

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK  
PLANNING BOARD  
REGULAR MEETING AND PUBLIC HEARING  
NOVEMBER 18, 2010**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, November 18, 2010 at 8:15 p.m. in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

**PRESENT:** Chairperson Patricia Speranza, Boardmember Kathleen Sullivan , Boardmember Fred Wertz, Boardmember Jamie Cameron, Boardmember Eva Alligood, Boardmember Bruce Dale, Boardmember Ed Dandridge, Village Attorney Marianne Stecich, Building Inspector Deven Sharma, and Deputy Village Clerk Lori Marrone

**I. ROLL CALL**

**II. APPROVAL OF MINUTES**

**Meeting of September 16, 2010**

**Chairperson Speranza:** OK, we have a couple of sets of minutes that we have to approve. We didn't have a quorum of the members who were actually at the September meeting, so let's start with that. We have minutes from September 16 that need to be approved.

On MOTION of Boardmember Dale, SECONDED Boardmember Cameron by with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of September 16, 2010 were approved as presented.

**Meeting of October 21, 2010**

**Chairperson Speranza:** The second set of minutes is from our meeting on October 21. Any changes or corrections to those minutes?

I had just one that I think is substantive, on page 22. It's actually a statement that's being made by Michael Stein of Hudson Engineering. He mentions adding more grass, and then it says "... *'impervious' area for water to percolate into,*" and I'm sure it was to be "'pervious' area." So I think that's something that's important with respect to the application.

On MOTION of Boardmember Dale, SECONDED by Boardmember Dandridge with a voice vote of all in favor, the Minutes of the Regular Meeting and Public Hearing of October 21, 2010 were approved as amended.

### **III. PUBLIC HEARING**

**Chairperson Speranza:** We have a number of applications with us tonight. There are four applications for accessory apartment renewals that are shown at the tail end of the agenda. Experience has shown that those are typically very quick items to move on. So I would like to invoke the prerogative of the chair and move those applications along so we'll have more time later in the evening.

**3. Accessory Apartment - Daniel Engelson - 237 Farragut Avenue, Sheet 36C, Block 785, Lots 9 & 10, Waiver Required for Square Footage**

**Chairperson Speranza:** The first application is for an accessory apartment renewal at 237 Farragut Avenue, Daniel Engelson. It does require a waiver for square footage. Deven, are all the mailings in order on this for the public hearing?

**Building Inspector Sharma:** All the mailings for all of these are in order.

**Chairperson Speranza:** And according to the application, there have been no changes in the past three years and no complaints. Again, this is a public hearing for the renewal. Are there any comments on this particular application?

Hearing none, we'll close the public hearing. Boardmembers, any issues, concerns? No?

On MOTION of Boardmember Wertz, SECONDED by Boardmember Allgood with a voice vote of all in favor, the Board approved the renewal of the application, with the waiver for exceeding the square footage, for Accessory Apartment at 237 Farragut Avenue.

**2. Accessory Apartment - Howard & Marilyn Hirsch - 243 South Broadway, Sheet 6, Parcel P73, Waiver required for Square Footage**

**Chairperson Speranza:** Again, Deven, I'll just ask if all the mailings are in order on this.

**Building Inspector Sharma:** All the mailings in all the applications are in order.

**Chairperson Speranza:** And there have been no changes to the apartment, it's been inspected, it's up to code. This also requires a waiver to the square footage. It exceeds the 25 percent requirement by 4 percent.

Is there anyone here from the public who wishes to speak on this application? No? That being said, then we will close the public hearing on that. Boardmembers, comments, motions? Is there a motion to approve?

On MOTION of Boardmember Dale, SECONDED by Boardmember Dandridge with a voice vote of all in favor, the Board approved the renewal of the application, with the waiver for exceeding the square footage, for Accessory Apartment at 243 South Broadway.

**3. Accessory Apartment - Michel Janis - 4 Floral Drive, Sheet 20, Block 661, Lots 1,2A,57A & 60A, No waivers required**

**Chairperson Speranza:** Again, the mailings are in order, Deven, right? There have been no changes to the accessory apartment; it's been inspected; there is off-street parking; and it does comply with respect to the square footage of the apartment.

Again, it's a public hearing. Does anyone wish to speak on the application at 4 Floral Drive? No, then we'll close the public hearing.

Boardmember comments, or is there a motion to approve the renewal?

On MOTION of Boardmember Wertz, SECONDED by Boardmember Dale with a voice vote of all in favor, the Board approved the renewal of the application for the Accessory Apartment at 4 Floral Drive.

**4. Accessory Apartment - David & Sarah Knox - 618 Broadway, Sheet 16, Block 643, Lots 1-4 & 20-22 - Waiver Required for Special Location**

**Chairperson Speranza:** And the last one is for David and Sarah Knox, 618 Broadway. Again, mailings are in order.

**Building Inspector Sharma:** Yes.

**Chairperson Speranza:** And there have been no changes to the apartment since the last application. Because this is in a carriage house, it does require a special circumstance – it's almost a waiver – because it's not in a principal building.

**Village Attorney Stecich:** It also seems to exceed the square footage. Because even if you add the 3,400 and 1,500, it's 4,900 so it exceeds.

**Chairperson Speranza:** OK, so we'll do it as a waiver also.

Again, it's a public hearing. Does anyone wish to speak to this application, 618 Broadway? No? Then we'll close the public hearing.

And Boardmember comments, questions, concerns, or a motion to approve both the special location for the apartment as well as a waiver for square footage?

On MOTION of Boardmember Dandridge, **SECONDED** by Boardmember Wertz with a voice vote of all in favor, the Board approved the renewal application for the special location of the apartment, with a waiver for exceeding the square footage, for the Accessory Apartment at 618 Broadway.

**Chairperson Speranza:** Thank you. We just like to get those completed. So we're back to the old business.

#### **IV. OLD BUSINESS**

##### **Application of Loryn Altsher & Jay Branford for Steep Slope approval for the proposed additions to their house at 16 Prince Street**

**Chairperson Speranza:** This is the application for Loryn Altsher and Jay Branford. It's a steep slope approval for additions to their home at 16 Prince Street.

Is the applicant here? Hi, good evening. You were here last month. Thank you for coming, glad you could come back. There was some confusion about the application being received by some of the Boardmembers and being given sufficient time to be able to review them. Everybody's got the application? Has everybody seen the site?

Do you want to just once again speak very, very succinctly – since it's in the minutes and we heard you last month – about what it is you're planning to do, since there are numerous people.

**Jay Branford, 16 Prince Street:** Sure, I'd be happy to speak about it. Would it be more helpful just to answer direct questions? Would you like the entire project described?

**Chairperson Speranza:** Well, I know that you're looking to build a deck onto the back of your house. And because of that, you will be infringing on some of the steep slopes.

**Mr. Branford:** That's right. So we hired an engineer to design a runoff mitigation plan for us that's included in the paperwork, if you've had a chance to take a look at it.

**Chairperson Speranza:** Right. And this is an action which is required by the Planning Board because it is building on the slopes.

**Mr. Branford:** That's right.

**Chairperson Speranza:** I don't recall there being much of a discussion or concerns at the last meeting. Does anyone have anything that they'd wish to bring to the attention, or ask, of the applicant?

**Boardmember Sullivan:** I had a couple of questions. And thank you – I had a chance to look at the drawings and I think you have a wonderful addition being planned here.

**Mr. Branford:** Oh, great. Thanks.

**Boardmember Sullivan:** You know steep slopes, the real intention here is to try to protect the adjacent properties from any additional runoff. The 243 square feet that you talk about as being the steep slope that's being disturbed, could you tell me specifically what's in the area? Is it the patio, is it part of the addition? I'm just curious because that wasn't clear. I couldn't really figure that out.

**Mr. Branford:** OK, good question. It's almost entirely the new patio that is being added on the back that will be disturbing the steep slope. The new construction, the addition on the back of the house, overlaps the steep slope by very little – less than 10 square feet – so it's mainly the patio that's making the difference.

**Boardmember Sullivan:** In the site plan and the civil engineer's drawing there was a little bit of a discrepancy about you were planning on putting your storage shed. One drawing showed in the steep slopes, the other showed it out. So I think if you are planning on putting it in the steep slope that would need to be included in the square footage.

**Mr. Branford:** Good point. We're certainly planning to avoid putting it in the steep slopes, and we realize that there is that discrepancy. In practice, we'll avoid the steep slopes.

**Boardmember Sullivan:** It looks like you have enough space, with your setback requirements, to do that.

**Mr. Branford:** That's right.

**Boardmember Sullivan:** The only other thought I had – and this is a comment on it – since the patio is the impervious surface that you are putting in the steep slopes, that's really going to be the addition of the material that's going to potentially cause more runoff to happen. I mean, you're replacing grass with a surface that can't absorb the rainwater, and so it's actually going to be, potentially, coming down your slope in a greater volume at a faster speed.

The only comment I have is that I would think putting a drain in the patio and piping it to the two pipes that you have going down to the drywell would potentially capture the additional stormwater that you've created. Right now, the way that you have it the patio is just having a sheet flow of rainwater down onto the slope. And you have, certainly, a long expanse. I doubt it'll get to your neighbors, potentially, in a flood.

That, I think, would be potentially a very good modification to the stormwater system that you're putting in, but that was my only comment.

**Mr. Branford:** All right, that's a great idea. I can ask the engineer. I believe he felt that the drain that's on top of the drywell, the surface drain, he would acknowledge that that's an issue.

**Boardmember Sullivan:** Yes. The only issue with that – and I wondered about that because you aren't creating any swales or any kind of ... you know, you aren't sculpting the slope in any fashion to direct that additional stormwater from the patio down to that drain. So if you move that drain up in the patio I think you may have a better outcome from the additional stormwater and runoff that you're going to create.

**Mr. Branford:** I think you're right. I think there'd be much more assurance that this mitigation system would mitigate better if the drain is closer.

**Boardmember Sullivan:** Yes. But thank you, it's a lovely addition. Good luck.

**Chairperson Speranza:** Anyone else have any comments?

**Village Attorney Stecich:** The original had that ... the drawing I have doesn't have the seal, the engineer's. The statement's there, but it's not under seal.

**Chairperson Speranza:** You know, it was on the other plate because I mentioned that at the last meeting.

**Village Attorney Stecich:** Well, you need to see it because I actually know that this one ... it doesn't usually get sealed by this person.

**Boardmember Dale:** It is on the full set of drawings, not on the one drawing...

**Village Attorney Stecich:** What you need sealed is the statement saying it's disturbing the slope. So no, that's the architect's seal.

**Boardmember Dale:** But not the engineer's.

**Village Attorney Stecich:** No, no, no. But there's supposed to be a statement, under the seal of an engineer.

**Chairperson Speranza:** All the stormwater calculations.

**Village Attorney Stecich:** Yes. So the statement that's on the ... it's in the box on the bottom, almost at the right corner: "*...that the proposed activity will disturb the steep slope to the minimum extent possible.*" But that's not under seal.

**Chairperson Speranza:** OK, there's something.

**Village Attorney Stecich:** Oh, OK. So the original is sealed.

**Building Inspector Sharma:** I believe, Marianne, I did receive sealed and signed copies. I do remember getting three signed and sealed copies.

**Village Attorney Stecich:** OK, just so it is. And see, I'm right: it's not sealed by the same person who designed it. But that's OK.

**Chairperson Speranza:** OK, so we'll make sure that that becomes the copy of record.

**Village Attorney Stecich:** Yes.

**Chairperson Speranza:** Or the original.

**Building Inspector Sharma:** Make sure that I have a copy – a signed and sealed copy – for my records.

**Mr. Branford:** We'll come to your office.

**Chairperson Speranza:** OK, I do want to give an opportunity for any public input on the application. No?

I do have a letter there from ... oh, no, I'm sorry. This is the one from your applicant showing that you did, in fact, notify your neighbors that you would be before this board. Thank you.

Boardmembers, any comments? Nothing else? The action before us is approval for building on steep slope. Is there a motion to approve?

On MOTION of Boardmember Wertz, SECONDED by Boardmember Alligood with a voice vote of all in favor, the Board approved the application for building an addition on the steep slope at 16 Prince Street.

#### **PUBLIC HEARING (Continued)**

**5. Application of Dana Williams & Don Scardino for an amendment to a Site Plan for the construction of a glass enclosure on the terrace/patio at their Apartment No. 2A in a mixed use condominium building at 45 Main Street**

**Chairperson Speranza:** There is one other application I want to take. I know you're all here for T-Mobile, but I don't want to have someone else waiting a really long time. It's the application of Dana Williams and Don Scardino.

Here? OK, great. This is for amendment to the site plan for one of the units at 45 Main Street, new construction of a glass enclosure on your patio. Welcome to the Planning Board. You will need a mic, and if you could just identify yourselves for the record that would be terrific.

**Don Scardino, applicant - 45 Main Street, Apt. 2-A :** Ray's here, who's the architect on putting this little addition, or enclosure, up.

What we have is a back patio to our unit there at 45, and all three bedrooms in the unit face this patio. None of the bedrooms have windows, operable windows. The only let-in of light and air are double doors in each room that go to this patio. So in order to open the doors up, either in evenings or summertime or whenever, to get air in the apartment, basically all these bedrooms become exposed because the patio, as you can see, is at the long level here. And there's a wall here, which you really can't see behind these little trees.



So if you want to open up the room and get air into the room you are then exposed; if you want to sleep and get air, you are then exposed. So the thing that my wife and I ... and we have a 12-year-old sleeping in one of the other bedrooms, and we have three cats who I don't want prowling around Hastings and adding to the cat population. So our hope was that we could put up a little glass enclosure. It wouldn't be a living space. It would just be an enclosed outdoor space. That would allow us that little measure of security to open the doors and let air in, and also feel secure, basically – a little more secure.

**Chairperson Speranza:** Let me just ask a question. So this is not going to be a bedroom

**Mr. Scardino:** Correct.

**Chairperson Speranza:** It's simply enclosing the...

**Mr. Scardino:** Enclosing. It's not going to be heated. Yes. It's strictly the outdoor patio that exists now, but with a glass enclosure to provide us with that sort of feeling of security and air. That's our main intention.

**Chairperson Speranza:** OK. Again, this is amendment to the site plan. Is there anyone here from the public who wishes to speak, or have questions on the application? No?

OK. Boardmembers, any comments or questions, concerns? No.

I do want to note for the record that we have a letter here from the board of managers of Riverton Lofts approving ... a conditional authorization conditioned on getting all the required municipal permits. And it again, as you've mentioned, will not be made into a permanent heated space and the construction will be such that it can be removed should somebody else want to take the unit.

**Mr. Scardino:** Yes.

**Chairperson Speranza:** Good.

**Boardmember Sullivan:** I had a couple of thoughts. I'm concerned, one, about a precedent being set of enclosing different types of terraces on this particular building. You're very unique, being one of the side ones. I'm just concerned about if someone would come who has a unit that's on the front facing Main that this starts setting a precedent for this

I also am concerned about stormwater. I mean, this is ... right now, I assume the rainwater comes in and falls into some drain in your patio. And right now, we're creating a situation where that's going to be caught on the top of your glass roof and then shed off into the adjacent property.

I have another thought, which is not really a Planning Board thought. Because you have your bedrooms facing this outdoor space, they're basically your second means of egress from your bedrooms. So now you're creating an enclosed space that they go to. This is a concern for me just for the life safety of the folks – for you – in the unit. But the main issue is the precedent to start enclosing outdoor space. Because this building's complicated. It's got a lot of outdoor spaces; it's got a lot of terraces and patios.

The last thought is, I know we now have an Architectural Review Board that's up and running. And I know this is in the central commercial district. I didn't know if this was something that they needed to weigh in on, or quite where they are in their process of review.

**Mr. Scardino:** Right. And we will go before the ARB, as well.

To your last thought, you asked about the water.

**Boardmember Sullivan:** Stormwater.

**Mr. Scardino:** Yes. I can't really speak to that. Ray, can you speak to that at all?

**Raymond Wobbe, senior architect – Steve Tilly, Architect:** We can pipe the drainage to the existing terrace drain so that it won't be ... the water won't be shed off into the adjacent property.

As far as the egress is concerned, they're planning to use operable windows on the vertical face, which would be adequate, code compliant, for escape windows.

**Boardmember Sullivan:** Good.

**Mr. Scardino:** And as far as the precedent goes, there's only one other patio that is like ours on this side and there's a corresponding one sort of on the other side. We also have little sort of patios overlooking the street because we're at the ground level here. But in the front we're on the second floor, so there's no plan to do anything there.

I don't know whether something can be put in. In other words, the fact that these are not street-facing, there's only two of them, perhaps that ... the only one other precedent to be set there would be the other apartment.

**Chairperson Speranza:** And that is one of the reasons that any changes to this structure do come back for site plan amendments. It may be thought of completely differently, as you mentioned, Kathy, if this was the side that faced Main Street. OK. Eva?

**Boardmember Alligood:** I just want to say that I also, when I first looked at this, my first concern was where is this going to be, and if it was on the front or somewhere visible from the street it could not look in keeping with the design. And, you know, it could set the precedent for kind of customizing each unit. And when I saw where it was, that eased my concern.

But you know, it is an issue of if we say yes to one I guess we have a rationale for why we would allow it to be enclosed there. It seems that that was maybe a poor design choice to have bedrooms facing a space like that.

**Mr. Scardino:** Yes. Without any other windows, it's odd.

**Boardmember Alligood:** But you're the owner stuck with that, and I can see why you want to fix it.

**Mr. Scardino:** And it's also why we came to Ray and to his firm. Because they designed the building, so we wanted to aesthetically fit with the building. We didn't want to go out of keeping with how the building was originally designed.

We had asked for these trees to put up because we thought that would at least provide a screen. And it does help. It certainly makes it more private to the rest of the world. There's a parking lot here, you know. But, again, still sort of the issue of exposure is one that's of concern.

**Boardmember Dale:** I don't know if you can answer my question, but the geothermal air system that they have is supposed to provide fresh air, as well.

**Mr. Scardino:** Well, it does. You know, it's air conditioning and it's heating. But, you know, no one wants to live closed up in a bottle all year 'round.

**Boardmember Dale:** There's a certain percentage of fresh air that's pumped into the system.

**Mr. Wobbe:** Yes.

**Mr. Scardino:** Yes, there is.

**Boardmember Dale:** And you just don't find it adequate in your living environment?

**Mr. Scardino:** I don't know. I like to open my windows. That's why I moved out of the city.

**Boardmember Dale:** So none of the windows, except for the doors, are operable?

**Mr. Scardino:** There are no windows. They're all doors to either this back patio or the front balcony. So they're all doors, double doors that open. There are no windows in the unit, nothing like that. There are no windows.

I mean, it's fine during the daytime. We can open the front and all that. But at nighttime, or if you're in another part of the apartment, you don't want to leave those doors open just for safety. Particularly because this is such a public area, with people coming and going. There's a karate studio across the way here, and people come in and out. You know, that's sort of what was driving the idea initially.

**Chairperson Speranza:** OK. And you don't mind making modifications that would handle the stormwater runoff.

**Mr. Scardino:** No.

**Chairperson Speranza:** OK. I notice we have a short Environmental Assessment Form, which I guess we have to ...

**Village Attorney Stecich:** Yes, it's not exempted.

**Chairperson Speranza:** ... issue a negative declaration. Boardmembers, unless anyone has any issues with respect to the amount of land affected, the views, the kind of land use it is, I don't see any kind of negative environmental impact for this application.

So we need a motion, then, to issue a negative declaration on the amended site plan.

On MOTION of Boardmember Dandridge, SECONDED by Boardmember Dale with a voice vote of all in favor, the Board resolved to issue a negative declaration on the amended site plan for Apartment 2A at 45 Main Street.

**Chairperson Speranza:** And now is there a motion to approve the amended site plan, conditioned on our Building Inspector making sure of there being adequate stormwater treatment for the new enclosure?

**Building Inspector Sharma:** There may be some New York State code issues, which I will look into.

**Chairperson Speranza:** And you will verify.

**Building Inspector Sharma:** Of course.

**Chairperson Speranza:** OK, terrific.

On MOTION of Boardmember Dale, SECONDED by Boardmember Wertz with a voice vote of all in favor, the Board approved the amended site plan, conditioned on the Building Inspector making sure of there being adequate stormwater treatment for the new enclosure.

**Chairperson Speranza:** OK, there we go. Thank you for your patience.

**6. Application of T-Mobile for the installation of antennas and associated equipment at 1337 Saw Mill River Road**

**Chairperson Speranza:** We will now move to the application of T-Mobile for the installation of an antenna at 1337 Saw Mill River Road.

**Village Attorney Stecich:** I'll just report on this: that the Zoning Board had no objection to the Planning Board serving as lead agency on this.

**Chairperson Speranza:** OK. Now, let me just provide a little bit of background as to where we are. The applicant has been here to discuss the application with us. This is the first time that it has been noticed to the public.

There are several steps in this process. Because the proposal is in not within the personal wireless service overlay zone within the zoning code, there are joint actions that are required by both the Planning Board and the Zoning Board of Appeals. So there are several steps to this process.

We're here to hear the application, as is the public as well, and we will catch up with what we can do tonight, what we are not going to be doing tonight. So why don't you go ahead, Mr. Warden.

**Douglas Warden, attorney - Snyder & Snyder:** Good evening. I'm here tonight on behalf of T-Mobile. T-Mobile, as you know, is seeking approval to allow the location of a wireless telecommunications facility on property known as 1337 Saw Mill River Road.

What we're proposing is to locate a wireless telecommunications facility on the rooftop of an existing building. The facility we're proposing is a facility that will be disguised as a flagpole.

The idea is that the antennas that provide cell service to everybody's cell phones will actually be hidden within the flagpole, and the flagpole will look to all objective observers like a flagpole. The idea here is that we're trying to minimize the negative aesthetic impacts of this facility on the community. Likewise, the reason why we're using the rooftop is because, in addition to the fact that the code states a preference for locating on rooftops and existing structures, we're trying to get rid of the need to build a new tower from scratch somewhere else within the Village.

So we have a 28-foot building at the parapet, and that building has a penthouse on it. At the penthouse, it's 33 feet tall; 30 feet above ground, 33 feet above ground level. We're proposing to put a 35-foot flagpole on top of the building. That will leave the top of the pole at approximately 68 feet above ground level. We have six antennas that will be located within the flagpole, and the antennas are each 59 inches tall, 13 inches wide and 3 inches deep.

They will be grouped in three groupings of three, so that's six antennas. The first grouping will be located at a height of 65 feet above ground level at the center line, and the second grouping will be located at a height of 59 feet above ground level at the center line. This is all a little bit academic because, as I noted before, the antennas are going to be hidden within the shaft of the flagpole itself.

We are also proposing to locate equipment on the rooftop of the existing building. The rooftop provides the signal that is propagated by the antennas, which communicates with people's cell phones. The equipment will be located within a screened equipment shelter, and the equipment shelter will be located at the base of the pole. And the equipment shelter will be designed – we hope you'll agree – such that it will look like a natural architectural feature of the existing building.

We have submitted, in addition to the site plan that shows the features that I am describing, a visual analysis which includes computer-generated renderings of the facility as it will look from various viewpoints around the town. We've taken pictures. We have, in a before-and-

after format, provided photographs of what the facility will look like. Hopefully, this will give you a sense for what the visual impact of the facility will be.

We've also submitted a variety of coverage maps and radio frequency emissions reports. And the coverage maps show that we have a gap in coverage and that the proposed facility will render the gap in coverage. The Village, because these are technical documents, has, as you know, retained a telecommunications consultant for purposes of helping to interpret these documents and telling the Village – helping the Village – to understand what they mean.

The telecommunications consultant, at the end of last week, got me some comments. He wanted some additional materials that would help him in interpreting what the nature of the application is and help him in explaining to the Board what's going on. So we're working on putting those together. It takes several days to put these things together.

And so we would, respectfully, both request and suggest that any matters pertaining to ... and the Village telecommunications consultant is not here this evening. But, you know, we would request and suggest that any matters pertaining to the coverage maps and radio frequency emissions, et cetera be addressed at the next continuation of this meeting, when the telecommunications consultant that the Village has retained for purposes of advising it is here to explain these matters, and when we can have a meaningful dialogue.

And so that is the nature of the proposal that is before this board.

**Chairperson Speranza:** OK, thank you. As you've heard, and as I mentioned earlier – just for everyone in the public – this is the initial public hearing. It's not ... we are not intending to close the public hearing tonight. There is still information that we do not have, as Mr. Warden mentioned: that we have retained a telecommunications specialist to review the plans, and this work is being done for both the Planning Board and the Zoning Board of Appeals.

There are sections in the code – and it's something that we had spoken of in the zoning code – that specifically indicate the kinds of things that have to be submitted in the application. There are some things which are not ... again, which we don't ... which we have not received. So for the purposes of this 62-day requirement, we are not going to consider the application complete as of now, OK, until we ... you're aware what I'm talking about, the 62? OK.

Also, we know it's got to go to the Zoning Board of Appeals. And I think you're scheduled for the first meeting in December to go before them with the information. One of the things which we can do – and which, as Marianne Stecich mentioned earlier, the Zoning Board –

we, the Planning Board, declared our intent to be the lead agent on this application for purposes of SEQRA at our last meeting. The Zoning Board would have been the only other agency to become lead agency. They have said they don't want to do that, and that they're willing to have us do that.

Certainly, that's something that we can do tonight is declare ourselves lead agency for the purpose of the SEQRA review of this application. And then there are a host of other things which need to be done: the granting of the special permit and the review of the site plan.

One of the things that I do want to find out – and I know there are a lot of people here who may have questions or comments – Boardmembers, are there any questions or comments with respect to the application as we have it now that we can provide the applicant? If not at this point, then we can go right into the public hearing. Just one minute, Michelle.

The one thing that I do want to mention – and, again, it is a public hearing – the federal communications law – or telecommunications – prohibits local governments from considering any perceived health impacts from cellular technology or radio communication technology in the decision-making process, provided that the applicant operates within the FCC guidelines. So I just want to put that out there.

That said, if there's no other comments ... did you want to mention one more thing?

**Mr. Warden:** I might add just one thing. I don't know if we've really covered it yet. Just the question of the Zoning Board's ... the nature of their inquiry. I just wanted to just remind maybe perhaps the public, and then the Board, that the Zoning Board is tasked with the job of determining whether or not it's in the right place – whether or not it could be located in the overlay district, or not

**Chairperson Speranza:** Right.

**Mr. Warden:** And I just wanted to lay out there that that's really ... that's their jurisdiction. And it's sort of a separate inquiry, and I just wanted to make sure everybody had a clear ...

**Chairperson Speranza:** Understand that.

**Mr. Warden:** ... understanding of the path before us.

**Chairperson Speranza:** OK, thank you. Marianne, did you want to say anything else at this point? Go ahead.



**Village Attorney Stecich:** Yes. That while it's the Zoning Board that makes the determination, it's certainly relevant to this board's determination.

**Chairperson Speranza:** Oh, absolutely.

**Village Attorney Stecich:** Because remember, you have to decide under SEQRA. And one of the things you have to decide under SEQRA is, are there alternatives. So it's relevant to this board's inquiry, as well. I'm not sure if that's what Mr. Warden was getting at, but just so you understand.

**Chairperson Speranza:** OK, thank you. Public hearing time. Michelle? You just need to be sure to speak into the mic, and state your name for the record.

**Michelle Hertz, 62 Euclid Avenue:** First of all, we have T-Mobile phones in our family and we get perfect reception in Hastings. So I really, truly believe this is about competition, and it has nothing to do with reception.

It is also incredibly insulting for T-Mobile to try and sneak a radiation-transmitting cell tower and call it a "stealth tower." We're not stupid. Whether it looks like a flagpole, or a giant strange tree, the value of the homes in the neighborhood that this tower is being proposed in will be crushed.

Thank you.

**Chairperson Speranza:** Thank you. Yes, sir. Come up and state your name for the record.

**David Amster:** I have a quick question, just regarding what is the circumference of this flagpole.

**Mr. Warden:** I think it's approximately 30 inches. Is that right?

**Mr. Amster:** Thirty inches?

**Female Voice:** Last week it was 48.

**Building Inspector Sharma:** Please speak in the microphone.

**Chairperson Speranza:** We can check that.

**Mr. Warden:** I think it's 30 inches.

**Mr. Amster:** It's 30 inches. And is there a particular comparison that you have – a comparable that you may have – to any other flagpole-like structure locally?

**Chairperson Speranza:** Yes, we do. The applicant did give us a list of locations which ... do you have that?

**Boardmember Dale:** Yes. There's one at 301 Old Tarrytown Road in White Plains, and one at 280 Dobbs Ferry Road in White Plains.

**Mr. Amster:** OK.

**Chairperson Speranza:** And we can give you a copy of the list.

**Mr. Amster:** OK, that would be great. I mean, I guess from my standpoint the primary concern is that this does not look freakishly big like some of the flagpole installations that I've seen elsewhere. One that I can think of is along the 287 corridor, which looks ... although tries to look like a flagpole, doesn't exactly do the job. So thank you.

**Chairperson Speranza:** Thank you. OK, yes, sir. Come up.

**Daniel Baum, 35 Nepera Place:** Good evening. I received legal notice of this hearing this evening, and I appreciate you taking the time to listen to our concerns.

My main concern for this structure being put in place is the value of my home. I am of the technology generation. And when I originally decided where to live, one of the main focuses was what kind of other structures were in place of what homes I might purchase. Now, my home actually faces onto the Saw Mill. So some might say, "Well, why would you purchase a home that faces onto the Saw Mill?" But I really didn't have any issue with that because of the amount of air that travels through I didn't see it as much of an issue. And a lot of people like to live in the town of Hastings and I figured it wouldn't be too bad.

But I did quite a bit of research on the Internet to identify other types of facilities, in general: electric poles, high – what's the word? – yes, high-frequency transmissions of electric poles, cell phone towers for certain. And there's a very simple site that I'd be happy to give you that you can look up where the nearest cell phone tower is to the proximity of your home. And as it stands right now, my home is nowhere within a half-a-mile radius of a cell phone tower.

Now, if I were the person purchasing a property again, before I purchase that property I'm going to do that research. And it's going to make a difference in my decision of whether or

not to purchase that home. Therefore, in my opinion, the cell phone tower that they're looking to erect will, in fact, detract from the value of my home because there will be buyers – and, mind you, my profession is real estate, that's what I do for a living – there will be buyers who choose not to purchase my home because of the proximity to this pole.

I know that health cannot be brought up, but certainly if you do your research on the Web there are concerns out there of health. And that will certainly dissuade some people from purchasing homes because of this pole. And that's really the point that I want to make.

I can't speak very much to the aesthetics of the pole because it sounds like a flagpole. Sounds very nice, but I don't really know how that's going to look. Especially when it's the fall and winter months. Because during the spring and summer seasons, obviously, the trees are filled up with leaves. You really don't even notice ... except for the low hum of the Saw Mill behind me, you don't really notice that it's there.

And coming from New York City, the low hum of the Saw Mill doesn't really bother me. But when the leaves fall off the trees, it's pretty obvious that it's there. And my home would be located literally just across the highway from this facility. Which I don't notice the facility at all during the spring and summer months and, to tell you the truth, I don't really notice it much in the fall and winter. But I would certainly notice a pole that's now been erected 35 feet off the ground.

To that end, I also noted from speaking to some of my neighbors that they were not informed of this hearing. I don't know what the legal ramifications are to the footage within the reach of this pole that would require notice to be given, but apparently I was within the range of that, two of my neighbors were. But then the other half of my street was not, and no street behind me was.

I also found it interesting that a few homes that are located within the Village of Hastings on the Saw Mill River Road side were notified, but none of the homes that are in Greenburgh. I imagine that's because of a technical jurisdictional issue of them being in the unincorporated areas of Greenburgh and not in the Village of Hastings proper. So I went about to seek from my neighbors their feelings on this issue, and whether or not they felt that this would be of concern.

I took it upon myself – I work for a living – I'm full-time, but I took the time off of work. I went around to my neighbors at all hours, over the last week – because I only got notification of this some maybe 10 days ago – and started to poll my neighbors as to whether or not they felt it was a problem. I have in front of me signatures of the owners of the homes in my

immediate vicinity, and out of some 45 homes or so I have about 42 of them rejecting the proposal and vehemently opposing that this be put in place.

And just to give you perspective, if I'm permitted, it's not ... I don't have it on a board to put in front of you. But just so I can give you perspective for a moment, I took those addresses and I plotted them on a map. May I approach? And I'd be happy to print this out for anyone who'd like to see it. I'll come around and show it to you.

The proposed site is the red icon down here. Every one of the blue markers is opposed to this being put in place. The yellow markers were simply not home at the time of the multiple times I tried to approach them, of which I believe there are 10. The red markers were in favor of the pole, and there are only two. And then there are three thumbtacks who just simply abstained from taking a position.

I don't want to say things that guess to it, but they didn't want to say yes or no. They didn't want their name on a signature, and I'm not showing this to you to call anyone out. I just want to show you just how opposed the neighborhood is to this proposition. And so if I may speak for my neighbors as well as myself, I think it's fairly clear that the people who will be closest in the Village of Hastings – not to mention..... don't want what number of homes.

There are some people in our audience who live on the other side, right near Saw Mill River Road, that are in the Village of Hastings. And they can speak, obviously, for themselves on this matter. But I think it's fairly clear the people who would be closest to this pole are absolutely against this proposal, and we respectfully ask that you reject this application because of that. Thank you very much.

**Chairperson Speranza:** Could you give a ...

**Mr. Baum:** A signature?

**Chairperson Speranza:** Yes. If you want, we'll make a copy or something, just so we have it for the record.

**Mr. Baum:** Yes, absolutely. And if I may add one more slight item, I brought this matter up, as well, to other Hastings residents who were not in the immediate vicinity within those few blocks really close to where this is going to be erected, or proposed to be erected. And I was surprised – happily surprised – by the overwhelming amount of support that I was being given by Village residents.

There are people all over this village who have now heard of this matter and who are supporting the fact that we would not like this to happen. We believe there is enough coverage in this village for us living here. One person actually said to me, "If it was a matter of coverage, we'll simply switch providers if we can't get enough coverage for it rather than have this erected so close to our homes." And so they, unfortunately, are not necessarily able to be here.

And forgive me because I don't know the policies or procedures of this board, and when votes take place and how the procedures take place. I read ... I spent quite a bit of time reading your minutes. And if I may, I do have one question that I couldn't find an answer to. Apparently there was a proposal for a similar – I assume a similar – structure to be put up top of 565 Broadway not so long ago, and that was rejected.

**Village Attorney Stecich:** No.

**Mr. Baum:** It was not rejected.

**Chairperson Speranza:** There's been no action on it.

**Village Attorney Stecich:** Well, by T-Mobile. There's been no action by T-Mobile.

**Chairperson Speranza:** Yes, right.

**Mr. Baum:** Is this still ... is that part of this same ...

**Chairperson Speranza:** This application stands on its own. I don't know if you want to talk about the other application, or not.

**Mr. Warden:** These are separate applications servicing separate areas of the Village. The radio frequency signals from the Broadway application wouldn't reach here, and the signal from this application wouldn't reach that.

**Mr. Baum:** I'm sorry, was the ... was there a structure put on top of 565 Broadway?

**Chairperson Speranza:** No.

**Mr. Baum:** May I ask why?

**Chairperson Speranza:** There was no approval. Documents were requested that haven't been decided.

**Mr. Warden:** It's still in the process? The Village has requested a number ... that we look very closely at a number of alternative locations. We have been doing our best to take those suggestions to heart, and we are still reviewing those applications – excuse me, those suggestions – that the Village made.

**Mr. Baum:** So at this point they have not erected a structure there. They're looking for alternatives. Although this stands on its own, this would potentially serve as an alternative to that location. Is that correct, or incorrect?

**Chairperson Speranza:** That's not what I heard you say.

**Mr. Baum:** That is incorrect. OK, thank you very much.

**Chairperson Speranza:** Thanks.

**Linda Merchant, 35 Marian Avenue:** I thought that we had designated places in Hastings where these things were supposed to go. And I assumed that there was a lot of consultation with technical people to come up with these places; 1337 isn't close to any of these places, so I don't even know why we're talking about it. Because if we have to do work, and find places to put things, and then anybody can come in and say, "I don't want it here, I want it here," it seems like a waste of everybody's time.

Whenever I tell people that they might put a cell tower in my neighborhood, they all say, "Oh, I wouldn't live in a place with a cell tower." OK? I just put a lot of money into my house the last two-and-a-half weeks. I now have another mortgage. And if I want to sell, I want to sell for what I'm going to get out of this property.

I also want to enjoy my neighborhood. I will say that I'm a little confused because I don't get notifications about these meetings from that property on 1337. I'm six houses away, but across the parkway they get them. So I'm a little confused about this notification process. Usually my neighbor will bring over the letter. So you might want to investigate that.

**Chairperson Speranza:** So you do know people in the area that have gotten the notices.

**Ms. Merchant:** Yes, yes. And they bring it to me because they know I never do. So I don't know exactly why I don't get them, but we should check that I think.

**Building Inspector Sharma:** I believe we send it to the addresses within Hastings' jurisdiction.

**Chairperson Speranza:** Well, Linda's in Hastings.

**Ms. Merchant:** I'm at 35 Marian Avenue, Hastings-on-Hudson, New York, and I'm six houses away from the storage unit.

**Chairperson Speranza:** OK, we'll check that.

**Ms. Merchant:** You should look into that because this is the second go 'round with this property and I've never received one notification about it, OK?

Now the other thing is, I have a couple comments and then specific questions. They're calling this a flagpole. So an America flag has to be presented in a certain way, and if it's going to be up all night you have to illuminate that flag. I can't see people climbing to the top of the storage unit to take this flag down every night.

So how bright are the lights going to be, what's it going to do for that for the neighborhood? I have neighbors who complain about my garage light if it gets moved just a little bit, that it's too bright. So I think that's another consideration I haven't heard anything about.

If there's no flag on this pole, then let's just call it a big pole and get away with it because we don't need to discuss it. My neighbor at 41 Marian Avenue, Joe Paparhi, couldn't be here this evening. He asked me to tell the Board that he has two tenants who are both upset about this and have talked about moving.

We're a small neighborhood. There's no shortage of turmoil in our neighborhood. We always wait for the next shoe to fall. I'd like to thank you for listening to us this evening and probably for the next, I don't know, 80 meetings that we have to go to. And, you know, to keeping us in mind when you make your deliberations.

My questions for Mr. Warden and the committee are, will this equipment on top of the storage unit make noise, the stuff you're hiding?

**Mr. Warden:** I think the noise is going to be pretty much ambient, about the same as your average air conditioner unit. Greg, is that something you can speak to? The level of noise that it's...

**Building Inspector Sharma:** Please, just speak in the microphone.

**Mr. Warden:** ... generating?

**Gregory Nowak, KMB Design Group:** Certainly. Just a matter of observation, there are two air conditioning units on the existing rooftop. The equipment will be enclosed within an enclosure and there are fans associated with the equipment cabinet. So they'll be in synch with the residential units.

**Ms. Merchant:** OK, well, on your drawing there is the flagpole ... I'm making a big assumption here. That it'll be close to Saw Mill River Road, and not farther back on the buildings near all those apartments? It'll be behind Mr. Tarricone's house on the corner, and apartment and apartment and apartment. So it'll be close to Saw Mill River Road, this thing?

**Mr. Warden:** That's correct. Forgive me, I'm not being rude by speaking directly to the Board.

**Chairperson Speranza:** That's OK.

**Mr. Warden:** I want to avoid the situation where I'm getting into a colloquy with everybody. I want to present what I have to say to the Board. However, Linda is correct in stating that it is going to be towards the front of the building, towards Saw Mill River Road.

**Ms. Merchant:** OK, the telecommunications specialist that the Village has hired. Who's paying the cost for the telecommunications specialist? Is that the applicant?

**Chairperson Speranza:** It's in escrow to the Village. The Village made the selection.

**Ms. Merchant:** OK. And just two short questions. What's the timeline on this? I mean, are we looking at six months, or a month-and-a-half, or do we know?

**Chairperson Speranza:** No.

**Ms. Merchant:** We don't know. OK.

**Chairperson Speranza:** As I mentioned, there are several steps. There's still information that our specialist has requested of the applicant. And as I mentioned, the Zoning Board comes in. And we have an environmental review. It's a process, it's a process.

**Ms. Merchant:** OK. And my last question, I want to know – I would like to know – why they picked this particular building as opposed to anywhere south of me, anywhere north of me. There's all kinds of buildings in the Town of Greenburgh, for instance, that are on the same plane. So I was just curious about why this one was picked. Thanks.



**Mr. Warden:** In part, that's a question really for the Zoning Board. But I do want to let the Board know that the maps that we have submitted – the coverage maps that we talked about earlier, that the consultant is going to be assisting you in interpreting – show that we have coverage to the south. We have a site to the south which is already providing coverage.

And so we can't really go there because, aside from redundant coverage, there are interference issues and things like that. So that is one of the reasons why we have chosen this location.

**Carolyn Caruso, 45 Marian Avenue:** I have also worked with Daniel in consulting our neighborhood. I'm on the opposite side of the parkway. I'm on the corner of Marian and Holly Place. And I'd also like to submit 60 signatures from the homeowners in that area on Marian, Edison, Holly, and actually Donald and Heath, as well, who are all opposed to this project.

I also have a couple of questions that I'd like to ask Mr. Warden. Who's the owner of this property, and how are they not involved in this application?

**Mr. Warden:** Again, my apologies. I'm going to address my answers to the Board.

**Ms. Caruso:** No problem.

**Mr. Warden:** Let's see, the owner is, I believe, Hastings Self Storage. We are the lessee, and they have given us a letter of authorization authorizing us, as the person who is leasing space, to make this application.

**Ms. Caruso:** And will they receive a monetary monthly rental, or what would they be receiving for having this structure erected on their building?

**Mr. Warden:** We're leasing space. Just like anybody who leases any space, they will be ...

**Ms. Caruso:** So he would receive ...

**Mr. Warden:** ... U.S. currency.

**Ms. Caruso:** ... income.

**Chairperson Speranza:** There'll be rent.

**Ms. Caruso:** Income from this structure on the building. OK, thank you. And can I just ask you to make copies of this? Thank you.

**Mr. Baum:** May I ask two follow-up questions?

**Chairperson Speranza:** Let me see if there's anyone else who wishes to speak first, OK?

**Mr. Baum:** Absolutely.

**Chairperson Speranza:** Is there anyone else who wishes to speak, or has a question on the application?

**Theresa Dimura, 28 Clunie Avenue:** I had no idea that the cell tower was about to be ... was in the process of looking for a place in my neighborhood. I live on the other side of the Saw Mill River Parkway. I have two children and a family, and I'm very concerned about the radiation effects of this cell tower and I do not want it in my community.

**Chairperson Speranza:** Thank you. If there's anyone else, before we'll hear follow-up comments? No? And then Michelle.

**Mr. Baum:** I just have two other follow-up questions pursuant to ...

**Chairperson Speranza:** You just have to say your name again.

**Mr. Baum:** First off, on the question of monetary benefit, does the Village of Hastings-on-Hudson receive any monetary benefit for this, outside of the owner of the facility?

**Chairperson Speranza:** I honestly don't know. I would imagine if there's a tax, maybe there's a taxes implication.

**Village Attorney Stecich:** The tax may go up because it's an improvement on the building, but probably not much.

**Mr. Baum:** OK and secondary, for the question of noise. Do we know if maybe the people in the audience would be better at this? Does the facility currently run the air conditioning units on the rooftop 24 hours a day, 7 days a week? Because to my knowledge, you would have to cool this structure 24 hours a day, 7 days a week, which means this would be going on where air conditioning units would not – obviously, as well, in the fall and winter months when air conditioning units are not necessary – unless the storage facility is climate-controlled all year long.

**Chairperson Speranza:** Michelle?

**Ms. Hertz:** My question is, is this cell tower for 4G? Is this part of a system of 4G systems that T-Mobile is planning to put up around?

**Mr. Warden:** I don't know. I think it's for the basic coverage. I'll be glad to look into that, but I don't think it's part of the 4G rollout. But I'd be glad to look into it.

**Ms. Hertz:** Do you know what the difference between 4G is, and 3G and 2G, and could you explain that to us as far as the radiation output of each of those?

**Mr. Warden:** Again, I'm addressing the Board. Let me say that the radiation output is a matter that is federally preempted, as your attorney has pointed out. It's not something that is ...

**Ms. Hertz:** Oh, but you mentioned the radio frequency as the same thing as microwave radiation. So that's what I'm asking. Is the output of the radio frequencies, which is microwave radiation, the same thing?

**Mr. Warden:** I would ask that I be able to finish my comments, and also ... you know the answer to that, this is an inquiry ... is that this is an inquiry that is federally preempted. Where that's not ... we're not permitted here to regulate radio frequency emissions.

I don't know what the difference between 4G and 3G is as far as the impact on radio frequency emissions levels. We have submitted a report from a radio frequency engineer, which the consultant you have retained is reviewing, which establishes and shows that we are well within the FCC's requirements to safely and legally emit radio frequency emissions; what we're proposing.

The proposal, I think, says that we're less than ... I think we're less than a quarter percent of ... one quarter of one percent of what can be safely and legally – and I'll check that number – safely and legally be emitted. Which would mean that we would have to put 400 similar facilities on this location in order to even approach the federal government's requirements for what can be safely and legally given off by a communications facility.

**Boardmember Dandridge:** If I could, could I ask Michelle a question just for further clarification of something you said earlier? Your first set of comments, you alluded to your belief that this was not about base coverage and that T-Mobile ...

**Ms. Hertz:** Oh no, right.

**Boardmember Dandridge:** Just let me finish, if I could. That this was not about base coverage. But your assertion was that this was about competition. I would just ask that you expand on that, and maybe perhaps substantiate that so that it's ... I just didn't know what you meant by that.

**Ms. Hertz:** Well, there are so many cell transmitters in Hastings. They're all around us, and nobody has any problems getting any reception anywhere. I think T-Mobile is having a hard time getting in, and that's why they're doing this. But I also wonder whether or not they're planning on this 4G rollout also, which does have higher frequencies, more radiation, I think.

I also wonder, too, if once they put the tower up are they entitled to put anything that they want on it after it's up.

**Chairperson Speranza:** If there are changes, they would have to come back for a modification to the site plan.

**Ms. Hertz:** Who do they go to for that?

**Chairperson Speranza:** Back to the Planning Board. That would be an amendment to their approved application.

**Ms. Hertz:** And so all the cell transmitters that are on top of this building, if they change them ...

**Chairperson Speranza:** They come back here.

**Ms. Hertz:** ... or put extra antennas up, because how often ... I mean, I haven't heard that they've been here, but the antennas have changed.

**Village Attorney Stecich:** They've been here.

**Chairperson Speranza:** Yes, they've been to the Planning Board several times.

**Ms. Hertz:** So every time it changes it has to come to the Planning Board.

**Chairperson Speranza:** Yes.

**Ms. Hertz:** So if they're planning on putting a cell tower that's not 4G, if it changes to 4G do they have to ... do you know?

**Chairperson Speranza:** I honestly don't know 4G, 3G, 2G.

**Ms. Hertz:** Yes, you don't know.

**Chairperson Speranza:** I don't know. That, I don't know.

**Ms. Hertz:** It's an important point.

**Chairperson Speranza:** But they are required ... if there are going to be changes, and let me just give you an example. If it's no longer going to be proposed to be a tower disguised as a flagpole, if it comes and turns out to be, I don't know, a dish as opposed to the pole that requires coming back to the Planning Board.

**Ms. Hertz:** And what about something that has a stronger, a higher, output? Do they have to come back to the Planning Board, do you know?

**Chairperson Speranza:** They have to operate within the federal requirements.

**Ms. Hertz:** Right. But what I'm saying is, if it's a changed system do they have to ... if they change the system and they change the output, do they have to come back to the Planning Board? Or are they entitled to just change it and make it stronger without any ... as long as it's within the FCC guidelines, which are not ... which do not take into consideration human health at all.

**Chairperson Speranza:** Right.

**Ms. Hertz:** It was done ... they were done by engineers. So you don't know.

**Chairperson Speranza:** I don't know the answer to that question.

**Ms. Hertz:** I think it's an important question.

**Chairperson Speranza:** We'll research it, but I know that the operation cannot ... I don't know if we limit ... if our approval limits ... is limited only to the frequency, or the system that is proposed before us.

**Village Attorney Stecich:** I'll read the section. *"Alteration of an existing facility that results in an increase in the size, height, or electromagnetic emission of the facility shall be permitted only after application ..."*

**Ms. Hertz:** So I think it's important to know what T-Mobile wants to put here as far as what is it: 3G, is it 2G, or 4G. That's important to know because otherwise they'll be changing it ... they can just change it.

**Chairperson Speranza:** And we will raise this with our consultant.

**Ms. Hertz:** OK. And I just also want to say that for the last two years we've never had any problems with reception with T-Mobile. And I mentioned last time that T-Mobile was one of the only phones that worked right after September 11. It had incredible reception, from downtown to up here and everything.

So there's no problem with reception. I don't know what they're talking about. Maybe there's a way that they could try to prove it to us. Thank you.

**Chairperson Speranza:** Thank you. Come on up.

**Heather Baum, 35 Nepera Place:** My only other question is a follow-up to Michelle's. If, every time I have to come in front of the Planning Board, will we be notified with a legal notice?

**Chairperson Speranza:** Yes.

**Ms. Baum:** OK, so I just wanted to make sure that every time an application is made for something like this that we are invited to come back and, obviously, oppose it as we are.

**Village Attorney Stecich:** Patty, the part I left out is not only does it have to come before the Planning Board, but it has to be treated as a new application. So the same notice will go out.

**Ms. Baum:** OK. Thank you very much.

**Female Voice:** I think you're meaning for each consecutive meeting, not each ... I'm not sure.

**Ms. Baum:** I think my general question was, if they reapply for any change to this, or any addition to this, that we will be notified to appear. But also, I guess, every time that there is

this meeting I'm assuming there's an e-mail that will go out that you're going to state what you're covering.

**Chairperson Speranza:** There will be an agenda that goes out through the Village's e-mail system that gives what's on the Planning Board agenda. The applicant is not required to serve public notice more than once for one application. So if notice has gone out to the Zoning Board they would probably also get one.

**Village Attorney Stecich:** For the most part. For instance, where there's like a huge gap – I would say if they resurface with their application for Broadway – you probably would send out notice again because there's been such a lapse. But as long as it's been on the agenda of every meeting, either on and then adjourned around and considered, you don't have to keep giving notice.

**Ms. Baum:** And also, will the petition that we've shared with you, will that follow this documentation throughout this process?

**Chairperson Speranza:** Oh yes.

**Ms. Baum:** That's it. Thank you.

**Village Attorney Stecich:** Well, it goes to the Planning Board. I mean, I'm not sure, unless there's a request made that it also go to the Zoning Board. It's part of the record.

**Chairperson Speranza:** Oh, that's what you were talking about.

**Village Attorney Stecich:** I think that's probably what they were getting at. And ordinarily, a petition submitted to the Planning Board wouldn't go to the Zoning Board.

**Chairperson Speranza:** We can do that.

**Village Attorney Stecich:** Either you can send it, or they can resubmit it.

**Chairperson Speranza:** Why don't we ... we'll send it over. We'll make sure it goes to the Zoning Board.

**Village Attorney Stecich:** That's fine. That wouldn't be in the ordinary course ...

**Chairperson Speranza:** Now, Carolyn, this is your original. You need a copy of this.

**Ms. Caruso:** If you could.

**Chairperson Speranza:** And when we do that, we'll send a copy to the Zoning Board, OK?

**Ms. Caruso:** You require the originals, don't you? Or do you want copies?

**Chairperson Speranza:** It doesn't matter.

**Ms. Caruso:** Can I ask one last question.

**Chairperson Speranza:** Not unless you come to the mic.

**Ms. Caruso:** Will we be able to review the report that the expert ...

**Chairperson Speranza:** Yes, it's not complete.

**Ms. Caruso:** OK, and how ... would we have to come here to do that, or can we call? How would we get access to that? I work up in Carmel, and my hours are not ...

**Chairperson Speranza:** Let me work that out because the Planning Board sees it first, and the applicant obviously has to be able to respond to things also.

**Ms. Caruso:** OK.

**Chairperson Speranza:** It will be made available during the course of the hearing.

**Ms. Caruso:** Great, thank you.

**Chairperson Speranza:** Yes, sir?

**Eric Fleischman, 20 Nepperhan Avenue:** I want to clarify one thing. We're here, obviously, because they want special permission for the site. So correct me if I'm wrong. It's already designated areas that these towers usually go up. Why are those insufficient?

**Chairperson Speranza:** That's one of the things that ... the applicant is making the case that none of those work or are available.

**Mr. Fleischman:** I understand.



**Chairperson Speranza:** Our consultant that has been hired by the Village is evaluating those statements made by the applicant.

**Mr. Fleischman:** Did they give a reason?

**Chairperson Speranza:** Yes, in the materials. And there's no reason ... we can make the application available.

**Mr. Fleischman:** OK.

**Chairperson Speranza:** It's a report. There's no problem with that.

**Mr. Fleischman:** Second question.

**Chairperson Speranza:** Do you want to go on the record now to go through why you feel that they're not viable?

**Mr. Warden:** I just want to say that an extensive report has been submitted. We have given reasons, and they're being reviewed by a consultant who's qualified and who has been chosen by this board after a lengthy process. So we're not just coming in here and asking for relief without giving reason for it.

**Chairperson Speranza:** Right.

**Mr. Fleischman:** But I assume there are reasons why those areas were designated in the first place that were valid and given by someone with technical knowledge. So to me, that doesn't jive.

**Chairperson Speranza:** OK, we'll make this available to you.

**Mr. Fleischman:** OK.

**Chairperson Speranza:** If you leave your name and address we'll make it work. Well, you can go to Deven.

**Building Inspector Sharma:** Yes, it's available in my office, any paperwork on this application. And if you would like to have some copies made – there may be some minor cost presentation, time presentation – we should be able to make copies available.

**Mr. Fleischman:** OK.

**Building Inspector Sharma:** No, we don't have evening hours. But obviously we can make a copy and send it to you, or you can send somebody else to pick up a copy. But you have to tell us what you need a copy of. We can make copies available to you.

**Boardmember Sullivan:** Is it something that could be made online, made available online by being scanned?

**Boardmember Cameron:** Or put a copy in the library?

**Building Inspector Sharma:** Nobody keeps a record while it's still being processed. It would have to have been processed. We can't keep updating it. In my office, anybody can come and look at whatever we have.

**Chairperson Speranza:** OK, we'll work something out so that people can get this, can be able to see this report.

**Mr. Fleischman:** Appreciate it.

Second question. When the other side, the 565 Broadway, was brought up initially, did you guys have a consultant for that also?

**Chairperson Speranza:** Yes, we did.

**Mr. Fleischman:** OK, thank you.

**Chairperson Speranza:** Anyone else?

**Ms. Baum:** I guess my only question – it's more a personal question – is, how do you guys consider the neighborhood or the people who are objecting to this in this application? Is that a factor at all in your decision-making?

**Chairperson Speranza:** Well, through the site plan approval process really is one of the things that we do take a look at. And for those of you who might actually want to go into the zoning, the zoning code, while you're at Deven's office you can also get a section of the zoning code 295-85.

**Village Attorney Stecich:** That is online.

**Chairperson Speranza:** Oh, that's right, that's online: the personal wireless service facilities overlay. You know, there are some things that are mentioned that need to be submitted. And certainly one of the things that Ms. Merchant mentioned with respect to the lighting and the lighting of the flag is one of the things that I also noticed, and said, "Well, wait a minute. How is this going to work?"

**Mr. Warden:** If I may, there is a lighting detail, on page Z-01. Two floodlights, motion ... which will be lights with light sensors which will be pointing upwards towards the flag. So if the Board should review that and decide if they want additional, any additional, information or clarification. We'd be glad to, but we haven't excluded it.

**Chairperson Speranza:** Right, OK.

**Boardmember Dale:** So the flag is supposedly a permanent installation that the flag is there day and night?

**Mr. Warden:** Yes. Otherwise, under the relevant regulations it would have to be raised and lowered every night.

**Boardmember Dale:** The flagpole on Old Tarrytown Road does not have a flag right now. I was there this weekend, and it does not have a flag.

**Mr. Warden:** So, you know, some municipalities prefer not to have a flag there. They think it's bulkier. They think it increases the profile when it's windy. Other municipalities like American flags. It's a matter of taste.

**Mr. Baum:** Madam Chairwoman, last question. I'm sure we all want to go home. The only thing I don't know at this point is what else can we, the residents of this village, do to continue to petition not to have this happen. The signature was something that was brought up by another resident who had been through something prior and recommended that this is what we do. But I honestly don't know what else I should be doing, or can be doing, in order to sway this board to, obviously, the decision I'd prefer.

**Chairperson Speranza:** We're hearing you. We are holding the public hearing. We have an application before us. We hear the applicant, we're listening to the community.

**Mr. Baum:** What I mean by that, would it take the signatures of every single person in Hastings-on-Hudson? And then I'll do it. Because I'll go door-to-door if I need to, but it'll take awhile.

**Chairperson Speranza:** Counsel.

**Village Attorney Stecich:** The Board doesn't take a vote on this. They can't take like a popularity vote. It's not based on that. They have to make their decision on the criteria in the law. So I want that on the record. I want the applicant to understand. That they're not going to make their decision on how many people are against it. They have to base it on specific criteria, which are in the statute.

**Mr. Baum:** So in theory, if T-Mobile does all of the pieces along the way – no matter how many of those hurdles are put in their place, but they do them all – this board can't reject the proposal.

**Village Attorney Stecich:** I suggest you read the statute, and you see that the statute is very protective of the applicant and of the Village.

**Mr. Baum:** I understand, but I'm not an attorney. So I wouldn't necessarily understand all of those statutes. And that's why I ask.

**Village Attorney Stecich:** Really, I wouldn't recommend it if it were difficult. It's not. You're obviously a bright person.

**Mr. Baum:** Thanks.

**Village Attorney Stecich:** You'd be able to understand it.

**Mr. Baum:** OK, thank you.

**Mr. Warden:** It's not too late to get an application in for law school.

**Village Attorney Stecich:** Just one question I wanted to raise. I don't think the circumference can be only 30 inches.

**Chairperson Speranza:** I remember that, too.

**Village Attorney Stecich:** I think circumference is  $\pi D$  isn't it, diameter by  $\pi$ ?

**Mr. Nowak:** The diameter is 30 inches.

**Village Attorney Stecich:** Yes, but you repeated a couple times a 30-inch circumference, which is a lot different from a 30-inch diameter. So a 30-inch diameter is roughly a 95 ...

**Boardmember Cameron:** It's about the width of that window right behind you.

**Village Attorney Stecich:** Yes, so I just want that to be clear. Because I think circumference is Pi times diameter. So if the diameter's 30 inches, then the circumference is more like 94.

**Mr. Warden:** Can I say one thing? This is not deliberate deception. This is somebody who got a B in geometry.

**Village Attorney Stecich:** I'm not saying you're deceiving us.

**Mr. Warden:** I'm not accusing you of accusing me. I just want to clarify for the record. So obviously Marianne got a better grade.

**Chairperson Speranza:** So for the record, if you put a tape measure around the flagpole ...

**Mr. Warden:** At it widest part it would be ...

**Chairperson Speranza:** ...the dimension is.

**Village Attorney Stecich:** Is 94 inches.

**Chairperson Speranza:** Yes, 94, 96.

**Village Attorney Stecich:** Five times 30.

**Boardmember Cameron:** As I said earlier, it's about the width of that window there, all the way up.

**Boardmember Dale:** The standard window is 30 inches wide.

**Boardmember Cameron:** That width, all the way up to the top.

**Boardmember Dale:** It does taper towards the top.

**Village Attorney Stecich:** It tapers a little.

**Boardmember Cameron:** How much? Not much.

**Boardmember Dale:** Not much.

**Chairperson Speranza:** OK, is there anyone else that wishes to speak this evening? The public hearing is not closed. It will be continued through this process until such time as we are ready to close the public hearing. But that is not tonight.

One thing that I do want to consult with Boardmembers on is whether we are ready to ... I guess I'm saying I need a motion to declare ourselves lead agency for the SEQRA review of this application.

On MOTION of Boardmember Dandridge, SECONDED Boardmember Wertz by with a voice vote of all in favor, the Board resolved to declare Planning Board lead agency for the SEQRA review of the application of T-Mobile for the installation of antennas and associated equipment at 1337 Saw Mill River Road..

**Chairperson Speranza:** I did something wrong.

**Village Attorney Stecich:** No, you didn't. Patty, I think ... not to encourage anybody one way or the other, but the people from the public should understand that this record is totally different than the Zoning Board record. So you can't assume that what you said before this board is also going to be before the Zoning Board. They're two separate records.

**Village Attorney Stecich:** They'll get a notice.

**Building Inspector Sharma:** When they make their application for the zoning variances, then the same notice will go out to all the neighbors in the neighborhood.

**Mr. Fleischman:** If this does end up getting approved, what happens for the application for 565 Broadway? Can they potentially put up two?

**Chairperson Speranza:** Don't know. If this application is approved, anyone could make another application. There's an application that's ... I don't even know if we can still consider it pending. Do we still consider it pending?

**Mr. Warden:** There's no relation between this application.

**Mr. Fleischman:** That's my point.

**Mr. Warden:** They're completely separate. So if this application gets granted, or if this application gets approved or something else happens, that will have no impact on the other application.

**Village Attorney Stecich:** It could, only in the sense that if by putting this up you eliminate the gap in coverage. Then the other one might not be necessary. So to that extent, it's relevant. But it's not necessarily. But say this one only remedies a small gap in coverage.

**Mr. Fleischman:** They can put up two towers.

**Village Attorney Stecich:** If the showings are made. So it could affect the showing, in that it could change the gap.

**Boardmember Dandridge:** I believe the applicant's already said that it would not. That's his position.

**Mr. Warden:** The gaps are so far apart, and the topography so varied and the trees in this community so nice, that the signal would not propagate from one area to another.

**Chairperson Speranza:** And that is one of the things that we have our consultant on board to evaluate – the coverage.

**Mr. Fleischman:** OK, thank you.

**Chairperson Speranza:** Yes? One more call for last comments for tonight.

**Ms. Hertz:** So how do we find out ... T-Mobile says they need more coverage. I say we get coverage everywhere in Hastings. How do we find out ... how do they prove to us that they need coverage?

**Chairperson Speranza:** We have a consultant who is reviewing all of the information that they have provided with respect to the coverage needs, knowing the topography of this village and knowing building heights, et cetera. That is an evaluation. As a matter of fact, one of the things that they have requested is additional information to rule out different sites.

**Ms. Hertz:** So can we see that information?

**Chairperson Speranza:** When it's complete. The application – their application – does show the coverage maps and where they show coverage gaps. And that's what's going to be made available. It is made available.

**Ms. Hertz:** Oh, good, good. Because we could go to that place and see if we don't get coverage, if we could see it on a map. We could just go and check.

**Chairperson Speranza:** Sure.

**Ms. Hertz:** OK, thank you.

**Chairperson Speranza:** We finished, right? We finished the resolution to declare ourselves lead agency. Yes, sir, anything else?

**Mr. Warden:** Just some quick comments. There have been a number of things said. I don't think time is going to necessarily permit a response to each and every comment that was made. I think many of them don't necessarily require a response, or have responses that are already in the record.

But as far as this notice issue, we got a notice list from the Village. And we sent out a notice to all the people that we were told to send notice to when we're told to send it. So again, I'm uncomfortable with these suggestions that something is being done underhanded or something like that. I don't think there's room for that in this kind of a process. That's all I have to say on that.

**Chairperson Speranza:** Well, we'll look into it. I mean, we certainly know ... and we know Ms. Merchant, and we will make sure that her name is on the list of the people who are to be noticed. And if it's not, then we know that there's some sort of error because we know she's lived there a long time.

**Mr. Warden:** I understand that. Likewise, with regard to this issue of 3G versus 4G, the point is that T-Mobile ... the service we're providing we're federally licensed to provide. We are entitled to provide it. And to the extent that we have a gap in our coverage, we are federally entitled pursuant to our FCC license to fill that gap in coverage. 3G, 4G – the point is that our service is federally licensed and extensively regulated by the FCC.

And so that's really all I have to say this evening, if that's going to be the close of ... is there any more that's ... OK.

**Chairperson Speranza:** No. Jamie, sure.

**Boardmember Cameron:** Yes, I have a couple comments. One is, I think a very interesting comment was made about the tube, and then some comment about radiation levels



coming out of the tube. And I think we've got to be careful. Before, when we granted people the privilege of putting up antennas, the antennas have all been visible. So when another one comes up we know it's going up. And we can't have a situation in which we give somebody a tube – and I'll come to that in a minute – and they can just stuff anything they want in it even if they bring down the lower level of power as they go around doing it.

So I think we need to be careful in our resolutions to make sure whatever antenna we're giving them permission for that they've got to come back before they take out some stuff and put other stuff in, even if it doesn't have a higher level of radiation, which we're not supposed to talk about.

The next thing I'd like to say is that, quite frankly, we're trying to be a more green town. And I have a great problem with having a flag permanently up there with spotlights on it all night long. And I think if we can, we should make them take the flag up and down every night. I know that costs more money to them, but the idea of a huge 8 by 11, or -15 whatever flag clanking around there at night it just seems to me a little silly in this day and age. And I have problems with using a flagpole as ugly as that to display the American flag, quite frankly. But there we are.

The last thing I guess is, I think what we're finding out is we don't have enough sites in this town where we can tell people they need to put their towers. And maybe between the Board of Trustees and ourselves we should be finding other sites to do it rather than putting our population through the application by people to put one whenever they can find a place to put one. Because that's just the wrong way to go about it.

We should find places which basically do not have very many people living near them, and where we can have these towers to provide needed service for the town. I think we've run out of sites, and I think we realize that and we need to gear up. I think it's the Board of Trustees who chooses them maybe, and maybe we plan them. But we need to do that.

And while we're at it, I'm just beginning to think here that just about 500 yards, 1,000 yards – it might be 1,500 yards – north of where you are there's a house on the left-hand side of the road, opposite the graveyard. And I thought that's just a handy-dandy place for a tower because there's nobody living near it. I admit there are people across the Saw Mill River Parkway, and I apologize to them for raising this issue, but I think we need, again, to really look at it seriously as a planning board.

Those are my comments.

**Chairperson Speranza:** No, Jamie, you raise a good issue. I mean, I'm just looking at the date of the adoption. It was adopted ... back in February of 1998 is when we adopted the wireless facility. I mean, it's hard to believe the time has gone by that quickly.

**Boardmember Cameron:** Well, I think this is following the rule of the need doubles every year, whatever it is. And the problem's not going to go away.

**Chairperson Speranza:** OK. Any other comments on this?

**Boardmember Dale:** I went and looked at their pictures there of both of the flagpoles that he mentioned, and one there's no pole and no flag on the pole. I was there in the middle of the day, and it's in the middle of a residential development high up on the hill overlooking 287. And, clearly, you could see that pole from everywhere in that area. And it's just a pole.

The other site seemed to have a smaller pole. The one on Dobbs Ferry Road seemed to be lower-down and smaller, and actually it was inside of some sort of office complex and not disturbing at all. But the width was clearly wider than my 15-year-old daughter, who stood in front of it, and is a significant presence. Both of those facilities were done where they had little gardens surrounding it on the base to hide the machinery that accompanies the pole itself. But the flag seemed to be oversized, and did not blow in the breeze. It just hung like a rag from the top of this pole.

**Boardmember Cameron:** It's cheaper if you have a flag that doesn't blow in the wind, since it's the stealth.

**Chairperson Speranza:** OK, anything else? OK, thank you.

**Mr. Warden:** Thank you all very much for your time this evening, and thanks to the community members for coming out.

## V. ANNOUNCEMENTS

**Next Meeting December 16, 2010**

**Chairperson Speranza:** Our next meeting is set for December 16. Planning Board members, anybody else have any other comments, issues to raise?

**Boardmember Sullivan:** I have one question. The folks at 45 Main said that they would be going to the Architectural Review Board. Could you just explain how they interface with the Planning Board and when that starts? I guess it has started.

**Chairperson Speranza:** Typically, when they go to the Architectural Review Board – and I know some of it's changing now. Did the Board of Trustees make the change to the code with respect to the Architectural Review Board?

**Village Attorney Stecich:** Yes, just last Tuesday.

**Chairperson Speranza:** Because typically we will refer applications to them. But now, evidently, it's a different ...

**Village Attorney Stecich:** No, no, no. I don't know, it goes through the Building Department whenever it's required. The difference is, there are some things right now that don't go before the Planning Board. It'll go through the Building Department, up to them in the ARB. If it's required, it goes to the Building Department.

The difference is, there are some applications that require ARB approval that don't require Planning Board approval.

**Chairperson Speranza:** Kathy's question was, they go to ... the 45 Main Street application, and they are going to the Architectural Review Board.

**Building Inspector Sharma:** Yes.

**Chairperson Speranza:** OK, so it's already been referred to them.

**Village Attorney Stecich:** But that stuff goes to the Building Department. Whether it has to go to ARB goes through the Building Department.

**Boardmember Sullivan:** Thank you.

**Chairperson Speranza:** OK, is that it?

## **VI. Adjournment**

On MOTION of Boardmember Dale, SECONDED by Boardmember Dandridge, with a voice vote of all in favor, Chairperson Speranza adjourned the Regular Meeting at 9:57 p.m.

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Filed  
December 17, 2010  
Lori Marrone