prove there's a gap in 4G coverage that does
16 not prove there's a significant gap in coverage
17 because the way cell phones work. In other words,
18 you may have a phone, you're on a phone, and
19 you're driving through the town of Cortlandt and
20 you're on 4G service. If the 4G signal strength
21 drops too low to maintain the call, your phone
22 will downshift and automatically go to a
23 different frequency to 3G or 1G and so the call
24 remains uninterrupted. And so the federal court

1 September 6, 2022

2 said that ExteNet had failed to prove a gap in
3 service as a matter of law, because to prove a
4 significant gap, Verizon, or the applicant, has
5 to prove that one of its end use customers cannot
6 use their phone to connect to a landline. That's
7 what a significant gap is. And the only way they
8 can show that is to show that there's a gap in
9 all of the frequencies at which they provide
10 service to their end use consumers. This shows
11 absolutely nothing, even if it was verifiable.

12 Now, when I say verifiable, the normal
13 way, let's say for argument's sake, Verizon had a
14 significant gap so severe that it had to have a
15 tower, Verizon would have filed the application
16 itself. And what they would normally do is come
17 in and say listen, because of the topography in
18 Cortlandt, to have reliable service we need a
19 minimal signal strength of 98 DBM. Then they'll
20 do a drive test and they will come in and show
21 you the actual drive test data. They take a
22 recording device, they record the actual signal
23 strengths, not this. This is a map generated by
24 computer software. It has no basis, no

1 September 6, 2022

2 evidentiary basis. If this was a trial, no court
3 in the country would accept this as evidence of
4 anything.

5 So they come in and they provide you
6 hard data. It shows you the actual signal
7 strength all across town at each frequency to
8 which they provide service. If and only if you
9 get that data are you, the planning board, placed
10 in the position to know and understand this is a
11 good location for a tower, because the hard data
12 will show you the exhibit- the existence of gaps,
13 the locations of the gaps and the boundaries of
14 the gaps. Then you're able to figure out if
15 putting a tower here makes any sense.

16 Without them giving you any probative
17 data, it is impossible for you to determine that
18 this is an appropriate place for a cell tower. In
19 fact, if this doesn't cover the gaps that exist,
20 and I'm not saying there's perfect coverage in
21 the town of Cortlandt. There probably are gaps.
22 But you have a smart planning division. When you
23 adopted Section 277, it is a classic smart zoning
24 provision. It's designed to minimize the number

1 September 6, 2022

2 of towers you need while simultaneously allowing
3 companies like Verizon to saturate the town with
4 coverage.

5 Well, to make sure you've strategically
6 placed towers to minimize the number of towers
7 you need, you first need to see the data. You
8 need to see hard data showing exactly where the
9 gaps are and this applicant hasn't given you a
10 shred of probative data. They've given you
11 nonsense. It's basically nonsense. So, number
12 one, they haven't proved a significant gap in
13 service, and I'm going to ask you to make a
14 factual determination in that regard because the
15 easiest way for local towns to get sued on the
16 Telecommunications Act is where they'll make a
17 prompt proper decision. They'll say hey, in this
18 case, no way, this is going to have a significant
19 adverse aesthetic impact and we're denying it on
20 that grounds, but they don't make a factual
21 determination as to whether or not the applicant
22 provided significant gap or not. And if you fail
23 to make that factual determination, within 30
24 days, Homeland will file a federal lawsuit in the

1 September 6, 2022

2 Eastern District and they'll win. They said look,
3 judge, we submitted evidence of a significant
4 gap, they didn't rebut it, they didn't even make
5 a factual determination. But if you make that
6 factual determination and there's even a shred of
7 evidence in the record to support it up, federal
8 judges are loath to overturn your decisions. So
9 you should make a determination that this
10 applicant has failed to establish that Verizon
11 has a significant gap in its personal wireless
12 services, that the proposed installation at their
13 site they're looking is the least intrusive means
14 of remedying that gap and that there are no --
15 they haven't proven there's no possible less
16 intrusive alternative locations.

17 And again, without giving you any
18 probative evidence as to the existence, location
19 and boundaries of gaps, you can't even start an
20 analysis of potentially less intrusive
21 alternative locations, because if you don't know
22 where the gaps are, you can't figure out where a
23 less intrusive alternative location would be.

24 Now, in addition to that of course, is

1 September 6, 2022

2 the fact that it's going to reduce property
3 values. As common sense would dictate, if you
4 build a cell tower, close to someone's home,
5 generally speaking, it's going to reduce the
6 value of the home. Exhibit A attached to my
7 submissions are the adverse aesthetic impact
8 letters. I offer them as substantial evidence of
9 the adverse aesthetic impact that this tower
10 would inflict upon the homes.

11 Attached as Exhibit B are letters from
12 licensed real estate brokers who are
13 professionals, who are acutely familiar with this
14 specific real estate market. And in their
15 professional opinions, they attest to their, in
16 their professional opinion, that this 15-story
17 tower placed this close to homes where no other
18 structure stands more than two stories in height,
19 is going to reduce the value of those homes by as
20 much as 20 percent. Significantly, these are the
21 precise types of adverse impacts that you adopted
22 in Section 277 to stop from happening in the
23 first place.

24 So granting this violation would not

1 September 6, 2022

2 only violate your code, it would violate the
3 intent of the code, again, by inflicting the
4 precise types of impacts you adopted this permit
5 requirement to prevent in the first place.

6 Does anybody have any questions? Okay. I
7 hope I'm keeping you awake. Now, in addition to
8 these problems, I want to make sure the board is
9 aware of the Middle Class Tax Relief and Job
10 Creation Act of 2012. Now, Homeland has applied
11 for a 150-foot tower. And it says at this point,
12 I think the only interested carrier is Verizon.
13 Well, I assure you if this tower goes up,
14 Homeland would love to have more carriers,
15 because the more carriers it has, the more money
16 it makes. That's its only business. It builds
17 wireless infrastructure and leases space to
18 additional carriers.

19 Well, what if a 150-foot tower goes up
20 and they want to bring in Sprint or AT&T? Well,
21 once a tower goes up, they will be able to
22 increase the height of the tower by an additional
23 20 feet and the town of Cortlandt will be
24 completely without power to stop them. So they'd

1 September 6, 2022

2 be able to go up another 20 feet and to add
3 additional two carriers. Each carrier needs ten
4 feet of vertical real estate. So you could put
5 somebody at 150, somebody at 160 and somebody at
6 170. And then think about the adverse aesthetic
7 impacts that they're going to suffer after that,
8 and the property values. So that's another issue.

9 So once again, I ask that you deny this
10 application. I ask that you issue a written
11 decision. In that written decision, you make
12 factual determinations. Will it have an adverse
13 aesthetic impact, will it reduce property values.
14 Did they prove that they have a, that Verizon has
15 a significant gap in personal wireless services.
16 Did they prove that this is the least intrusive
17 means of remedying that gap, because all of these
18 things are critical to make sure that you deny
19 the application in a manner that is as immune
20 from challenge as possible, meaning they won't
21 file lawsuits that challenge and even if they
22 bothered to, they have no likelihood of winning.
23 So that's what I'd like to cover. Let me see if
24 there's anything else I can cover. Uh, that's all

1 September 6, 2022

2 I can think of at the moment. So I thank you for
3 your time. If I can be of any further assistance,
4 or any questions, again, I've been doing this for
5 30 years. I handle cases across the entire United
6 States and I thank you for the opportunity to
7 speak.

8 MS. TAYLOR: Are we done?

9 MR. KEHOE: Well, do you want to talk
10 about what we had talked about at the work
11 session, meaning that we understood that the
12 applicant was making lengthy presentation, we
13 understood that the neighbors had an attorney
14 that would make a presentation, so obviously it's
15 time for the public to make their comments now.
16 We will not be closing the public hearing
17 tonight. The hearing will be adjourned until the
18 next meeting, so there will be additional
19 opportunity. You can talk now. There will be
20 additional opportunities to talk next month, but
21 I don't know if the planning board wants to
22 determine you want to be done by 10:15 or 10:00
23 or just see how it goes.

24 MS. TAYLOR: I don't know.

1 September 6, 2022

2 MR. KESSLER: I'd like to hear some more
3 from the public.

4 MS. TAYLOR: Well --

5 MR. KESSLER: There must be -- are there
6 other people that are for the proposal?

7 MR. ALLEN MOST: How about the opposed?
8 These, those that are the for the tower?

9 MR. KESSLER: That's what I'm asking,
10 yes.

11 MR. BIANCHI: Do we --

12 MR. MOST: [unintelligible] [02:26:36]
13 for the group that just [unintelligible]
14 [02:26:37] the lawyer for a half-hour's
15 conversation, I'd like to speak.

16 MR. KESSLER: Yeah, I would like to hear
17 from the people that are for the tower.

18 MS. TAYLOR: I want to know if we, as a
19 board are going to set the time, because we know
20 we're not adjourning this and they will --

21 MR. KESSLER: It's only a handful of
22 people.

23 MS. TAYLOR: I don't know that this is
24 all. Is this it?

1 September 6, 2022

2 MR. BIANCHI: Are there any on the Zoom?

3 MR. KESSLER: How many people wish to
4 speak?

5 MR. MOST: We've been here almost two
6 hours.

7 MS. TAYLOR: Well, we've been here
8 longer.

9 MR. MOST: And the idea [unintelligible]
10 [02:27:00] --

11 CROSSTALK

12 MR. MOST: -- was to provide feedback
13 from the public.

14 MR. KESSLER: No, come on up, fine.
15 Could we hear --

16 MS. TAYLOR: I still, please --

17 MR. KESSLER: -- you're against it?

18 MR. MOST: [unintelligible] [02:27:11]
19 the tower.

20 MR. KESSLER: Well, give a second, let's
21 give the --

22 MR. MOST: Sure.

23 MR. KESSLER: You know, we've heard from
24 the applicant, we've heard from the --

1 September 6, 2022

2 MR. MOST: Okay, so, I'm, I actually, my
3 name is Allen Most. I live at 163 Underhill Lane
4 in Peekskill in the Chapel Hill Development. I do
5 have to say I spend a lot of my money in the town
6 of Cortlandt, that's where I do most of my
7 shopping and I urge you to approve the cell
8 tower. As you know, the Chapel Hill Development,
9 which has over 400 households presently has no
10 cell service at all. Any mobile phone connection
11 is limited to people's homes when connected to
12 the home's internet service provider. Without Wi-
13 Fi service, the fire and police departments and
14 emergency medical services cannot be contacted.
15 Since all phone services is now linked to Wi-Fi,
16 this provides a dangerous situation when there is
17 an emergency outside the home. In addition, a
18 dangerous situation exists when electrical power
19 is lost within the home and the modem is not
20 operational. We need cell service for safety's
21 sake, so I would urge you to approve the
22 construction of the cell tower. Thank you.

23 MR. KESSLER: Thank you.

24 MR. STANLEY BASSON: Hi, my name is

1 September 6, 2022
2 Stanley Basson and I live at the Valeria, number
3 8, Bernheimer Lane. We're a community of 227
4 homes, some of us paying full home taxes even
5 though we're in townhouses. Two of the parts of
6 the community are paying co-op taxes which are
7 less. But that community brings in many, many
8 hundreds of thousands of dollars to the town of
9 Cortlandt, and it's all new income, because it's
10 all been developed in the last six years. I'll be
11 there -- I was the eight tenant to move in, I'm
12 there seven years November 1st.

13 We have zero reception. I've tried AT&T
14 phones, I had to get a booster that would hook up
15 to my Wi-Fi just to get reception in the house,
16 worthless. You try and go up and down Furnace
17 Dock Road, as soon as you leave our community, it
18 fades as you go towards 9A, it fades as you go
19 towards Crompound Road. There's no service in
20 that area. That's Dickerson Pond area, which when
21 the map was up, you could see the blue circle
22 where it gave you the indication of zero to five
23 to ten, you know, the scale, the blue section in
24 the scale was the Dickerson Pond itself. And

1 September 6, 2022

2 that's the center of our community, zero
3 reception.

4 I walk my dog a couple of miles a day.
5 If I, if I need help, I know that I cannot get
6 help. I know that I was at somebody's house last,
7 I think it was December, when a person collapsed,
8 called for the ambulance and fire department and
9 everybody else. One of us had to go outside and
10 wait to flag them down because the fire
11 department, they know where the individual houses
12 are because they come through to check the
13 hydrants. But the, they don't know the real
14 community. I know that some of the parts of the
15 police department know where it is, meaning the
16 state police, county police, most of them don't
17 know it at all.

18 I go outside to the family that lives in
19 that house where the person collapsed, they
20 stayed with them, I went outside to be ready to
21 flag down when we could see them, because you
22 don't see them from the particular street that I
23 was on, walked up to the corner, my phone is
24 worthless to call them to try to ask, you know, I

1 September 6, 2022

2 see them coming, I don't see them coming, we have
3 zero service. We need service in order to protect
4 approximately 500 people, 227 families that live
5 in the Valeria. Thank you for your time.

6 MR. KESSLER: Thank you.

7 MR. PAUL LEVITTS: Thank you. Paul
8 Levitz, also from Valeria from 7 Deforest, I echo
9 what was said. But I would like to address is
10 philosophically for two minutes, because you've
11 had a lot thrown at you this evening. I have
12 enormous sympathy for people whose views or
13 property values will be affected by the siting of
14 a power tower. The planning, I would argue that
15 the planning board has an affirmative obligation
16 to solve a problem in the community. As the
17 previous speaker spoke, you have a very large
18 portion of people who are at risk. Not simply the
19 residents, but we have the trailways that go
20 through, whether it's the Briarcliff Peekskill
21 Trailway that goes through the area, which has
22 virtually no service, the trailways that the
23 community, the town has established on town
24 reserved properties that have no service.

1 September 6, 2022

2 You're placing a significant portion of
3 your community at risk. Would this tower solve
4 it? Is it the best tower that would solve it? Is
5 it the best site? I'm not competent to judge
6 that. The board has access and a responsibility
7 to figure out the best solution. If the solution
8 is approving this application, terrific, that'll
9 make it happen quickly. But if you view that the
10 solution is not appropriate, either for the host
11 of reasons that the lawyer threw out there, some
12 of which seemed to me more designed for the
13 litigation argument than for a realistic
14 conversation, then you should be taking steps to
15 say, to hire a consultant or use the wisdom of
16 the professional staff that you have available to
17 you to see, not necessarily a higher mountain,
18 another mountain, another spot, we have so much
19 empty space in this community. Surely there is
20 space that is a reasonable compromise between the
21 interests of individual people and the needs of
22 the larger group.

23 Cell service at this point is no longer
24 a luxury. Cell service is a fundamental

1 September 6, 2022

2 communication tool that we built our structures
3 on and we need to figure out a way to do it. And
4 if that involves an investment on the community's
5 part to figure out the best approach to do it in
6 the same way as it would be to figure out the
7 best way to put a new sewer line in, that
8 planning, that planning should be undertaken by
9 people competent to do it. And I thank you for
10 your looking at the problem and trying to find
11 the best solution.

12 MR. KESSLER: Thank you.

13 MS. JOSIE ESPOSITO: Hello, my name is
14 Josie Esposito, I'm at 2048 Maple Avenue, almost
15 directly across the street, a little bit further
16 towards Peekskill from Montrose Station Road. I
17 can basically stand here and repeat everything
18 everyone else says. We are for the cell tower. I
19 have kind of more questions for you rather than
20 repeat what everyone else has said. What is it
21 going to take for us to get this cell tower? We
22 mentioned the number of homes that are in the
23 area that are going to be impacted visually, that
24 they are going to see this tower. Do we have to

1 September 6, 2022

2 count each one of those homes, whether it's
3 seven, 12 residences, 23 people versus the other
4 number of homes and people that are in this, what
5 was the numbers, two square miles or 9,000
6 something, do you have those numbers somebody
7 mentioned earlier.

8 Are we going by the numbers? If we're
9 going by the numbers, okay, you as the board,
10 representing the town residents, that's where the
11 scales come in. Whether you're going to get a
12 full balance, somebody said it may not be
13 realistic, okay, so where do we stand with this?
14 If we want the service to go on and we're looking
15 at numbers and those are the numbers that the
16 lawyer mentioned, do I go door by door? I could.
17 Do we come back to you with signatures and
18 addresses with every house number, every person
19 that does not have service? The phone cell phone
20 service, like he said is not a luxury. It is a
21 necessity. I am on Maple Avenue, my mother-in-
22 law, I'm going to take pictures, she has to
23 physically walk outside, and if you drive on
24 Maple Avenue, you're going to see her in the

1 September 6, 2022

2 driveway on the phone. Okay. She needed to
3 contact me for an emergency, I work in a school,
4 and I make sure that if it's an emergency, I have
5 a special code to get that phone call. She could
6 not get in touch with me, because she did not
7 have service. I have a landline. I have to bring
8 my phone, my landline phone to her room so that
9 this way she can use the landline phone to make
10 calls. Okay. What do we need to do?

11 You talked about the significant gap in
12 the service. There's a huge gap. That entire area
13 of Maple Avenue, I drive it twice a day from
14 Peekskill home. I can tell you exactly when the
15 service starts, stops, starts again, stops, and
16 then again from the front of my home. This is on
17 a daily basis. I've been living there 27 years,
18 okay. The growth of the cell phone service, it
19 really has grown exponentially. So we cannot come
20 back and, and deal with these other things where
21 oh, you know, it might be an eyesore for myself
22 and now this is a necessity. Okay. We have a lot
23 of seniors just in my area alone. We have a lot
24 of empty nesters, the population is getting a

1 September 6, 2022
2 little older. You need to reach out to family or
3 someone, there's no service. Cortlandt Estates,
4 where very good friends and my daughter's got
5 friends, I go pick up the friends, I can't call
6 them up to tell them okay, come on out, I'm here.
7 I have to get out of the car to ring their bell
8 from the driveway because there is no service
9 there.

10 So please let us know what do we need to
11 do. I'm not on Montrose Station Road, I love the
12 road, you'll see my walking my dog there towards
13 the stables, it's beautiful, but this is a
14 necessity, an absolute necessity. You let me
15 know, what do we need to do, because there's
16 going to be I think thousands of us that are
17 impacted, hundreds of homes that need the service
18 versus the three, 12 or whatever it is that don't
19 want to see the cell tower. It's 2022, you're
20 going to be seeing more of that stuff as the
21 technology continues to improve. Thank you.

22 MR. TOM GOODWIN: Good evening, my name
23 is Tom Goodwin. I reside at 14 Deforest Drive,
24 also in Valeria. I will not repeat what my

1 September 6, 2022
2 neighbors have said about the lack of cell phone
3 coverage, but I'll just make an observation about
4 something that the attorney said that I think
5 needs some -- we need to work on that. And that
6 is that the attorney said that there is no
7 evidence of any gap in service that has been
8 introduced to the planning board. I don't know
9 what has been introduced, what hasn't been
10 introduced, but I think it's beyond any
11 reasonable doubt that there is no service between
12 Maple Avenue, Deforest -- Maple Avenue, Furnace
13 Dock Road into Valeria. There is no service
14 there. There's also no service on Maple Avenue as
15 you head towards Yorktown to Hemlock Hill Farm,
16 no service on that road either. I don't know what
17 needs to be submitted to detail that for
18 documentary proof of that lack of service, but I
19 implore people to do that.

20 MR. JOHN FINE: And now for something
21 completely different. My name is John Fine. I
22 live in 26 Montrose Station Road, and I can fully
23 understand and feel for the situations that the
24 people have been talking about. But for 36 years,

1 September 6, 2022

2 we've lived in a house surrounded by nature. From
3 our home, we can see only one other house across
4 the road. Behind us are wetlands ensuring that no
5 development intrudes. I relish my daily hikes in
6 the Blue Mountain Reservation, passing by the
7 peaceful scene of grazing horses next door. A
8 huge metal tower there would destroy the special
9 tranquility that we cherish. Our fast moving
10 technological society brings improvement and
11 setbacks. When we lose our natural resources,
12 including our natural havens, we as individuals,
13 as a community and as a society suffer
14 irreparably.

15 There are alternatives for meeting
16 communication desires other than destroying our
17 sacred refuges. I understand that people at
18 Chapel Hill in Peekskill, not Cortlandt,
19 Peekskill, want better cell service. There's a
20 simple solution. They can put up an antennae on
21 their main building, their lifestyle center, they
22 could do it there. I am reminded of the words of
23 Joni Mitchell, they paved Paradise and put up a
24 parking lot. This cell phone parking lot can and

1 September 6, 2022

2 must be located away from pastoral neighborhoods.

3 Now, look, the most difficult problems
4 are ones with conflicting imperatives. That's
5 what you're facing. And it takes a creative,
6 diligent and effective solution to meet
7 everyone's needs and concerns. And I'm sure you
8 folks can do it because you've done it in many
9 other cases in the past and we really value
10 having you here in the town of Cortlandt.

11 MS. THERESA KARDOS: I know the hour is
12 getting late. Thank you for the opportunity to
13 comment. My name is Theresa Kardos and I live at
14 26 Montrose Station Road. Some of you may know me
15 from my role as the educator for the past 25
16 years for the nature programs offered by the
17 town's recreation department. After our
18 undergraduate college years, my husband and I
19 lived in urban environments in Manhattan and West
20 Philadelphia. From 1978 to 1985, I had been doing
21 graduate study in animal behavior, which required
22 summer field work lasting four months a year in
23 salt marshes in Cape May County in Southern New
24 Jersey. Each September, as I returned to the city

1 September 6, 2022

2 habitat, it became harder and harder to readjust
3 to the concrete environment and lack of green. As
4 the mid-80s approached and I realized that I was
5 ready to try to start a family, I also realized
6 that I needed to be surrounded by nature more
7 than a few months a year. We also wanted any
8 child we might have to grow up learning about
9 nature in close proximity. We started searching
10 for houses in suburbs that still had a somewhat
11 rural character and that we could afford. We
12 found the town of Cortlandt and ultimately our
13 house that we have resided in for 36 years. It is
14 right next to the boarding stable on whose
15 property the cell power is proposed to be built.

16 This tower would be erected right next
17 to the entrance of the Blue Mountain Reservation,
18 a beautiful county forest. This is the house
19 where our son grew up on a very quiet street
20 where we all learned firsthand about various
21 species of wildlife.

22 On Montrose Station Road, for the most
23 part, houses seem to nestle into the forested
24 area. They are spread out and unobtrusive, no

1 September 6, 2022

2 higher than two stories. The proposed cell tower
3 so nearby would be 100-feet tall. That's 14
4 stories. We did not have the opportunity to view
5 the balloon test since we were not notified ahead
6 of time and not available on that day. However,
7 in trying to visualize what it would look like
8 from photos and diagrams, it is absolutely
9 horrifying. There is no way we could avoid seeing
10 this monstrosity, this intrusion whenever we
11 would be on our back deck, in our backyard, in
12 our front yard and from several rooms inside our
13 house. It would loom over us when checking the
14 mailbox, and it would destroy the tranquil
15 approach to the Blue Mountain Reservation.

16 The generator was mentioned tonight and
17 while it may comply with the regulations, those
18 who live closest to it are most likely to hear
19 it, especially at night. As I said, the street is
20 very quiet and I wonder how the horses would
21 react to this noise.

22 Passing such a monopole tower at the
23 edge of a highway very recently reminded me of
24 how huge it is. Having such a cell tower at 52

1 September 6, 2022

2 Montrose Station Road would be like a child
3 building a village from one toy set then
4 inserting a piece that is completely out of scale
5 from another set. It would be impossible to
6 ignore.

7 I would also like to point out that that
8 balloon test was done at a time of year when all
9 the trees were fully in leaf. However, for most
10 of the year, trees are either bare or the leaves
11 are tiny. So the balloon test does not reflect
12 realistic year round conditions for residents.
13 And tonight, the, the experts for those proposing
14 this cell tower themselves mentioned dense
15 vegetation. And even in the photos of the earlier
16 balloon test that were supposedly near the time
17 when trees did not have leaves in the photo, that
18 seemed to have all the trees in leaf too, so I
19 really don't see how that was a realistic
20 representation at all.

21 If the lack of cell service is a problem
22 for enough people that the town is inclined to
23 grant a permit for a new cell tower, I implore
24 the town to find a more suitable location

1 September 6, 2022

2 somewhere else that does not ruin the character
3 of so many homes. Thank you.

4 MS. ALTAGRACIA PATALANO: Good evening,
5 my name is Altagracia Patalano. I was a resident
6 for 26 years of Cortlandt Manor, I am now a
7 resident in Peekskill and I am a resident of
8 Chapel Hill. And I do see it necessary. But the
9 Blue Mountain Reservation Park was brought up. My
10 husband, who passed away from ALS seven years
11 ago, before he got his disease, he was an avid
12 hiker of Blue Mountain Reservation. He went on a
13 hike one day and had a very bad fall. His cell
14 phone was not working and had it not been for
15 other hikers, who found him, he would have been
16 dead. So it is very much needed for the safety of
17 the public. Thank you.

18 MR. JOHN HANLEY: Hi, my name is John
19 Hanley, I live at 20 Montrose Station Road. You
20 have my letter. We hired a lawyer. We're very
21 passionate in our opposition to this proposed
22 tower. It's not that we don't need more service.
23 I can tell you though, I have AT&T. I switched
24 from Verizon, and I don't have a problem on my

1 September 6, 2022

2 street anymore. So they do it somehow without a
3 tower. And this gentlemen here mentioned that you
4 don't necessarily need a very high tower. So this
5 idea of putting antennas on buildings might be a
6 solution. You know, why not Valeria? You've got
7 buildings in Valeria. If you're having a problem
8 over there, put it, put a tower, an antenna
9 there, put one on Chapel Hill and then you're
10 covered without this monstrosity that's going to
11 reduce our property values, reduce the tax base,
12 you've got to multiply each house.

13 One homeowner is going to make money on
14 renting the space and they don't even live there,
15 you know. They bought that property in December
16 of 2016 I believe. Within six months, they were
17 in contract with Verizon to put up a tower.
18 They're from Rye, they're out of town. It's a --
19 they're just coming in and making money. They
20 don't care about the nature of our neighborhood.
21 You know, we want you to please step up and find
22 a more responsible place to locate this thing.
23 Thank you.

24 MS. LINDA FUERST: Hi, I live at 7

1 September 6, 2022
2 Montrose Station Road. It's the beginning of the
3 street. I'm also here with my family who live at
4 5 and 9. And I do have a photo from my yard. I
5 wish I could show it to all of you because you
6 would see that it looms above all of the trees
7 and it is seen from every angle in, in my yard,
8 from my pool, from my yard, from my pond, from my
9 dining room, from my living room, from my
10 bedroom, and as I walk down my driveway, I'm
11 walking to where my family lives and I'm seeing
12 it from there. I'm seeing it from my aunt's
13 house, from her porch, and then my sister's house
14 is there, and it's there. And this is a
15 photograph that shows that. This is a photograph
16 I took on that day. I wish I had taken more.

17 MR. BIANCHI: You can, why don't you
18 email it to Chris and Chris will distribute it to
19 the board.

20 MS. FUERST: Okay. In a moment.

21 MR. BIANCHI: Whenever.

22 MS. FUERST: So, you know, as others
23 have said, if there is a cell issue, I mean I, I
24 do understand that, but there are other areas,

1 September 6, 2022

2 there are a lot of other areas that are, are
3 wooded areas where it could be put where people
4 can see it. That's, I mean the park alone is over
5 1,500 acres from what I --

6 CROSSTALK

7 MS. FUERST: I'm sorry, I don't think I
8 interrupted you when you were speaking.

9 UNIDENTIFIED FEMALE: She already spoke.

10 CROSSTALK

11 UNIDENTIFIED FEMALE: You're right, my
12 apologies.

13 MS. FUERST: Thank you. Um, and so I do
14 want to, and so I'll submit this so you can see.

15 MR. BIANCHI: Sure.

16 MS. FUERST: This is an area that is
17 enjoyed by, I don't know what the numbers are of
18 visitors a year that come to this area to enjoy
19 this amazing, amazing beautiful park, but it will
20 absolutely impact the area, it would be a crime.

21 MS. TAYLOR: What is your name, ma'am?

22 MS. FUERST: My name?

23 MS. TAYLOR: Your name, yeah.

24 MS. FUERST: Linda Fuerst.

1 September 6, 2022

2 MS. TAYLOR: Okay.

3 MS. FUERST: Linda Fuerst.

4 MR. FOLEY: Quick question, are you one
5 of the houses near the main intersection?

6 MS. FUERST: At the beginning of the
7 road.

8 MR. FOLEY: Where the stop sign is when
9 you want to go back onto the main road?

10 MS. FUERST: Yeah, yeah.

11 MR. FOLEY: Okay. Thank you.

12 MS. FUERST: At the top, yeah. Can I,
13 how would I email it?

14 MR. KESSLER: Just go to Chris and he'll
15 give you his email.

16 MR. HANLEY: Just quickly, I forgot to
17 mention something. I wanted to go on record. You
18 heard me say it earlier, that I invited the
19 photographer during the balloon test into my yard
20 and he refused. So it's just, I'm going on record
21 saying they were disingenuous in, with their,
22 with that whole test. They, they didn't conduct
23 it the way they should have. And 140-foot tower,
24 I mean that's like a lighthouse. My wife and I

1 September 6, 2022

2 looked up structures that were 140 feet tall. We
3 found a lighthouse that you can see from 32
4 miles. So when the leaves are off the trees, and
5 they take those pictures, you're going to see
6 something completely different. Thank you again.

7 MS. TAYLOR: You need to restate your
8 name, okay.

9 MR. HANLEY: Oh, John Hanley.

10 MS. TAYLOR: Okay.

11 MR. HANLEY: Reside at 20 Montrose
12 Station Road, thank you.

13 MS. DAWN KEMPSKI: Hi, I'm Dawn Kempski
14 and I will keep this brief, but what I have to
15 say, it is my sister and my aunt, is that my
16 board, some of the members addressed my biggest
17 issue is, and John just kind of touched on it
18 again. That balloon simulation or whatever they
19 called that and then the pictures, the 28
20 pictures, not one, not one depicted a view of
21 yes, in the beginning when you go to our 5, 7 and
22 9, we are up and it doesn't matter if it is fall,
23 or it doesn't matter the seasons. You could do it
24 with or without leaves, that tower is looming and

1 September 6, 2022

2 looming. And I, there are some really tough
3 stories, if we need cell service we can look into
4 it, but to say that we took 28 pictures and we
5 did a simulation or I might not be calling right,
6 that does not depict what we see. That's all I
7 want to say. Thank you.

8 MR. KESSLER: Mm-hmm.

9 MR. FOLEY: That was my point.

10 MS. TAYLOR: Yeah, no, I'm with you.

11 MR. STAN BASSON: Hi again, I'm Stan
12 Basson from the Valeria, 8 Bernheimer Lane.
13 Someone commented about the noise that this would
14 make, the generator. Generators, like anybody who
15 has a whole house generator, it's the same 65
16 whatevers, decibels I guess it's called. It only
17 runs when there's no electricity. If there's no
18 electricity, everybody needs all the power they
19 can get to, to be able to use their cell phones,
20 because the cell phones are not working. But I
21 just thought it is an emergency generator, not a
22 generator that runs all day every day.

23 MR. GRAYSON GARCIA: Hi, my name is
24 Grayson Garcia. I'm the resident at 34 Montrose

1 September 6, 2022
2 Station Road. And a quick comment to the
3 gentleman before. He mentioned that he had a
4 booster for AT&T that didn't work. I live in 34
5 Montrose Station Road, I had no service on my T-
6 Mobile account unless I had a booster in my house
7 and I do have one and it worked perfect. My
8 nephew has AT&T, he always has service on Maple
9 Road and Montrose Station Road. Every time I'm
10 waiting for my son there to come from school, I
11 do not have no service waiting for him, but I
12 live with it. And I know what the deal is. In
13 that area there's no service, but when I get to
14 my home with a booster, I get my service. It's
15 inconvenient for a lot of people. Some people
16 talk about they have to get out of their car to
17 ring a doorbell. Well, it's an inconvenience,
18 it's the way life is. Life is not let me get my
19 cell phone and I get everything I need or
20 deserve.

21 So I do oppose this tower, because I
22 just moved here two years ago from the city
23 looking for peace and quiet and to be in an area
24 where I can enjoy nature and I do work in the

1 September 6, 2022
2 city, but I drive here every day just to enjoy
3 that. And I think that this tower, it would be
4 like a disaster for the neighborhood. That's all.
5 And yeah, boosters do work. Sorry one more
6 comment. All 400 residents in Chapel Hill use
7 Verizon or they have other services? Can anybody
8 answer that for me?

9 UNIDENTIFIED FEMALE: I have AT&T.

10 MR. GARCIA: And does it work?

11 UNIDENTIFIED FEMALE: No.

12 MR. GARCIA: Oh.

13 UNIDENTIFIED FEMALE: I also have AT&T.

14 CROSSTALK

15 MR. KEHOE: We just want to confirm if
16 there's anyone on the Zoom that wishes to speak,
17 just use the raise your hand function, and we can
18 promote you to speak. As I mentioned before, we
19 do have our consultant from HDR on the call.
20 Colin, I don't know if you have anything to say.
21 My understanding is the hearing is going to be
22 adjourned partially to allow your firm to write a
23 memo. So, we're promoting you to speak.

24 MR. COLIN MILLS: Hi, good evening, can

1 September 6, 2022

2 everybody hear me?

3 MR. BIANCHI: Yes.

4 MR. MILLS: Alright. Brilliant, yeah, so
5 my name is Colin Mills. I work with Mike Musso at
6 HDR as previously noted. We're the town's
7 wireless consultant. And also as was just kind of
8 mentioned, yeah, I just wanted to talk briefly
9 about what we're doing here and how we're
10 involved. So we previously reviewed the
11 applicant's filings and submitted a memo. We call
12 it our memo number one. It's kind of an initial
13 review of the filings, assesses for completeness.
14 And we submitted some comments on that.

15 A lot of what the applicants were
16 presenting tonight addresses a lot of the IMs
17 that were in that initial memo, our memo number
18 one, and there's been a lot of great information
19 provided tonight and a lot of input from the
20 public, members of the community, the planning
21 board and we really appreciate all that. And I've
22 been taking copious notes, so we will try to
23 incorporate all these concerns that we've been
24 hearing into our next memo, which is what Mr.

1 September 6, 2022

2 Kehoe was just referring to.

3 So we're currently in the process of
4 reviewing the applicant's filings and drafting
5 our second memo, which is our technical review
6 memo. This typically covers a few general areas,
7 including a high level overview of what the
8 application is so the proposal itself, you know,
9 building the tower on this property, the six-acre
10 property, 140-foot, that kind of information; an
11 inventory of what materials have been submitted
12 and then we focus on a lot of technical areas
13 that were touched on tonight by all parties here
14 pretty much, about the coverage and capacity
15 needs, conformance with non-ionizing
16 electromagnetic radiation, which is RF emissions,
17 radiofrequency emissions, the alternative site
18 analyses, visual impact analyses, potential for
19 co-locators by AT&T or T-Mobile, whoever else
20 might want to look into that tower in the future,
21 and some more general stuff about like structural
22 components, which obviously they can't have
23 entirely now, since they're still trying to plan
24 this out, they wouldn't have a full assessment

1 September 6, 2022

2 there, and design for the structure.

3 And then a summary of our reviews and
4 findings and recommendations, and we're
5 anticipating trying to get this memo submitted by
6 the October planning board meeting and I
7 understand that this will be adjourned through
8 then, and that possibly, if the board is so
9 inclined, there may be a special meeting, which
10 we feel might be beneficial as well to focus on
11 this application.

12 We'd also like to note that we received
13 a copy of the filings submitted by Mr. Campanelli
14 and we're reviewing that as well as all of the
15 exhibits and notes that were in there. And we
16 appreciate the comments brought forth by the
17 public tonight, both in favor and in opposition.
18 And I just want to note too that we've worked on
19 a number of projects with similar community
20 interests and involvement and including those
21 with opposition filings.

22 A couple of example projects are city of
23 Hudson, New York, town of Clarkstown, village of
24 Mount Kisco, and town of New Paltz. So we have

1 September 6, 2022

2 experience working in these types of projects and
3 with this type of involvement as well.

4 There's one other thing I would like to
5 put out on the record here as well. One item that
6 we had suggested in our memo number one that we
7 feel might have some merit exploring here is the
8 potential for a stealth three option. We feel it
9 would be important, given the setting that
10 stealth tree could be evaluated by the applicant
11 through some photo simulations and maybe some
12 example Homeland Tower stealth tree projects
13 elsewhere. It could help offset some of the
14 visibility concerns and with a good design, using
15 proper colors and textures and materials, a good
16 density of branches and taper and a solid
17 maintenance plan, so that it's maintained at that
18 degree as its brand new might be something that's
19 worth looking at, whether this application
20 continues to move forward, or whether alternative
21 sites are determined in the future for this
22 application.

23 So that's kind of where we stand right
24 now and I just want to thank you all for the time

1 September 6, 2022

2 to kind of just briefly talk about what we're
3 going through, so I'll turn this back over.

4 MR. KEHOE: Colin, if you could just
5 stay on the call while we figure out our
6 timeline.

7 MR. MILLS: Oh, yeah, I'll stay.

8 MR. SHERIDAN: If I could just respond
9 to a couple of things just to make sure there's
10 some clarification. One is that as I stated at
11 the beginning, this is not the first time we're
12 in front of this board in connection with a
13 facility at this site. We've made numerous
14 submissions and responded top comments previously
15 from not only the town engineer, but the town's
16 previous consultant, CMS. And in addition to the
17 RF materials, sorry, the coverage materials that
18 were submitted in connection with August 24th,
19 we've submitted previous coverage materials,
20 again proving the need for coverage in this area.
21 So we've already provided additional information
22 in connection with that. What we did this time in
23 connection with the August 24th is just responded
24 to comments from HDR, from Mr. Musso and Mr.

1 September 6, 2022

2 Mills that we just confirmed that that still
3 exists since it had been a couple of years since,
4 you know, since 2019, the initial application.

5 So that is the coverage, that is the
6 maps that was provided here and we provided
7 additional information previously which does
8 prove the coverage. I think also some of the
9 neighbors coming up explaining that there is no
10 coverage there does help that cause.

11 One of the things I just want to also
12 mention is the generator. The gentleman got up
13 and did speak to it. The generator is an
14 emergency generator and that's going to be
15 operational mostly during emergencies. It'll be
16 tested occasionally but for the most part, if the
17 generator is going, that means the site is
18 providing cell service when nobody else has power
19 and it's a benefit.

20 And I just wanted to say, yes, so I just
21 want to say that the information has been
22 provided. This is not the first time we're before
23 this board. We've been here several times, we've
24 responded to numerous memos from the town

1 September 6, 2022

2 engineer, the original town consultant, responded
3 to HDR's most recent memo. We look forward to
4 receiving their latest memo and will be
5 responding to that as well. The facility was
6 redesigned based on the original comments, based
7 on Verizon Wireless' ability to move the tower
8 150 feet, again, lowering it 34.5 feet, we've
9 been working with this town, we've been working
10 with their consultants to make this the best site
11 it can be. And the best site it can be is in the
12 area where coverage is needed. I think that's
13 been made known tonight and we've proven that
14 before with the documentation that's been
15 provided.

16 MR. KESSLER: Can I ask a question in
17 your process? So when you came to us two years
18 ago, does Verizon approach you and say hey we
19 need a tower in this area? How does this work?

20 MR. SHERIDAN: Well, Verizon realizes
21 where they have a need for coverage because --

22 MR. KESSLER: And they approach you?

23 MR. SHERIDAN: Well, I'm the attorney,
24 so. Yeah, they approached me differently.

1 September 6, 2022

2 MR. KESSLER: So Verizon says we have a
3 need --

4 MR. XAVIER: This case is actually even
5 more unique than that. There's multiple ways a
6 site starts. In this instance --

7 MR. KESSLER: I just want to know this
8 on.

9 MR. XAVIER: In this instance, Verizon
10 came to you and told you they needed this site
11 directly. Verizon hired their law firm to bring
12 this application. They assigned this site to me
13 and I took it over and I'm responsible for it
14 now. But at the beginning, this was a complete
15 Verizon application. They were going to build the
16 tower themselves. They hired them to come to you
17 and see we need this tower. I got involved to --

18 MR. KESSLER: And Verizon picked this
19 site for the tower?

20 MR. XAVIER: Yes, yes.

21 MR. KESSLER: And do you know how many
22 other sites they investigated?

23 MR. XAVIER: I don't have a number.
24 There's a letter that was submitted from the site

1 September 6, 2022

2 acquisition agent who did the work at the time
3 attesting that there was no other site available
4 in the area that was leasable, constructable and
5 would meet the needs of, of Verizon. And that's
6 on the record.

7 MR. KESSLER: So --

8 MR. KEHOE: That's in your 2019
9 submission?

10 MR. XAVIER: In the original submission,
11 correct.

12 MR. KESSLER: So when they said they
13 needed -- did they already have a deal with this
14 homeowner at that point when they said we want
15 this site?

16 MR. XAVIER: You mean when they brought
17 the application to you?

18 MR. KESSLER: Yeah.

19 MR. XAVIER: Well, absolutely. There
20 would never be an application brought unless they
21 had the underlying rights to do so.

22 MR. KESSLER: So before --

23 MR. XAVIER: But they'd done the whole
24 search before they come to you.

1 September 6, 2022

2 MR. KESSLER: Okay.

3 MR. XAVIER: Before they sign that final
4 lease.

5 MR. KESSLER: Okay. If we could find out
6 what the extent of their search was in terms of
7 the original application.

8 MR. KEHOE: Well, I think they're saying
9 you have that, but I can help relocate it and
10 I'll send it around again.

11 MR. XAVIER: I didn't draft that, but
12 that came directly from Verizon.

13 MR. KEHOE: You got a few things.

14 MR. KESSLER: But it's the original one,
15 it's the '19 application?

16 MR. KEHOE: Yeah, I'll find it.

17 MR. KESSLER: Okay. Thanks.

18 MS. TAYLOR: Okay.

19 MR. SHERIDAN: And just to clarify,
20 Verizon finds the area that they have a need and
21 that's why they were brought to that area because
22 there is a coverage need there, so.

23 MR. KESSLER: Okay. So there must be, as
24 many other people said, there must be some

1 September 6, 2022

2 document that specifically talks about the
3 coverage need somewhere in this.

4 MR. KEHOE: I've added that to my list.

5 MR. KESSLER: You're way ahead of me.

6 MR. XAVIER: Well, we showed you tonight
7 the coverage tonight.

8 MR. SHERIDAN: Again, what we showed you
9 tonight and that's one of the reports provided by
10 C Squared, which is --

11 MR. KESSLER: The 85/95 map is the
12 proposed.

13 MR. SHERIDAN: Right. And C Squared has
14 prepared other reports in connection with this,
15 with this filing, as it's gone along in response
16 to comments from the town and its consultants.

17 MR. KESSLER: How is that done, that
18 coverage map? How do they actually determine
19 that? Your whites and your blues and your greens
20 and whatever the colors were?

21 MR. SHERIDAN: Unfortunately, I'm not an
22 RF engineer. I can't speak to that. I don't know
23 if Martin is still on, I'm sure he could go
24 through a long-winded explanation on how that

1 September 6, 2022

2 works.

3 MR. KESSLER: We can do it at the next
4 meeting.

5 MS. TAYLOR: Yes.

6 UNIDENTIFIED MALE: Just a quick comment
7 about coverage needs. Verizon has two maps. One
8 map they show you here saying we don't have
9 coverage, but for prospective customers, they
10 show hey, we've covered the whole area.

11 MR. KESSLER: I've seen the commercials,
12 I know.

13 MS. TAYLOR: Excuse me.

14 MS. DECKER: Yeah, but we all live here,
15 so.

16 MS. TAYLOR: Alright. Are there any
17 other comments from the audience? Okay.

18 MR. KEHOE: Alright. Well --

19 MR. BIANCHI: We should talk about
20 timing.

21 MR. KEHOE: -- yeah, Colin threw me a
22 curve ball, because I had forgotten that Colin
23 owes us a memo, the HDR second technical
24 mentioned, and Colin mentioned he would get it to

1 September 6, 2022

2 us by the October meeting. That doesn't work. My
3 schedule had been, wait, the applicant is in
4 receipt of Mr. Campanelli's memo? Document?

5 MR. SHERIDAN: Yes.

6 MR. KEHOE: But just recently, so we
7 need a response to that. Then I would assume Mr.
8 Campanelli is going to want to respond to your
9 response and then as normal, you would get the
10 final rebuttal as you're the applicant, so we've
11 got to get all of that to the planning board by
12 October 3rd, or they won't have time to digest it
13 before the October 11th meeting. So I was
14 thinking the applicant should respond to Mr.
15 Campanelli maybe by Friday the 16th of September?
16 Mr. Campanelli would have to respond by the 23rd.

17 MR. XAVIER: I don't, I don't -- the
18 16th is --

19 MR. KEHOE: Well, maybe --

20 MR. XAVIER: There's no direct need for
21 me to respond every time somebody hires an
22 attorney and submits a letter with a bunch of
23 falsehoods in it. I don't think we need to keep
24 going back and forth --

1 September 6, 2022

2 MR. KEHOE: Well, address that to the
3 board. They'll tell you whether you need to
4 respond.

5 MR. XAVIER: I don't think we need to
6 necessarily go back and forth on it. The 16th, to
7 go back and forth twice before the public hearing
8 next month is going to be very difficult and a
9 little unreasonable.

10 MR. KESSLER: Well, it's not going to be
11 a litany of issues I would think. I just think
12 it's going to be a handful of issues to respond
13 to. I mean you've heard most of them tonight.

14 MR. XAVIER: Yeah, we'll respond, but I
15 don't know if I have enough time to respond so
16 that he has enough time to respond so that I have
17 enough to respond before October 16th.

18 MR. KEHOE: Well, but this is what
19 happened. You responded by the deadline.

20 MR. XAVIER: Yeah, I did.

21 MR. KEHOE: The applicants responded a
22 couple of days before the deadline, a couple of
23 days before the meeting and here we are.

24 MR. XAVIER: Yeah.

1 September 6, 2022

2 MR. KEHOE: So that's going to happen
3 again in October unless we set out a schedule.

4 MR. KESSLER: There were only three or
5 four points that were summarized from the
6 applicant's attorney, I'm sorry, the opposition
7 attorney. And I think those are the ones I think
8 you need to address.

9 MS. DECKER: We also don't have to do
10 this in October. We could do it in November,
11 right?

12 MR. KESSLER: Well, that's another
13 point.

14 MR. XAVIER: I will endeavor to respond
15 by the 16th. I can't promise I'm going to be able
16 to respond fully. There's obviously other vendors
17 that need to review this, this document. I'm more
18 concerned honestly about receiving Mr. Musso's
19 HDR second technical memo. That's, that's
20 something I'd be [unintelligible] [03:10:22]
21 respond to.

22 MR. KEHOE: Yeah, Colin, are you still
23 there?

24 MR. KESSLER: When can you respond to --

1 September 6, 2022

2 MR. KEHOE: Well, I think what he's
3 saying is he needs Colin's technical memo, which
4 Colin, we have to get much more quickly than the
5 October meeting.

6 MR. BIANCHI: Okay. So if we don't get
7 it for October, maybe it's not the worst thing,
8 because this is probably going to be continued
9 while we pass that.

10 MR. SHERIDAN: I mean It's the technical
11 memo from HDR --

12 MR. BIANCHI: And I'd like to get a
13 response on that today, memo.

14 MR. FOLEY: Yeah, I would too.

15 MR. SHERIDAN: I mean it's the technical
16 memo from HDR that we really want to get and
17 respond to, because that is, that is your
18 consultant who is reviewing this and we want to
19 be able to respond to that before the meeting. So
20 hopefully you can get that sooner rather than
21 later. I know Colin.

22 MR. KEHOE: Colin, how fast can you get
23 that to us?

24 MR. MILLS: I can't make a firm

1 September 6, 2022

2 committal to any particular time at this point,
3 because there's a lot of information that we've
4 received that we need to review as well. I mean
5 we can try to advance this, you know, by October.
6 But I'd have to talk to Mike to confirm that.
7 Also, we're willing to work with whatever
8 scheduling the board would, and all parties here
9 like to try to, what would work out best for
10 everybody as well, so.

11 MR. ROTHFEDER: I mean maybe the issue
12 though with the legal one is that, you know, if
13 you guys, it's up to you, I mean he raised some
14 legal points and we've asked our attorney also to
15 opine on those as well. And if you want to, do.
16 If you don't want to, don't. I mean we can't
17 force that. And we just need to make, and we'll
18 make our judgment based on the information we
19 get. And then I think, as you pointed out, the
20 key point is for Colin to get something in so
21 that these guys can respond to that in time.

22 MR. KEHOE: That's true, except Colin's
23 memo is sort of more, I mean it's more technical
24 in nature.

1 September 6, 2022

2 MR. ROTHERFEDER: Right.

3 MR. KEHOE: Rather than the legal issues
4 raised by Mr. Campanelli and I'm not a lawyer so
5 it would be up to our attorney, but our attorney
6 is obviously not the applicant, so it would seem
7 to me it would be up to the applicant's attorney
8 to decide how much wants to refute Mr. Campanelli
9 or not.

10 MR. FOLEY: Right.

11 MR. KEHOE: Because it seemed like there
12 were some big issues that Mr. Campanelli raised.

13 MR. ROTHFEDER: Right, exactly. So, you
14 know, you can pick two out of the four and
15 respond to them, or not. I mean that's up to you.
16 But we just, we just have a timeframe we want to
17 live by to get to the next meeting.

18 MR. SHERIDAN: We understand.

19 MR. KESSLER: Yeah, we don't want to
20 belabor this. If, you know, you don't respond by
21 the next meeting, this is just going to go to
22 November, and it's going to go to December.
23 That's all.

24 MR. KEHOE: We're just trying to set up

1 September 6, 2022

2 a timeline --

3 MR. KESSLER: Yeah, we just want to
4 disclose to this.

5 MR. KEHOE: -- where if something
6 happens at the October meeting where I'm not
7 getting documents two or three days beforehand
8 and I'm getting the documents because it's a
9 function of when you submit and you're submitting
10 by the deadline, that's not a problem. But we've
11 got to move everything in advance of the deadline
12 or the October 11th meeting is not going to be
13 productive.

14 MS. TAYLOR: Well, I don't know if --

15 MR. SHERIDAN: Understood, and I think
16 what --

17 MS. TAYLOR: -- actually, if materials
18 are not, have not been presented to us in
19 sufficient time, maybe we just don't have that
20 hearing on that day, maybe we just move it out
21 and move it to November.

22 MR. KEHOE: Well, my goal is October
23 3rd, you're going to get everything. How
24 everything is defined, you make your decision at

1 September 6, 2022

2 the October 11th meeting whether that's
3 sufficient or not.

4 MR. BIANCHI: I agree with that, yeah.

5 MR. SHERIDAN: And I would say if
6 possible, just to give us enough time to respond
7 on this, we'd be cutting it close depending on
8 what the HDR memo says, which if it's just sort
9 of confirmed what we've submitted and they're
10 fine with it, obviously, we're not going to need
11 a long time to respond to that. But we just want
12 to have enough time to respond, if they can get
13 it to us by September 23rd, that would give us a
14 weekish to respond back to that HDR memo in
15 connection with whatever other response we're
16 giving to the neighbor's attorney, to the extent
17 we provide a response to that.

18 MR. CUNNINGHAM: Yeah, Colin, that seems
19 fair. I think HDR should really try to get a memo
20 done by then.

21 MR. MILLS: Alright. I'll relay it to
22 Mike.

23 MR. XAVIER: And then we'll respond by
24 the 30th as fullest as possible to the neighbor's

1 September 6, 2022

2 attorney and the town consultants.

3 MR. SHERIDAN: Right, and that'll be the
4 --

5 MR. XAVIER: And the neighbor's attorney
6 can submit whatever they want.

7 CROSSTALK

8 MR. SHERIDAN: Right.

9 MR. KEHOE: Well, the, the, which is
10 fine, if we're getting the stuff from you by
11 September 30th, correct? The neighbor's attorney
12 is not going to be responding prior to that.

13 MR. ROTHFEDER: I don't think they have
14 to. I mean we --

15 MR. KEHOE: Okay.

16 MR. ROTHFEDER: -- then we're just going
17 around in a circle here. I think once they, they
18 need to determine what they want to respond to in
19 terms of the attorney.

20 MR. KEHOE: Okay.

21 MR. ROTHFEDER: And that will be
22 sufficient.

23 MR. KESSLER: And we'll see the rebuttal
24 and then we'll make a decision on it.

1 September 6, 2022

2 CROSSTALK

3 MR. KESSLER: And we'll decide, whom do
4 we believe.

5 MR. ROTHFEDER: Right, and with the help
6 from Michael, too.

7 MR. KESSLER: Right.

8 MR. KEHOE: Okay, so Michael, Michael
9 S., the board seems content with what you just
10 stated, that as long as Colin gets you the memo
11 by the 23rd, you're going to get us --

12 CROSSTALK

13 MR. KESSLER: Don't push it.

14 MR. KEHOE: -- as long as Colin gets you
15 the memo by the 23rd, you get us what you're
16 going to get us by the 30th of September.

17 MR. SHERIDAN: Yes, in connection with
18 the HDR memo.

19 MR. KEHOE: And, and whatever you can
20 get to us and whatever the neighbors can get to
21 us by October 3rd at the latest.

22 MR. SHERIDAN: Okay.

23 MR. KEHOE: I guess it's becoming too
24 difficult to try to set up an exact timeline

1 September 6, 2022

2 where they're going to get you something and
3 you're going to respond, so --

4 MR. ROTHFEDER: Right. But these guys
5 deserve the HDR one by the 23rd.

6 MR. KEHOE: Yes.

7 MR. ROTHFEDER: They've got to get that.

8 MR. KESSLER: Yeah.

9 MR. SHERIDAN: Thank you.

10 MR. BIANCHI: Do we need a motion?

11 MR. MCKINLEY: That's me. Madam Chair I
12 move that we adjourn the public meeting to the
13 11th, the next meeting, October 11th, the next
14 meeting.

15 MR. KESSLER: Second.

16 MS. TAYLOR: On the question? All in
17 favor?

18 MULTIPLE: Aye.

19 MS. TAYLOR: Opposed? Alright.

20 Goodnight.

21 MR. SHERIDAN: Goodnight.

22 MS. HILDINGER: Motion to adjourn the
23 meeting.

24 MS. TAYLOR: Okay.

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September 6, 2022

MR. BIANCHI: Excellent.

(The public board meeting concluded at
10:16 p.m.)

CERTIFICATE OF ACCURACY

I, Ryan Manaloto, certify that the foregoing transcript of the planning board meeting of the Town of Cortlandt on September 6, 2022 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: September 29, 2022

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