

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING
DECEMBER 19, 2013**

A Regular Meeting and Public Hearing was held by the Planning Board on Thursday, December 19, 2013 at 8:15 p.m. in the Municipal Building Meeting Room, 7 Maple Avenue, Hastings-on-Hudson, New York, 10706.

PRESENT: Chairman James Cameron, Boardmember Michael Ambrozek, Boardmember Kerry Gould-Schmit, Boardmember Rhoda Barr, Village Attorney Marianne Stecich, Deputy Building Inspector Charles Minozzi, Jr., and Planning Board Secretary Mary Ellen Ballantine

I. Roll Call

II. Approval of Minutes:

Meeting of November 21, 2013

Chairman Cameron: As for the approval of the minutes, since we only have three out of seven of the Boardmembers here we can't approve the minutes. We need a majority. So we're going to defer that to our next meeting, which will allow us to go right to the principal item on our agenda.

III. OLD PUBLIC HEARING

Deferred Until January Meeting:

View Preservation and Site Plan Approval – Application of CCI Properties Inc. for View Preservation and Site Plan approval for the construction/addition of a new 13-dwelling-unit building in place of an existing two-family dwelling at 32-34 Washington Avenue. Said property is in the MR-1.5 Zoning District and is known as SBL 4.70-53-11 on the Village Tax Maps.

IV. NEW PUBLIC HEARING

Site Plan & Special Use Permit Approval – Application of Sprint/Nextel Corp. for the alterations to an existing antenna system on the rooftop of the Andrus On Hudson building(s) located at 185 Old Broadway. Said

property is in the R-20 Zoning District and is known as SBL 4.110-105-1 on the Village Tax Maps.

Chairman Cameron: Come on up and state your name. You need a majority of the entire Board.

Adam Moss, Snyder & Snyder, LLP: Marianne, I'm not entirely sure that's the case. It might be a majority of the quorum. Are you sure about that?

Village Attorney Stecich: Yeah, absolutely.

Mr. Moss: I will try either way.

Village Attorney Stecich: I've been doing it for 30 years, and I would lay my life on it.

Mr. Moss: Yeah. I thought there was a change after the ... you know the tall trees case? I thought there was a change in the legislation after that.

Village Attorney Stecich: The tree case is one that I was involved in. No, it was not changed.

Mr. Moss: OK. Just to quickly introduce myself, my name is Adam Moss. I'm an attorney at the law firm of Snyder & Snyder, 94 White Plains Road. I'm here tonight on behalf of Sprint in connection with its application to modify its existing facility that's located at 185 Old Broadway, Andrus on Hudson.

What Sprint is proposing, they have an existing approved site. It is a site that was approved a number of years ago. Sprint currently has 10 antennas, on the rooftop, mounted on the building. What Sprint is proposing to do, to upgrade its facility and provide better and more reliable data coverage, is an antenna upgrade. The upgrade actually will lead to a reduction in the number of antennas: rather than 10 antennas that are mounted on the roof currently, there will now be two. There are also some related upgrades being made in the equipment area within the existing building and the existing equipment area; just a swap-out of like-kind cabinets.

We applied for a building permit, and we worked with Mr. Sharma and the Building Department to determine if an exemption could be granted for this application that had to do with a code requirement: if you weren't increasing the size of the antennas or the emissions, there was a technical code requirement that said a building permit could be granted only during that process. We went back and forth with Mr. Sharma, as well as the Village's

independent consultant, RCC. What RCC asked for was that we submit a radio frequency emissions report which discussed that the emissions from the two proposed antennas wouldn't increase, above the FCC emissions, what was already existing from the antennas.

We went back and forth with RCC a couple of times. We submitted a very detailed report, which I included for the Board. The emissions are virtually the same as they were for the old installation. It's a fraction of what's permissible by the FCC. The Village's consultant signed off on the application, and found that everything was up to par in terms of the FCC requirements. We also submitted a structural report, just certifying that the existing building would be able to maintain the installation of the two new antennas.

Obviously, we're here because we applied for a special permit, as the Village determined that the exemption could not be granted. We noticed the public hearing. And we respectfully submit, if the Board has no questions and if no one from the public has any questions, that the public hearing be closed at the end of the meeting. And we would respectfully request that the application be approved.

Thank you.

Chairman Cameron: So I guess you and the Building Department and our electronic expert did decide that the aggregate emissions were going up, even though only slightly.

Mr. Moss: Yeah. I think the difference at ground level was 1.215 percent of the FCC requirements to 1.5 percent of what's permissible; and on the rooftop, I think it went up to 4 percent of what's permissible. That's the aggregate of all of the antennas that are up there. I believe there were 24. And again, we're reducing by eight the amount of antennas that are up there because Sprint's removing 10 antennas and adding two.

Chairman Cameron: Oh. But you still have the other 14 there, plus two new ones?

Mr. Moss: Those other antennas are the other carriers. Those were incorporated into the study. Actually what we did was, the first batch of comments that we got from RCC, the Village's consultant, there were some questions that we needed to still answer. We sent our consultants back out to the rooftop, they took measurements, and they did the projections and they came out virtually the same, as I indicated.

Village Attorney Stecich: And they took into account all of the carriers.

Mr. Moss: Correct.

Village Attorney Stecich: So what they made them do was the worst case, and the worst case would be that all the antennas were running to the max.

Mr. Moss: That's correct. And as Ms. Stecich was alluding to, RCC, your consultant, sent us back some comments just to clarify and make sure everything was up to par in terms of their review. So we addressed that with additional comments, and they were satisfied at the end of the process. I submitted all that documentation to the Board.

Chairman Cameron: OK. So the other question we have was the size of the antennas. Are these new antennas bigger than the smaller ones?

Mr. Moss: I was not able to get a running tally of the size of all 10. It's my understanding, and I would have to go back to get a technical answer from the engineer, that at least one or two if not more of the antennas are the same size – about 72 inches in height. The proposed antennas are 72 inches in height, 12 inches in width, and about 7 inches deep. I believe some of the antennas are that big; some of them might be a little shorter, perhaps as short as 54 inches.

But again, in terms of meeting the code's requirement with respect to size, that's why we weren't able to gain the exemption. But with respect to the applications, obviously it's a substantial decrease in what's out there, going from 10 to two. They're certainly not substantially larger than the antennas that are up there.

Village Attorney Stecich: Jamie, I want to say a couple of things on this.

Mr. Moss: Sure.

Village Attorney Stecich: There was a lot of correspondence back and forth on this. Because not only the consultant had asked, but I had asked much earlier, to see ... I know you're going from 10 to two, but it could be 10 small ones and there's two ...

Mr. Moss: Right.

Village Attorney Stecich: Adam, hear me out.

Mr. Moss: Sure.

Village Attorney Stecich: There could be two really big ones. There is a bit of a concern because I believe this is in the view preservation district, isn't it? Isn't Andrus in view preservation?

Deputy Building Inspector Minozzi: No.

Village Attorney Stecich: It's not? You're sure? OK, well, that's good. But in any event, it could affect the view. So I had, months ago, asked for some comparison – whether it's a narrative or photos or a diagram – of what's there now and what's proposed. I never got it. RCC said the same thing and, in their response letter said they could not make any determination about the visual impacts of it.

Now, the thing is there's very little that this board can look at. You can't consider ... if the emissions are within the limits, you can't look at it. The one thing that local boards can do is look at what the visual impacts are, and there's nothing in the submissions. This was something that was requested, Adam, several times along the way. But maybe there is something in here that you could point to people and make that showing.

Mr. Moss: I think I can address that. I'm happy to supply that information. There's no evasion in terms of not supplying ... the antennas are sizeable, as well. They're not 12 inches. I would say, at the smallest, I would guess ... I mean, I've been out there to look at the site. We have some photos that we included in the emissions report. I just have to get ...

Village Attorney Stecich: OK, why don't you walk the Board through that. Maybe you can make the showing tonight.

Mr. Moss: Right.

Village Attorney Stecich: But I couldn't tell.

Mr. Moss: And just in terms of procedure, I did try to get some of that information. When we discussed this during the process, it was my understanding that the reasoning to supply that information was to see if we met that exemption. Because the exemption said if our antennas now are larger, then we can't get the exemption. So my take was that was why it was requested, and maybe I was little unclear that it was information that you wanted anyway in terms of an aesthetic impact. I'm happy to get that for you.

Village Attorney Stecich: Yeah, but we have to assume that since you kind of conceded you need to come before the Board ...

Mr. Moss: Well, the emissions were being increased even by a fraction of a percentage. And that's also – in terms of process, it was going back and forth – I felt like we were going

to end up here anyway. So I was happy to come in and share all the information with the Board.

Like I said, I don't want to speak out of school and say the size of every antenna Sprint has up there. Sprint has told me that at least some of the antennas are the same size. Some of them might be a little smaller, as much as the difference between 72 inches and 54 inches. I'm not familiar with the smaller antennas. They might be up there so I don't want to mislead the Board and say I know definitively. I've been to the site, I've eyeballed it. I could get that information from Sprint. I'm happy to.

In terms of an aesthetic impact, obviously we're talking about the difference between 10 and two, similar size. There's several other antennas of other carriers up there. I think we would be hard-pressed to talk about an aesthetic difference from that. And also, as I've mentioned in the papers I've submitted the Federal Tax Relief Act, which was passed by Congress and signed into law last year. It does state that a municipality is required to approve an application for an upgrade such as this where it's not a substantial increase in the size of the facility. I think this is exactly what they had in mind – a reduction from 10 to two.

So I do think that we're all headed in the same direction. I do understand the Board's concerns about the size. I'd be happy to get you an answer on that if it's necessary. I do think, based on the pictures we've submitted as part of the emissions report and the plans, we're also not increasing the height of the antennas. They're mounted so they're not any higher up on the penthouse, as well.

Chairman Cameron: So you've got 10 antennas to choose from, and you're putting two new ones in. Do you think there's two up there that are just as large as the two you're putting up?

Mr. Moss: That was what I was saying earlier, yes. I do have a correspondence from Sprint, where they sent me specifications for antennas they told me were up there and said that was the size, 72 inches, as well. They couldn't tell me, off-hand, if all of them were that size. I don't know that they all are. I wouldn't tell you otherwise.

Village Attorney Stecich: Is that in the record before this?

Mr. Moss: No, that's not in the record.

Boardmember Barr: There's a picture here that says "unknown antennas."

Mr. Moss: Those are other carriers.

Village Attorney Stecich: I don't see how these pictures ...

Mr. Moss: We're showing the Sprint sectors, and in photo six you can just get an idea of the different sizes.

Boardmember Ambrozek: But these are just the existing antennas.

Chairman Cameron: Right.

Boardmember Ambrozek: How can we be certain that the new antennas will not be higher up?

Mr. Moss: It's on the plans. It states that they're required to be no higher up than what's existing.

Boardmember Ambrozek: OK. The only thing I can see in the plan is diagram 8A-02, which is the northeast elevation. They say *"top of existing and proposed antennas, not to exceed 100 feet 10 inches above ground level."*

Mr. Moss: Right. That's so the top-level height of the antenna won't be elevated above what's existing currently. It's in the plans. If it's a condition of approval, we're certainly happy to oblige.

Boardmember Ambrozek: And yet in the letter dated August 22 from, I believe, Lulay & Illescas Associates, Inc., they mention that *"no structural reinforcement will be required other than minor changes to the size and length of the mast to support the new antenna."* Now, is this because the mast is horizontal and not vertical?

Mr. Moss: No, the antennas will still be vertical.

Boardmember Ambrozek: The antennas will be vertical. But the mast on which they are mounted, are they horizontal or vertical?

Mr. Moss: I believe they're horizontal masts. There are currently horizontal masts, and I believe the proposed masts are also horizontal.

Chairman Cameron: So if you would look at picture eight ...

Mr. Moss: Sure.

Chairman Cameron: ... it says ...

[cross-talk]

Mr. Moss: Yeah, those are ...

Chairman Cameron: Are those your big antennas, or your little antenna?

Mr. Moss: Like I said, I can't say just by looking at them. Obviously they're similar. It's a matter of inches, if they're different – you know, maybe a foot or so – but they're certainly similar.

Chairman Cameron: So then you have sector A just a [broadcast] XXX [unintelligible]. Picture six is Sprint sector B antenna.

Mr. Moss: Right, some of them are shorter and some of them are the longer, thinner ones.

Boardmember Ambrozek: And picture four shows Sprint sector A antennas.

Chairman Cameron: Actually, four. So it does.

Mr. Moss: Right. And those might be a little shorter, as well.

As I've stated earlier, the reduction in the number ... they're all similar in size. If the Board does believe that there's a reason beyond what I've mentioned about the federal law that requires the upgrade to be approved if it's not a substantial increase, if the Board is looking for an accounting of what Sprint's current antennas are that's information that I can certainly get. Like I said, I'm speculating a little bit, as well, if I tell you this one's 54 inches and this one's 72 inches. I've tried to provide the information that I have at this time.

Chairman Cameron: We're just trying to [off-mic] law so it will work. It should work, and we need information in order to do that. We're not actually expressing big opposition to what you're doing.

Mr. Moss: I do understand that. I appreciate that.

Boardmember Ambrozek: Well, item 3A-04 gives the dimensions of the remote radio heads, but I don't see something for the antennas. And the remote radio heads are not mounted on the mast, they're mounted ...

[cross-talk]

Mr. Moss: They're not mounted ... they're mounted a little lower. They're on separate masts a little bit lower down on the penthouse, the bulkhead. Those aren't antennas; they just are equipment that converts the signal, basically. And it's that equipment that allows the reduction in the number of antennas, as well. It's basically like having equipment that's in the equipment area, but closer to the antenna to help to convert the signal. They're able to reduce the number of antennas that are required. There are two of those mounted at each sector, for a total of four. Those are small little boxes, about a foot by a foot or so in size.

Boardmember Ambrozek: But, unfortunately, I cannot find in any of these diagrams the dimensions of the actual antennas that are going to be ...

Mr. Moss: Oh, I'm sorry. Those are on A-03: 72 inches by 12 inches, and about 7 inches deep:: 1A-03.

Boardmember Ambrozek: Oh, 1A-03.

Chairman Cameron: So the diagram here is not numbered, but I'm sure you know which one it is. It's got the 10 little orange dots, referred to as [background noise]. I assume this is the side of the building we're looking vertically down at. Three, six, seven, eight, nine, ten – there's 10. It's about the fifth page from the end. Where are the new antennas going? Are they going in sector A, sector B or sector C, or where are they going?

Mr. Moss: Right. A is where it's proposed. So that'll be in its north part of that bulkhead, A, the alpha sector and the gamma sector. The three that are in the beta sector won't be replaced.

Chairman Cameron: So you're going to put them in sector A and sector B, but not ...

Mr. Moss: The northernmost and southernmost part of the bulkhead.

Chairman Cameron: A and C?

Mr. Moss: A and gamma, correct – A and C.

Chairman Cameron: So we don't care about the [river] XXX. Just kidding. They're also going on the side of the building like the ones we see in these pictures?

Mr. Moss: Right.

Boardmember Barr: Number two, it says "*the other antenna, not operational, [coach cable] disconnected.*" Is that going to be removed?

Mr. Moss: That's not owned by Sprint. We actually tried to do some research because the consultant requested that we try to identify who owned that antenna. We checked databases. Sprint doesn't own that antenna. I believe RCC, in their study, requested that the landlord be contacted about identifying it or making sure it doesn't operate again in the future. I believe the RCC report states that it's not operating. They took measurements in front of it.

Chairman Cameron: But all 10 of your existing antennas are being removed.

Mr. Moss: That is correct. As I said earlier, it's obviously a sizeable reduction.

Chairman Cameron: So what we're still trying to get down to is how tall those two antennas are compared to the ...

[cross-talk]

Mr. Moss: Right.

Village Attorney Stecich: If you look at A-02 – are you on A-02, [off-mic] of the picture of the building? – it does say that the top of the existing and proposed antennas, not to exceed this thing.

Boardmember Ambrozek: One-hundred-ten feet 10 inches above ground level.

Village Attorney Stecich: Right. It wasn't so clear to me before that if the antenna were mounted at the same place, but it's 18 inches taller – it could be higher – but, according to this, it wouldn't be any higher.

Mr. Moss: And that was by design so it wouldn't be any additional impact. As I've said, I don't have that exact information. If they do turn out to be a little longer than some of the ones that are up there, at the very least they'll be mounted lower down the penthouse so that the top-level height doesn't change.

Boardmember Ambrozek: Just as interest for the community, can you tell us the maximum number of calls Sprint can carry presently using the antennas they have installed versus the maximum for the two antennas that they will replace?

Mr. Moss: I don't have that information at this time. The only way I could speak to that is, obviously, the need for the facility was established when the site was initially approved. If there's certain information the Village is looking for, I could certainly go back and ask Sprint. I don't have that information.

Boardmember Ambrozek: Well, I'm looking at this for the community to know.

Mr. Moss: Yeah, it's going to mean faster coverage, faster data, more capacity in coverage for calls. It'll certainly be better coverage.

Boardmember Ambrozek: Well, I understand the ability to do faster data because it's a faster technology. But that doesn't necessarily mean that the number of calls that can be handled simultaneously will increase.

Mr. Moss: Right. As I said, I don't have that specific information with statistics that I can present to you. For this type of application, as I said earlier, the need has already been established; the need in this area has been established. I raised the Tax Relief Act because the reason it was passed by Congress was just to make sure when carriers identify that upgrades are required they want to make sure that they're able to be approved.

So the carriers determined that it will be better coverage both for voice and data. And based on the fact that it's a modification that's not a substantial increase in the size of the facility, it's required to be approved. I don't have that particular information at the moment.

Chairman Cameron: We're all in favor of less antennas. In fact, everyone who's come here we've always asked can you take down your old antennas and put less up.

Mr. Moss: Right.

Chairman Cameron: So we're in favor of that.

If you go over to 1A-03 – and it's hard to read – it seems that the antenna which is pictured in the top left-hand corner is 6 feet long – or 72 inches – and 12 inches wide.

Mr. Moss: Right.

Chairman Cameron: So that's what's going up there.

Mr. Moss: Right.

Chairman Cameron: So all we're trying to figure out is how tall the ones are that are there.

Mr. Moss: Right, I do understand that. At the moment, I don't have anything to submit on that. Sprint has represented to me that at least some of the antennas are the same length. I don't want to put into the record that I have that information in writing. I don't have it at the moment. I'm happy to get it for the Board if you deem that it's required to make a determination on the application. We've submitted that we don't believe it is required, since it's very clearly not a substantial increase; we're reducing by eight antennas. The shorter antennas are close to that size, I can certainly represent to you.

As I've stated, just from my experience in the industry typically about 54 inches would be your shortest antennas. Sometimes they're as long as 72. They're certainly not 12 inches, 24 inches; that I could definitely assure you. They're similar. And if you've been out there you could see all the antennas up there. That's the best I can represent to the Board without going back to Sprint and asking them to take a full inventory of exactly what antennas are up there.

Chairman Cameron: But you can represent they're not more than 72 inches long.

Mr. Moss: What's existing?

Chairman Cameron: No, no. What you're putting up there.

Mr. Moss: Yes, those two antennas will be 72 inches long.

Boardmember Gould-Schmit: And it won't go above the ...

[cross-talk]

Mr. Moss: And that's in the plans. That could also certainly be a condition of approval that they won't go above the height of what's existing.

Village Attorney Stecich: What's the last date on that one, Jamie? – 6-8, OK.

Chairman Cameron: Well, 05-01.

Village Attorney Stecich: No, last date.

Chairman Cameron: Oh, 6-8, right. Fifty-one by 10 by 4.

Boardmember Ambrozek: Yeah, 10 inches.

Village Attorney Stecich: These are the ones last approved. You're right, it's inches. But it's 21 inches.

Boardmember Ambrozek: It's 51 inches.

Chairman Cameron: Difference.

Village Attorney Stecich: No. Twenty-one inches, and now it's 72.

Boardmember Ambrozek: No, the tops.

Village Attorney Stecich: I understand. The tops are the same, but they are different size.

Chairman Cameron: So 65.

Boardmember Gould-Schmit: Looking from up there they all look the same.

Chairman Cameron: They're drawn the same size.

Village Attorney Stecich: I think that must be it.

[papers rustling in mic louder than voices]

Chairman Cameron: The new ones are 12. [papers rustling in mic].

Village Attorney Stecich: We have to see whether they were changed.

Chairman Cameron: Even though they have another size antenna.

Village Attorney Stecich: They're all the same. The last date's 6-6. You could save a lot of room in the files if they got multiple copies of these things. I'm just making sure there wasn't something later. I don't think there was. You don't have the date of the last approval, do you?

Mr. Moss: Other than the initial approval?

Village Attorney Stecich: The initial approval, I think.

Mr. Moss: Yeah, the initial approval I think was 2000.

Village Attorney Stecich: No, the month and year.

Mr. Moss: Let me see.

Village Attorney Stecich: Do you have it? That'll help. I think this is probably the latest. There's a bunch of stuff in here, but the last date is 6-8-2000. We're just double-checking that something didn't come in later than that.

Mr. Moss: Yeah, I have the approval. I believe it was in May of that year. I don't know what the last date of the plans are.

Village Attorney Stecich: This stuff all came in at the end of June, but OK. This is a complete file, Buddy? That's the latest submission.

Boardmember Gould-Schmit: And in removal you'll take everything – mounting plates, extraneous equipment?

Mr. Moss: Right. They might be showing the masts, still, if it's a condition of approval. I understand, if there's a condition of approval that the masts be removed, they might still be shown on there. Sometimes they like to leave them in case they're approved for more. They might need additional antennas in the future.

Boardmember Barr: For their own sake they don't want it. Because it'll only cause trouble.

Village Attorney Stecich: The mast height size is smaller.

Boardmember Barr: What are they proposing now, and can we live with it?

Chairman Cameron: Right. It does say that [off-mic] the masts of all the antennas.

So the next question – just to skip on, and then we'll come back – is, I don't know, Buddy, if you know this, or you know this. Do you have bond? You need to have a bond posted for the removal of the antennas sometime in the future.

Mr. Moss: I don't know if the bond is in place. Certainly, if that's a condition of approval we would cooperate with that requirement. Or to certify that the bond is in place or it be put into place if it's not.

Chairman Cameron: The other requirement we have – and I don't know whether your existing ones correspond to that, the pictures imply that they don't but maybe they do now – is that you actually have to ... this is 295-85G(1)(b). It says, "*If an antenna is installed on a structure other than a tower or monopole*" – they don't mean the tower of the building, they mean a tower – "*the antenna, supporting equipment and mechanical must be of a neutral color that is identical to or compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.*"

Boardmember Barr: Well, then say that in the proposal.

Chairman Cameron: If you look at the pictures, you'll find they are.

Mr. Moss: They appear to be white.

Chairman Cameron: The old ones were never painted, in other words. I bring it up because we've run into the problem that we put a condition in and then it just never happens. The pictures are the proof of that.

Mr. Moss: Right. I think if that's a condition of approval we're happy to cooperate with that. If the plans are updated to reflect that, they'll be painted to match the building. Obviously, in order to get our C of O we would need to demonstrate compliance with the plans.

Chairman Cameron: Actually, I've been asked to talk about SEQRA for a minute.

Village Attorney Stecich: Under SEQRA, if it's just a modification – essentially maintenance, which this is – it's just switching one for the other that doesn't result in a substantial change in the facility – it's a type two action, which means it doesn't need any further SEQRA review. Now I think we've established that it's no substantial change so it would be type two and you don't have to do anything under SEQRA.

Chairman Cameron: One way of getting to where we want to, if we wish to get to in approval situation, is that the language we have in the code says, "*The alteration of existing personal wireless service facility results in an increase in the size, height or electromagnetic emission of the personal wireless service facility [unintelligible].*"

Mr. Moss: I'm sorry, Mr. Chairman – if you don't mind my just clarifying – I believe that code section talks about an exemption from zoning if it meets that criteria.

Chairman Cameron: Right.

Mr. Moss: I don't think it needs to meet that criteria for approval of the special permit. I just wanted to make sure. It's a little unclear, and I just wanted to clarify that.

Chairman Cameron: I actually think we can approve this.

Village Attorney Stecich: That's what I would do. Because there is a slight increase in the emissions, we should just do a new approval and then site plan approval and new special permit approval, subject to whatever conditions. You've stated a few, and there's a couple others you might want to add. If the Board's ready.

Chairman Cameron: I think the concept I'm trying to make my way through is the fact that even though these antennas would be larger than the existing ones by 21 inches they're not going to be mounted any higher than the existing ones. And that there's only two of them, whereas we're getting rid of 10. So I'm not saying we're going to adopt a square foot rule, but it just seems to me we're trying to move things forward.

What we have is, one of our conditions is going to have to be the bond. Which we usually kick over to the Building Department to get one, which will correspond to the potential cost of taking down the antennas in the future. The second one is that they're going to take down all the existing 10 antennas and not leave them there.

Village Attorney Stecich: And mounts.

Chairman Cameron: And the mounts. And the third thing is, they're going to paint the antennas so they blend in with the side of the building, unlike the existing ones up there. And actually you and I discussed one other thing, too.

Village Attorney Stecich: There were two things mentioned by RCC, the Village's consultant, on this. One is that the Building Department monitor that the EVI Yagi antenna is not operational and that Sprint limit the transmitter output to 20 watts, and if you make a change you have to come back to the Board. Apparently it has capability for more than that, but they said they're only going to go to 20 watts.

Chairman Cameron: Right. And then the last thing is the ...

Village Attorney Stecich: And then I would also say – because there's been some back and forth about payment of the consultant's fees – that before a building permit is issued that all consultant's fees be paid; all professional consultants, including RCC, and attorney's fees be paid.

Chairman Cameron: And we actually don't know whether that's more, or less, than what you posted already.

Mr. Moss: Right.

Chairman Cameron: We have no way of knowing.

Mr. Moss: I think we posted a \$5,000 escrow deposit. If it exceeded that, we're happy to make up the difference, whatever that might be.

I have to just take another look at what the RCC report said. I don't know that a condition limiting Sprint's emissions would necessarily be appropriate. Sprint's required to comply with the FCC requirements. In terms of how they choose to operate their facility, I don't know that the Village can really require that they operate at a certain output when they're not going to be exceeding the FCC requirements. Because I think that's preempted by the federal law. I don't know that a condition ...

Village Attorney Stecich: Unless the Village has the opportunity to review it, you don't know that it's exceeding the FCC limits. It's probably pretty unlikely, but you're at a fairly small percentage. But I'm seeing – not so much here, but in other places – where when there's a whole lot of antennas, they're getting pretty close to the limit.

Chairman Cameron: Well, this is a representation you've made to our expert. I think it's in the expert's letter.

Village Attorney Stecich: Yes.

Mr. Moss: 320.

Village Attorney Stecich: Do you know which thing I'm referring to? It's in the second page of the October 1 letter for the FCC.

Chairman Cameron: Yeah, we can't send somebody up on the roof four times to check to see if the Yagi antenna is operational or not.

Mr. Moss: Yeah. Well, that, I believe ... the report ... they took a measurement to determine that it wasn't operational.

Chairman Cameron: On the bottom of your letter – not your letter, but EVI's consulting letter – of August 29, 2013, in appendix D it says, *"The Yagi antenna was not included within the [unintelligible] be determined during the site visit is not operational. The [unintelligible] report shows the coax cable to the antenna has been cut."*

Mr. Moss: Not operational.

Chairman Cameron: We're not asking you to take it down.

Mr. Moss: Well, it's not our antenna. But the coax is cut, it's not operating.

Boardmember Ambrozek: In your studies, what were the other cell companies that are operating antennas there?

Mr. Moss: Oh, the other carriers, sure. You know, I don't know that they provided that information or were asked to provide that information. They took measurements, rather than relying on the antenna models that the other carriers used. So they went out on to the roof and they just took measurements. Sometimes they do a projection. They ascertain who the other carriers are, and then they do a projected analysis based on what typically is emitted by those carriers' antennas. In this case, they went out onto the roof and did a study so I don't know that they identified that. It's also, for the sake of clarity, not shown on the plans. I can certainly let the Board know what other carriers are up there.

Chairman Cameron: I think Verizon's there.

Mr. Moss: Yeah, I would guess so.

Chairman Cameron: [off-mic]. So are we ready?

Boardmember Ambrozek: Well, I actually have another question. Appendix C, referred to in the radio frequency electromagnetic energy compliance report, is supposed to have the ERP calculations. And yet when I look at appendix C ... so that was on section 5.0. It says that appendix C provides the ERP calculations for the Sprint antennas.

Mr. Moss: Right.

Boardmember Ambrozek: But this appendix C is just a monitoring plan, modeling results. Is there a different appendix C that has the ERP calculations?

Mr. Moss: In the report, it's number, it looks like, has the ERP.

Boardmember Ambrozek: Section five.

Mr. Moss: Section five of the emissions report.

Boardmember Ambrozek: Yes, that's what I'm referring to. And it states, in the third sentence ...

Mr. Moss: Oh, the Sprint calculations.

Boardmember Ambrozek: *"The ERP calculations for the Sprint antennas are provided in appendix C."* And yet in this document, appendix C is something different. It's called a "monitoring plan and modeling results." So I'm trying to find out if there's a different appendix C that is being referred to.

Chairman Cameron: Since the antennas are not there yet, I think they may have to be determined by modeling.

Boardmember Ambrozek: Looking at the EDI consulting ...

[cross-talk]

Mr. Moss: I don't believe they commented on that.

Boardmember Ambrozek: ... they say that ERP calculations are provided in section six.

Mr. Moss: Right.

Chairman Cameron: Section six?

Village Attorney Stecich: Well, several pages. Isn't it on the second page of appendix five, those numbers indicate ... see, on the second page of five it has those numbers, I believe, are the emissions numbers. Because it also says the percentage ...

[cross-talk]

Mr. Moss: Those are the emissions percentages in front of antennas.

Boardmember Ambrozek: OK, so that is in section C, appendix C.

Mr. Moss: Right.

Boardmember Ambrozek: Thank you, Marianne.

Mr. Moss: Yeah, thank you.

Chairman Cameron: OK, are we ready to move forward? We could just pull out the motion that Rhoda passed in 2000 and see if that works.

[laughter]

Village Attorney Stecich: You remember it, Rhoda.

Boardmember Barr: Yes, I do. I don't remember the wording, but I remember the review.

Chairman Cameron: So we're looking for a motion by one of you for a vote in favor of the site plan presented for the new antennas.

Village Attorney Stecich: And the special permit.

Chairman Cameron: And the special permit. As set forth in the documents, we were provided with our meeting a number of conditions. And the conditions are that they post a bond, under section 295-85(p), in an amount determined by the Building Department; that they paint the antennas in accordance with section 295-85(g)(1)(b); and they remove the existing 10 antennas.

Village Attorney Stecich: And mounts.

Chairman Cameron: And mounts, thank you; that they pay the consultant fees that have been incurred. I'm not sure whether this Yagi antenna, which is not their antenna ... and you could do us a favor and take it down, but don't tell anybody.

Mr. Moss: We can't do that.

[laughter]

Chairman Cameron: I had one more here, can't remember what it was.

Village Attorney Stecich: Oh, it was that they be limited to the 20 watts.

Deputy Building Inspector Minozzi: The limit of the output.

Chairman Cameron: Limited to 20 watts, yes, as set forth in their presentation to us and our consultant's letter. And if somebody would like to propose such a motion ...

Boardmember Gould-Schmit: I guess I will propose this motion. This is my first motion I'm proposing. Sorry if it has to be that level of detail.

Village Attorney Stecich: You can just say "so moved."

Boardmember Gould-Schmit: So moved.

On MOTION of Boardmember Gould-Schmit, SECONDED by Boardmember Ambrozek with a voice vote of all in favor, the Planning Board resolved to grant a special permit and site plan approval for the two panel antennas and related equipment proposed by Sprint/Nextel at 185 Old Broadway, as shown on the drawings entitled, "Sprint Together with Nextel, Site Name: John E. Andrus Memorial Inc., 185 Old Broadway, Hastings on Hudson, NY 10706", last revised 3-11-13, subject to the following conditions: (1) prior to the issuance of a building permit, a bond in the amount determined by the Building Department to be adequate to remove the antennas must be in place; (2) prior to the issuance of a building permit, all consulting fees must be paid; (3) prior to issuance of a certificate of completion, the antennas and supporting equipment must be painted to make them as visually unobtrusive as possible, in accordance with Village Code Section 295-85G(1)(b); (4) prior to the issuance of a certificate of completion, the ten existing panel antennas being replaced by the two new antennas, along with mounts and related equipment, must be removed; and (5) if the transmitter output power is to be increased above 20 watts, the Building Department must be notified prior to the change, and a revised RF emissions report must be submitted.

Chairman Cameron: You got four votes.

Mr. Moss: Thank you for your time. I appreciate it.

V. DISCUSSION ITEMS

1. View Preservation Waiver Approval Procedure

Chairman Cameron: We have two more agenda items. One of them I think we accomplished last time. One is that we are reviewing a procedure that we put together for the accelerated approval of view preservation where a waiver is appropriate. And, in fact, when we distributed that material last time – as I said, and I'm sure it shows up in the minutes – if no one had any further comments after 10 days I was forwarding it to the ZBA for their review and comments, and the Building Department, which was done. So that's done.

2. Coverage in the Non Single-Family Districts

Chairman Cameron: The second item on our agenda is issues concerning coverage in the various zones. We were to look at them and see whether they were all appropriate, that we have percentages that go all over the place. We thought we might take a view of trying to rationalize them.

The person who drew up all the documents is Kathleen Sullivan, and I thought it was appropriate that we actually wait 'til she comes back before we do that.

3. Ginsburg Development Companies – Site Plan Approval

Chairman Cameron: The last item I have is that we are going to have before us shortly the site plan approval for the Ginsburg development. I don't know whether it's going to come in January.

Deputy Building Inspector Minozzi: Next month, in January. That's what they're looking like right now.

Boardmember Barr: I think that's what they said 10 years ago.

[laughter]

Chairman Cameron: A couple things. I went back through the minutes, and there were a lot of meetings on site plan approval. In fact, two, four, five, six of them. I just think that's too many, with all candor. So I'd like, actually, the people on the Board – and I would ask Mary Ellen to distribute the minutes from those last meetings, with all the discussion that went on in site plan approval – so at least the people who weren't there – I was there, and Eva Allgood was there for that site plan approval, I wasn't there for the prior approval – can get

up to speed on the issues. Hopefully, we're going to suggest to Bruce that he reads those minutes, too, so we don't have things come up in site plan approval, things that we'd already discussed with them in the previous approval and sending it to the Board of Trustees.

Last time, they moved the bridge back over to the Village plan and we had to force them to move it back to where it should be. I think it's a good lesson to all of us that we can speed this process up. Because I certainly don't relish spending six months on site plan approval and, hopefully, we get it done much quicker. So that's just a suggestion that people read that material before the next meeting. Also, the book with all the site plan approval discussion is in the room right back here, the former Village planner ... there is a book there if you really want some academic exercise.

I don't have anything else on the agenda, other than that. Does anyone else have anything?

VI. ANNOUNCEMENTS

Next Meeting Date – January 16, 2013

VIII.

ADJOURNMENT

Chairman Cameron: With much thanks to Rhoda for being here, I will say the meeting is adjourned. Thank you very much.