

ZONING BOARD OF APPEALS
107 Glenclyffe, Garrison, NY 10524

January 8, 2018
7:30 P. M.

Regular Monthly Meeting

Pledge of Allegiance

Approval of Minutes:
December 11, 2017

Public Hearing:

(continuation) Homeland Towers LLC, TM #38-3-24.1 Appeal #906
50 Vineyard Road

(4,300 square foot fenced compound containing a 140 foot monopole, painted brown, and related equipment at base of the structure.)

Essex Green, Inc.

TM # 49.6-2-14

Appeal # 910

Douglas Lane

49.6-1-12 (Village of Nelsonville)

(The applicant seeks to obtain a Code Interpretation of the meaning of the words "taken for a public purpose" as used in the 1957 Code for the purposes of determining if the property is a legal Nonconforming Lot. The applicant also seeks area variances for front and rear yard setbacks and impervious surface coverage due to the failure to comply with the Dimensional Table of Chapter 175 of the Town Code. Moreover, the applicant alternatively seeks a variance for lot area in the event that the Zoning Board determines that the Property is not a legal Nonconforming Lot.)

New Business:

WHUD Tower Replacement
22 Sky Lane

TM#83.18-1-23

Appeal #911

(The applicant seeks Amended special permit approval to replace an existing telecommunications tower to be able to support colocation)

David & Ann Provan
200 Jaycox Rd., Cold Spring

TM#27.19-1-28

Appeal #912

(The applicant is seeking a variance for a sideyard setback for a proposed addition)

PUBLIC HEARING ~ ZONING BOARD OF APPEALS

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Zoning Board of Appeals of the Town of Philipstown:

Monday, January 8, 2018, 7:30 p.m.
Philipstown Recreation Department
107 Glenclyffe Drive, Garrison New York,

to hear the following request for interpretation and appeal:

Essex Green, Inc., Douglas Lane, Cold Spring, New York, Tax Map # 49.6-2-14. The applicant seeks to obtain a Code Interpretation of the meaning of the words "taken for a public purpose" as used in the 1957 Code for the purposes of determining if the property is a legal nonconforming lot. The applicant also seeks area variances for front and rear yard setbacks and impervious surface coverage due to the failure to comply with the Dimensional Table of Chapter 175 of the Town Code. Moreover, the applicant alternatively seeks a variance for lot area, front yard setback, rear yard setback, impervious surface, and frontage requirements in the event that the Zoning Board determines that the Property is not a legal Nonconforming Lot. The property is in the RC Zoning District.

At said hearing all persons will have the right to be heard. Copies of the application, plat map and other related materials may be reviewed in the office of the Building Department at Philipstown Town Hall.

Dated December 22, 2017

Robert Dee,

Chairman of the Town of Philipstown Zoning Board of Appeals

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DAVID L. SNYDER
(1956-2012)

December 28, 2017

Honorable Chairman Robert Dee
and Members of the Zoning Board of Appeals
Town of Philipstown
238 Main Street
Cold Spring, NY 10516

Re: Homeland Towers, LLC and New York SMSA Limited Partnership d/b/a Verizon Wireless, Proposed Public Utility Wireless Communication Facility 50 Vineyard Road, Cold Spring, Town of Philipstown, New York

Dear Hon. Chairman Dee and
Members of the Zoning Board of Appeals:

As you are aware, we represent Homeland Towers, LLC ("Homeland Towers") and New York SMSA Limited Partnership d/b/a Verizon Wireless ("Verizon Wireless"), collectively referred to as the "Applicants," in connection with the above referenced matter.

The Applicants propose a public utility wireless communication facility ("Facility") consisting of a 180-foot monopole with antennas, together with related equipment at the base thereof within a multi-carrier equipment compound. In the alternative, the Applicants propose as a condition of approval a 140-foot monopole that may be painted brown. Pursuant to comments from the public and the Zoning Board, the following responses are respectfully submitted together with the nine (9) copies of enclosed documents and a disc with all documents:

1. Supplemental RF Engineering Reports: Submitted herewith is a Supplemental Report Regarding the Campanelli & Associates Memorandum, Comments at the December 11th Public Hearing, and an Independent Drive Test from PierCon dated December 20, 2017. Please note that report also includes access failure rate and dropped call data further establishing the need for the facility. In addition, submitted herewith is a letter from Richard Conroy of PierCon, dated December 27, 2017, in response to the report of Mr. Menkes, dated December 21, 2017.

We note that various commentators have suggested that the Applicants must demonstrate that there is a significant gap in service. This is incorrect.¹ The Town Code, Section 175.46.D(1), merely requires "Information establishing the present need for the proposed tower. Special permits are to be based on actual need and not on speculation of future needs." The purpose of the Code provision is clearly intended to prohibit towers built on speculation. The Code does not require that an applicant prove that it provides personal wireless services or has a significant gap. Courts have held that a municipality lacks substantial evidence to support its decision where the municipality imposes a burden not required under state or local law, [See *New York SMSA Ltd. P'ship v. Vill. of Floral Park Bd. of Trustees*, 812 F.Supp.2d 143, 154 (E.D.N.Y. 2011); See also *Verizon Wireless (VAW) LLC v. Douglas County, Kan. Bd. of County Comm'rs*, 544 F.Supp.2d 1218, 1245 (D.Kan.2008)], and where the municipality relies on an error of law. See *Crown Castle NG E. Inc. v. Town of Greenburgh, N.Y.*, 552 F. App'x 47, 50 (2d Cir. 2014); See also *Omnipoint Commc'ns, Inc. v. Vill. of Tarrytown Planning Bd.*, 302 F.Supp.2d 205, 219 (S.D.N.Y. 2004). Local governments who abuse their discretion by imposing burdensome, unwritten requirements on wireless providers effectively prohibit service. See *Vill. of Floral Park Bd. of Trustees*, at 155 ("[A] local zoning commission, which acts in an administrative capacity when considering an application for a special permit, does not have discretion to deny the permit if the proposal meets the relevant standards enumerated in the regulations."); See also, *TCG New York, Inc. v. City of White Plains*, 305 F.3d 67, 76 (2d Cir. 2002) (holding that a provision in a city ordinance that gave the local board the discretion to consider "public interest factors . . . that are deemed pertinent by the City" amounts to an effective prohibition on service); *Qwest Commc'ns Corp. v. City of New York*, 387 F.Supp.2d 191, 193 (E.D.N.Y. 2005) (disapproving city's "unfettered discretion" to approve or disapprove a franchise application); *TC Systems, Inc. v. Town of Colonie, New York*, 263 F.Supp.2d 471, 483 (N.D.N.Y. 2003) (striking down an ordinance that gave a town discretion to impose various requirements on applicants).

In any event, the administrative record demonstrates that Verizon Wireless has significant gaps in personal wireless services in the Town.

Likewise, there is no legal basis for the Zoning Board to consider whether the service being provided is voice as opposed to broadband data service, as both forms of service are telecommunications services protected by Sections 332(c) and 253 of the Telecommunications Act.

¹ While I appreciate the statement made by the Rockwald Road Association in its December 11, 2017 Memorandum in Opposition that I am a "distinguished attorney," I must nevertheless correct the Association's misunderstanding of the law. A decision by a municipal Board relative to an application for a personal wireless services facility must be supported by substantial evidence contained in the written record. However, whether a municipality prohibited personal wireless services is not confined to the administrative record and summary judgment is appropriate when "the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). Accordingly, in a case involving a claim of prohibition of service, discovery, including depositions, is available. In the event there is a genuine issue of material fact in dispute, a trial may be conducted.

In 2007, the FCC issued a decision in *In the Matter of Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, 22 F.C.C.R. 5901 (March 22, 2007) (“the 2007 Declaratory Ruling”), “concluding that wireless broadband Internet access service was an ‘information service’ because it ‘offers a single, integrated service to end users, Internet access, that inextricably combines the transmission of data with computer processing, information provision, and computer interactivity, for the purpose of enabling end users to run a variety of applications’ which, ‘taken together constitute an information service as defined by the Act.’” 22 F.C.C.R. at 5911, ¶ 26 (footnotes and internal quotation marks omitted). *Clear Wireless LLC v Bldg. Dept. of Vil. of Lynbrook*, 55 Communications Reg. (P&F) 740 (EDNY 2012).

The FCC went on to hold in the 2007 Declaratory Ruling that, although it classified wireless broadband Internet access service as an information service, the limitations in Section 332(c)(7)(B) remained applicable to siting applications if the service was part of the same infrastructure as a personal wireless service. Specifically, the FCC stated:

... [W]e find that section 332(c)(7)(B) would continue to apply to wireless broadband Internet access service that is classified as an “information service” where a wireless service provider uses the same infrastructure to provide its “personal wireless services” and wireless broadband Internet access service. We find that classifying wireless broadband Internet access services as “information services” will not exclude these services from the section 332(c)(7) framework when a wireless provider’s infrastructure is used to provide such services commingled with “personal wireless service.” Commingling services does not change the fact that the facilities are being used for the provisioning of personal wireless services. Therefore, application of section 332(c)(7) should remain unaffected. This interpretation is consistent with the public interest goals of this provision and ensures that wireless broadband Internet access service providers continue to use existing wireless infrastructure to rapidly deploy their services. This result is also consistent with the Commission’s commitment to its national broadband policy goals “to promote the deployment of advanced telecommunications capability to all Americans in a reasonable and timely manner.”

22 F.C.C.R. at 5923–24, ¶ 65 (footnotes omitted).

The previously submitted supplemental RF engineering report from PierCon, dated November 30, 2017, confirmed that the proposed facility will provide personal wireless

services. Accordingly, the limitations of the federal Telecommunications Act of 1996 apply to this application.

2. Property Values: Submitted herewith is a revised property value report prepared by Paul Alfieri, an MAI appraiser from Lane Appraisals, Inc., dated December 18, 2017 in response to various comments.
3. Visual Resource Assessment: Submitted herewith is a report from Saratoga Associates, dated December 21, 2017, that responds to comments from the public.
4. Potential Ice Fall: In response to the comments regarding potential ice fall, submitted herewith is a letter from JMC dated December 19, 2017. Please note that the facility meets all of the Zoning Code setback requirements and there are no publically accessible locations within close proximity to the facility. Moreover, Exhibit J to the Memorandum in Opposition from Campanelli & Associates, P.C. includes a letter from Dennis Rogers, dated March 28, 2013. This letter was originally submitted to the Town of Kent on behalf of an opposition group represented by Mr. Campanelli. Submitted herewith is the response from Tectonic Engineering, dated April 8, 2013, detailing the false assumptions contained in the Rogers letter. A copy of the Supreme Court Decision in connection with that case is also submitted herewith.

The parties mutually agreed to extend the FCC Shot-Clock to January 8, 2018. We respectfully request approval at that time.

If you have any questions or require additional information with respect to the application, please do not hesitate to call me at (914) 333-0700.

Respectfully submitted,
SNYDER & SNYDER, LLP

By: 

Robert D. Gaudioso, Esq.

Enclosures

RDG/dac

cc: Applicants

Ronald Gainer, PE

Conservation Board (9 Copies)

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Supplemental Report Regarding the Campanelli &
Associates Memorandum, Comments at the
December 11th Public Hearing, and an
Independent Drive Test

Site ID: “Philipstown”

50 Vineyard Road
Philipstown, NY
Putnam County

Prepared for
New York SMSA Limited Partnership d/b/a Verizon Wireless

By

PierCon Solutions, LLC
December 20, 2017

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1 PURPOSE AND SCOPE

PierCon Solutions LLC, an engineering firm specializing in wireless communications, performed an independent analysis regarding the existing McKeel's Corners Site located on Grey Rock Road. This report addresses portions of the Campanelli and Associates Memorandum and reaffirms the undesirability and infeasibility of increasing the height of the existing McKeel's Corners site as a viable alternative to the proposed site at 50 Vineyard Road.

2 CAMPANELLI MEMORANDUM

This section provides a review of applicable sections from the memorandum from Campanelli and Associates. In the Campanelli memorandum, the interactive coverage map found on the Verizon Wireless website (Campanelli Exhibit C) is incorrectly compared to the coverage and drive test maps which PierCon has presented. The intent of this interactive coverage map is to assist a Verizon Wireless consumer in making choices about how to meet wireless service needs¹. The interactive map is not an engineering tool used to determine where gaps in service are located. Coverage maps (created using industry standard engineering tools), like the ones submitted in this application, are intended to demonstrate Verizon Wireless' existing and proposed reliable coverage. Therefore the two maps cannot be directly compared. The bottom right corner of the coverage map contains a disclaimer. If the disclaimer is opened, it reads the following in its entirety:

"Coverage Disclaimer

These Coverage Locator depictions apply to the following calling plans:
National Calling Plans, Mobile Broadband and Prepaid.

International rates for voice and data will apply.

These maps are not a guarantee of coverage and contain areas of no service, and are a general prediction of where rates apply based on our internal data. Wireless service is subject to network and transmission limitations, including cell site unavailability, particularly near boundaries and in remote areas. Customer equipment, weather, topography and other environmental considerations associated with radio technology also affect service and service may vary significantly within buildings. Some information on service outside the Verizon Wireless proprietary network, and we cannot vouch for its accuracy."

Notice that the disclaimer states that the map does not guarantee coverage to a specific area and it also states that it will contain areas of no service. It also states that service may vary significantly in buildings. The coverage map which is shown on the Verizon Wireless website and in Exhibit C of the Campanelli memorandum does not represent reliable in-building coverage. The coverage map on the Verizon Wireless website shows outdoor coverage. The threshold for

¹ Other third party consumer coverage tools such as ROOT Metrics and Sensorly tools are also designed with the purpose of assisting mobile phone customers on what plan by which wireless service provider will best suit them. Because the devices which are used to provide data to these third parties are uncalibrated consumer mobile devices, the data that is provided is unreliable. In order to collect data that is relevant and accurate for RF engineering, the device recording measurements must be calibrated against a precision RF standard. There is no evidence that the mobile devices which are used are calibrated to ensure the accuracy.

outdoor coverage is a lower signal level than for in-vehicle or in-building coverage. This means that the area shown as outdoor coverage, like on the Verizon Wireless website, will be larger than both the in-building suburban and in-vehicle plots shown in the PierCon RF reports. A separate layer could not be located for in-building coverage on the Verizon Wireless website.

The coverage maps submitted in previous PierCon RF reports represent reliable suburban coverage and can be used for RF engineering. Therefore this interactive map (showing outdoor coverage) cannot be compared to the suburban (in-building) gaps presented in the previous PierCon RF reports.

3 THE EXISTING MCKEELS CORNER SITE IS NOT A VIABLE ALTERNATIVE

This section reiterates that the existing site at McKeel's Corners is undesirable and not feasible even when increased in height to a code noncompliant height of 190'. By increasing the existing site to 190', a significant gap remains on Route 9 to the north. The reason for this gap is simple: there is an over 500 foot ridge to the northeast of the McKeels Corners site that drops off significantly down to Route 9. Therefore, additional height at McKeels Corners simply cannot cover this area along Route 9. This is an area which has numerous buildings (mixed residences and businesses) on both sides of the street. In my previous report dated November 30th, approximately 36 buildings were identified on Route 9 which would be covered by the proposed site at 50 Vineyard Road but not by the existing site at an increased height. The area which would be covered by the proposed site at 50 Vineyard Road but not the existing site at an increased height is approximately 3200' long. Please find attached a Google Earth screenshot of the Route 9 Business Corridor in *Exhibit A*. As demonstrated by Exhibit A, buildings consistently populate both sides of the street. According to the NYS Traffic Data Viewer (latest data was December 2015), an average of 15,368 vehicles use this road every day. This is a significant number of individuals which travel through or to this business corridor. Census data for this area significantly underestimates the number of potential users, including emergency response personnel. This significant area would not be located in a coverage gap if the proposed site at 50 Vineyard Road was constructed instead. Also, the reliable coverage would connect to the northern adjacent site and avoid the need for an additional facility to remedy the gap on Route 9 to the north.

By relocating the facility to 50 Vineyard Road, a very small region on Route 301 to the west will remain in the coverage gap which would be covered if the existing site's height was increased to 190'. Even if the existing site is increased to 190', a significantly large coverage gap remains on Route 301, further west, all the way to Route 9D in the Nelsonville and Cold Spring area. It is well documented that Verizon Wireless has a proposed site at 15 Rockledge Road in Nelsonville to cover this significant gap, as well as the very small area along Route 301 that would not be covered by 50 Vineyard Road. Whether or not the 15 Rockledge Road site is approved, a site in Nelsonville will eventually be constructed to remedy the significant gap in service including the small area not covered by 50 Vineyard Road. The coverage gap is simply too significant to be left unaddressed. In my previous report dated November 30th, approximately 5 buildings were identified on Route 301 which would be covered by the existing site at an increased height but not by the proposed site at 50 Vineyard Road. The area which would be covered by the existing site at an increased height but not the proposed site at 50 Vineyard Road is approximately 950' long. Please find attached a Google Earth screenshot of the Route 301 Residential Corridor in *Exhibit B* (referred to earlier as the small region). As demonstrated by Exhibit B, a small number of residences populate this small area. This remaining area would not be considered a significant gap.

In summary, it is more important to provide coverage to the business corridor on Route 9 when compared to the residential area on Route 301. The proposed site at 50 Vineyard Road provides additional coverage to Route 9 and Route 301 up to Jaycox Road. Due to a significant gap in the Village of Nelsonville, an additional proposed site is required to connect the coverage after that point. The existing site with an increased height up to 190' will not provide coverage to Route 9 to the north, leaving the business corridor in the coverage gap. Therefore it is undesirable and

infeasible to raise the existing site at McKeels Corners to 190' when the proposed site at 50 Vineyard Road is clearly the better and more desirable option.

4 INDEPENDENT DRIVE TEST

This section reviews an independent drive test performed on December 15th, 2017 by Senior RF Engineer Adam Feehan. The drive test was performed in order to further confirm the accuracy of submitted propagation maps and to supplement the previously submitted drive test data. The test consisted of collecting thousands of data points in the vicinity of Philipstown and surrounding roadways. A W1314B-E19 multiband receiver was used to collect data points through the use of a magnetic mounted antenna and GPS device on the outside of the vehicle. Viavi drive test software was used to collect the data on a laptop computer while the vehicle was moving. The receiver has a calibration certification from TRS RenTelco and this certificate is attached as *Exhibit C*. Despite Mr. Campanelli's claims, a drive test is not simply performed by attaching a mobile phone to a laptop.

Due to the fact that the drive test was performed after foliage loss has occurred (indicating measured signals will be stronger), a correction factor needed to be taken into account to compensate for the stronger measured signal. Typical correction factors for foliage loss vary based on the type of environment and could be anywhere between 5-20 dB. PierCon determined that a correction factor of 12 dB is appropriate to correct the measured signal levels due to foliage loss in this environment². Please find attached in *Exhibit C* the *Drive Test Data from 12/15/17*.

The method used to calculate the foliage loss was an equation which calculates diffraction loss (also commonly known as shadowing loss) between two points. This equation comes from William C. Lee's book called Mobile Cellular Communications. In the Town of Philipstown, wireless facilities are typically located on hills which have ground elevation higher than the area to which they are providing coverage. For comparison, the nearby Village of Nelsonville has a significant portion of its coverage provided by a facility much higher and further away; so that foliage is only a factor within the last couple hundred feet (this means that foliage loss values can be significantly different). The equation was used in two different scenarios in which the environment varied based on topography. Since the wireless facilities are located on hills and the area to be covered is lower, the signal will shadow over the tops of the trees either right at the end of the signal path or a somewhere after the middle of the path. The two calculations were performed where the signal shadows right at the end of the path (North Highlands site to Briars Road) and after the signal traveled about 2/3 of its distance (McKeel's Site to Briars Road). These two calculations provided results of 14.75 dB and 8.36 dB respectively. Since these two scenarios were found to be similar to the worst and best scenarios in the Town, the two results were averaged to provide a basis for correcting the drive test data. The average was calculated to be 11.56 dB rounded up to 12 dB.

As demonstrated by Exhibit C, the existing site at McKeel's Corners is unable to provide coverage on Route 9 to the north as well as Route 301 to the west. This is demonstrated by the colors of the data points which appear on the roads in Exhibit C. The color green indicates that the signal level is greater than or equal to -95 dBm or reliable coverage for suburban buildings. The colors yellow and red indicate that the signal level is less than -95 dBm or unreliable coverage for suburban buildings. The measured drive test data in Exhibit C closely matches the propagation maps which have been submitted in the past PierCon RF reports. There is one location on Exhibit C which differs from the propagation maps which have been submitted. The area on Route 9 north of Jaycox Road shows green dots, representing values ≥ -95 dBm RSRP. This region is provided coverage by the site to the north (North Highlands). Due to the foliage

² There are extreme cases where loss due to foliage may be higher even than 20 dB. For the purposes of displaying all drive test data at one correction value, these extreme cases were not taken into account.

loss, the site to the north had line of site to this area and the signal is much higher than it would be if foliage was present. The diffraction loss equation was calculated for this region (North Highlands to the intersection of Route 9 and Short Street). The equation yielded a value of 23.7 dB of additional loss that would be accrued due to foliage. Due to this additional loss, Route 9 from Jaycox Road to Roeseel Road does not contain reliable coverage. Therefore the propagation maps have been confirmed to be accurate based on measured data.

5 KEY PERFORMANCE INDICATORS

This section address a request made on the December 11th hearing by the board. The board requested that dropped call data be provided to demonstrate that there is a problem currently in this area, specifically the existing McKeel's Corners site. Please find attached *Exhibit D Key Performance indicators for McKeel's Corners*. Two graphs can be found in Exhibit D. The first graph provides setup failures percentage for calls made using 4G LTE (VoLTE calls) in the 700 and 2100 MHz frequency bands. The second graph provides dropped calls percentage for calls made using 4G LTE (VoLTE calls) in the 700 and 2100 MHz frequency bands. As is seen in both graphs, the percentage of drops and failures is well above the industry standard percentage of 2% or less. Verizon Wireless designs its networks to have 98% of calls be completed successfully. This means that the dropped call and setup failure percentages should be 2% or lower. Both of these graphs show percentages of higher than 2%. Exhibit D demonstrates that setup failures for McKeel's Corners are consistently near 3%. Exhibit D also demonstrates that dropped calls for McKeel's Corners are consistently greater than 10%. Both graphs in Exhibit D demonstrate that the existing site at McKeel's Corners is currently experiencing an elevated percentage of setup failures and dropped calls for calls made using VoLTE. Please keep in mind that access failure rates and dropped call rates are also sometimes artificially low as customers may not initiate a call or prematurely end a call because they know there is unreliable service in an area such as this part of Philipstown. Nevertheless the foregoing Key Performance Indicators demonstrate that Verizon Wireless has a significant gap in reliable coverage in this area.

6 CONCLUSION

PierCon reviewed the Campanelli memorandum and responded to the coverage maps on the Verizon Wireless website and stated that they are unable to be compared with the data presented in the past PierCon RF reports. PierCon also reiterated that the McKeel's Corners site when raised to 190' is undesirable and not feasible when compared to the 50 Vineyard Road site at 140'. This is based on the Route 9 business corridor having higher importance than the Route 301 residential corridor and that the nonsignificant area along Route 301 will ultimately be covered by a facility in Nelsonville. PierCon provided dropped call and setup failure data at the request of the board that further demonstrated the significant gap in coverage in the area. PierCon also performed an independent drive test which confirmed the accuracy of the propagation maps which have been submitted.

Therefore based upon the responses herein and the drive test data, PierCon maintains its conclusion regarding Verizon Wireless' significant gap and that the relocation is required to provided service where the existing McKeel's Corners site is unable.

Report Prepared by:



Adam Feehan
Sr. RF Engineer
12/20/2017
PierCon Solutions, LLC

7 APPENDIX – EXHIBITS

- *A – Business Corridor on Route 9*
- *B – Residential Corridor on Route 301*
- *C – 700 MHz LTE Drive Test Performed 12/15/17*
- *D – Key Performance Indicators for McKeel's Corners*

Exhibit A



1000 ft

Google earth
© 2017 Google



Exhibit B

10



500 ft

301

Gold Springs Blvd

Fishkill Rd

Google earth

© 2017 Google

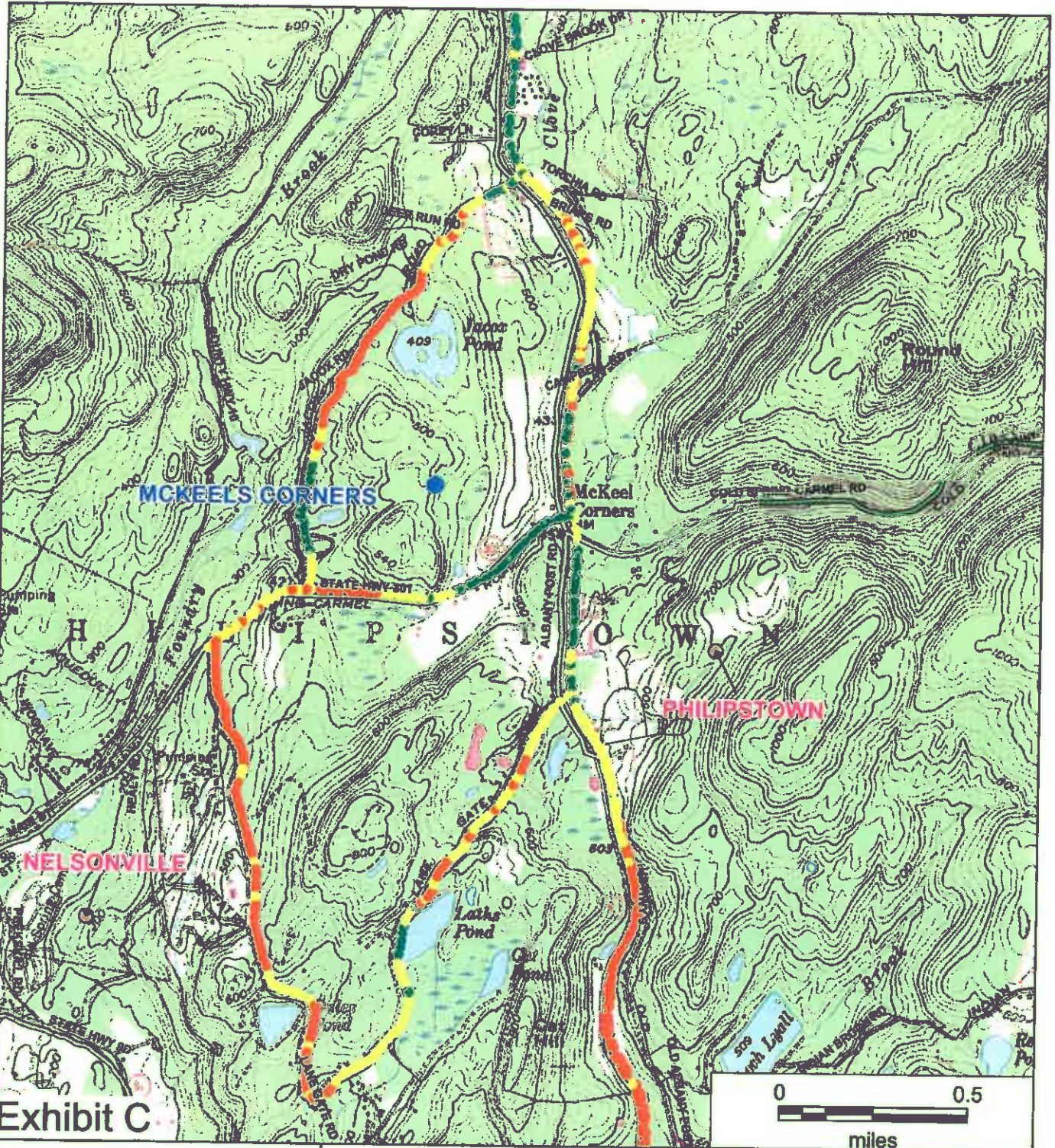


Exhibit C

Philipstown

700 MHz LTE
Drive Test Data
Recorded 12/15/17

Philipstown, NY

- Existing Verizon Wireless Facility
 - Proposed Verizon Wireless Facility
 - Town of Philipstown Boundary
- Drive Test Data (12/15/17)
- Reliable In-Building Suburban Coverage (≥ -95 dBm RSRP)
 - Reliable In-Vehicle Coverage (≥ -105 dBm RSRP)
 - Unreliable In-Vehicle Coverage (< -105 dBm RSRP)



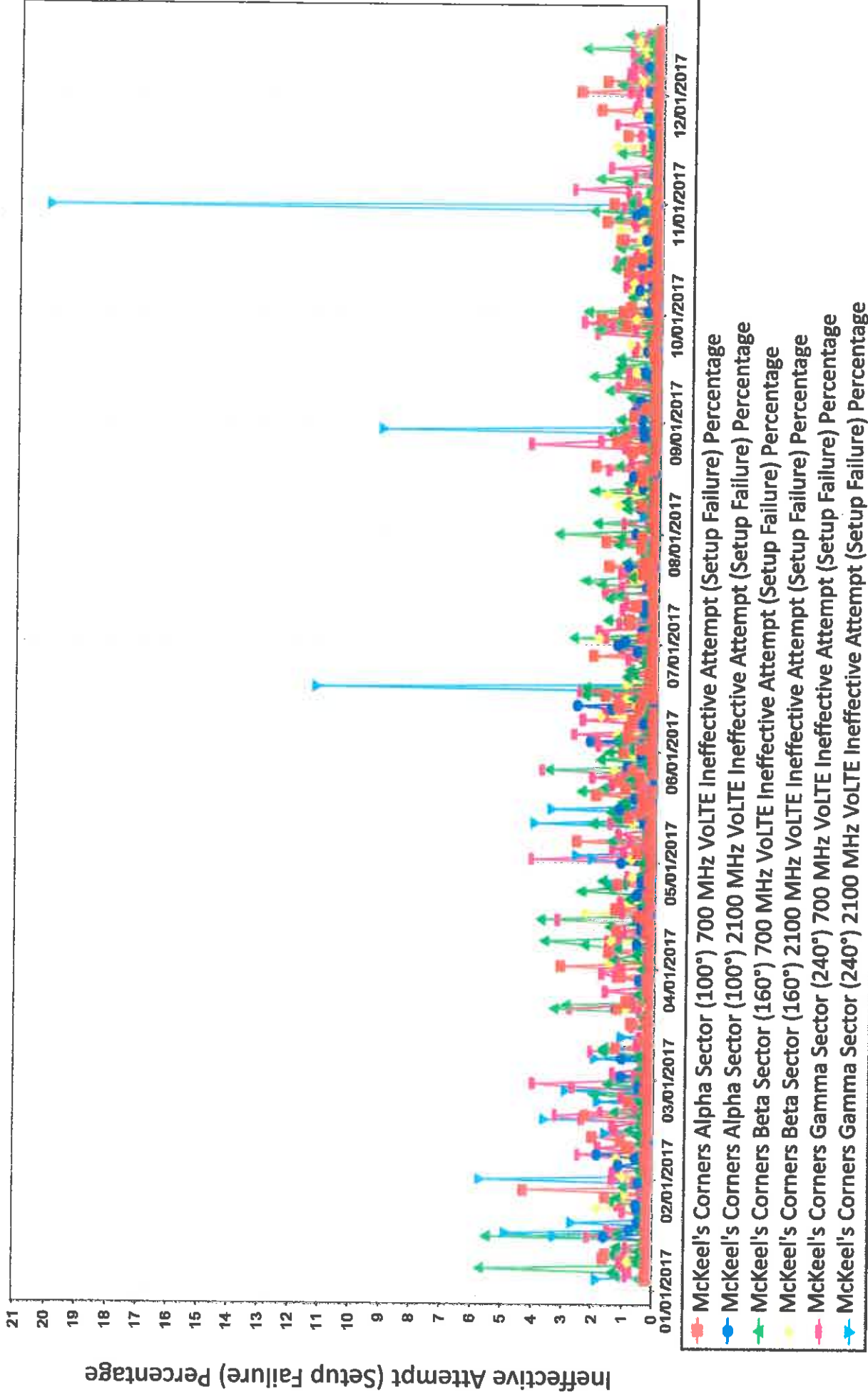
Prepared by A. Feehan
12/18/2017

Exhibit D

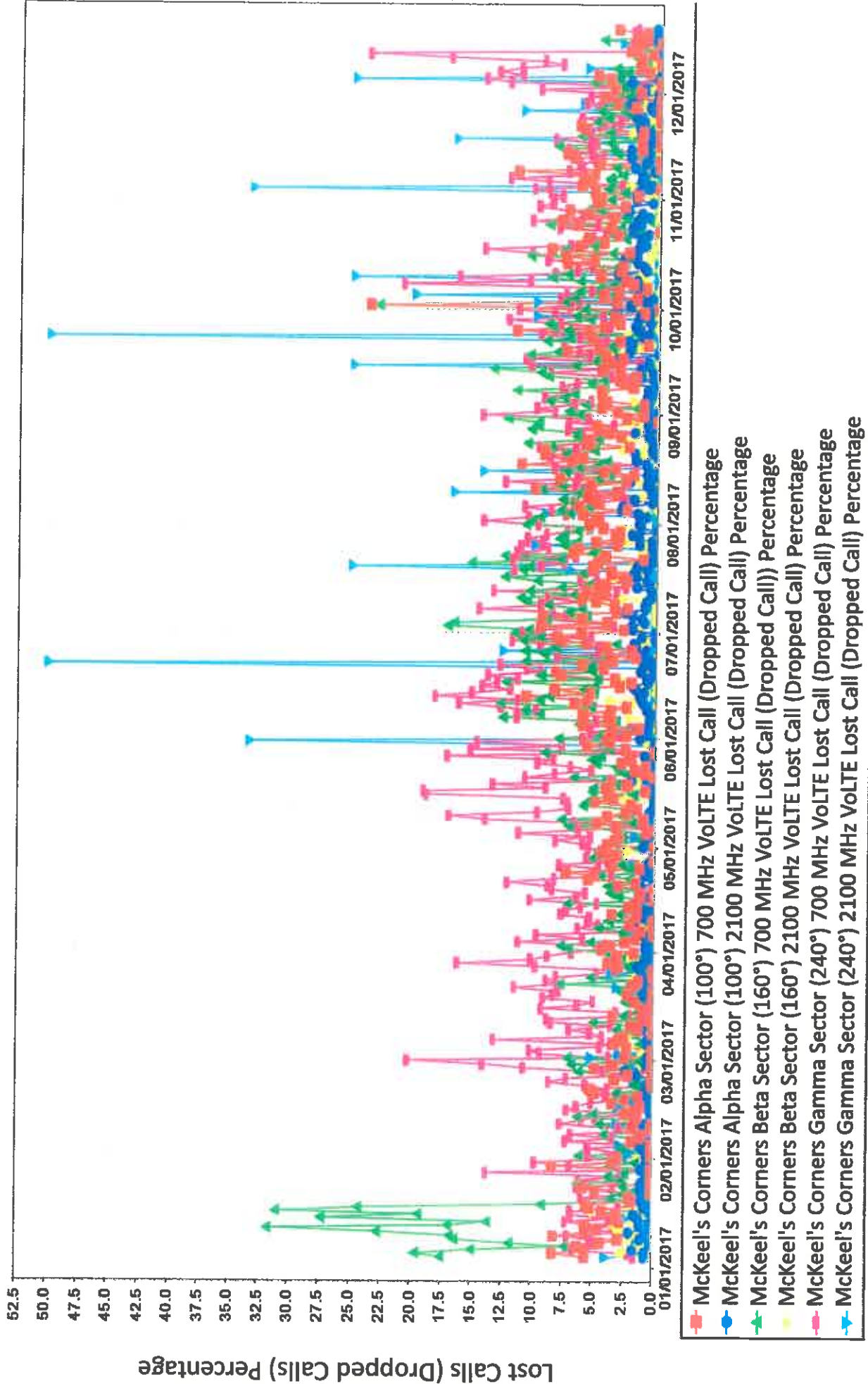
Key Performance Indicators for McKeel's Corners

By Adam Feehan

Setup Failures for McKeel's Corners Sectors



Drop Calls for McKeel's Corners Sectors



December 27, 2017

Mr. Robert Dee, Chairman
Philipstown Zoning Board of Appeals
238 Main Street
PO Box 155
Cold Spring, NY 10516

Re: Homeland Towers/Verizon Wireless application for a proposed cell tower at 50 Vineyard Road, Philipstown, NY

The following is a supplemental response to Mr. Menkes letter dated December 21, 2017. The purpose of this response is to clarify several issues and conclusions made by Menkes in said letter.

First, it appears that Mr. Menkes did not have the opportunity to review the supplemental report prepared by Adam Feehan of PierCon Solutions dated December 20, 2017. Within that report Mr. Feehan provides call performance data representative of VoLTE access failure rates and VoLTE drop call rates. A review of data demonstrates significant access failures and drop call rates well above the industry standard of 2%. This should satisfy Mr. Menkes comment in paragraph three of his report where he states the applicant refused to provide such data. As pointed out the data was provided in the Feehan December 20th report which may not have been received at the time of Mr. Menkes report.

The significance of the gap and overall objective of the subject site is far greater than just the gaps identified in Mr. Menkes fourth paragraph where he indicates: "...along a northerly section of route 9 and an area of Route 301 west of Route 9." While that statement is correct it is omitting the extent and significance of the gaps identified in the Feehan September 6, 2017 report for both 700 MHz and 2100 MHz bands. To refresh the record the significant gaps was indicated as follows:

700 MHz In-building Gap

- Route 9 from Campbell Road to Roessel Road (1 mi)
- Route 301 from Ashley Lane to Jaycox Road (0.38 mi)
- Jaycox Road from Route 9 to Dry Pond Road (0.30 mi)
- Deer Run Road, Orchard Lane, Torchia Road, Briars Road, Carison Court, and Cross Creek Road (1 mi)
- Lane Gate Road from Armando Road to Oak Hill Drive (0.33 mi)
- Pond Road, Luzmira Lane, and Oak Hill Drive (1 mi)
- Continued coverage on Route 9 from Campbell Road to Vineyard Road (1 mi)
- Continued coverage on Route 301 from Rockwald Road to Ashley Lane (3/4 mi)

The total number of residents that are located within the targeted area (not including areas already covered by the existing McKeel's Corners site) is 430 according to the 2010 US census. This quantity does not include the businesses located along Route 9 near Jaycox and Torchia Road nor does it include visitors or travelers in the area.

2100 MHz In-Building Gap

- Route 9 from Vineyard Road to Route 301 (0.68 mi)

- 1st, 2nd, 3rd, 4th, and 5th Street (0.35 mi)
- Lane Gate Road from Oak Hill Drive to Route 9 (0.45 mi)
- Pond Road, Luzmira Lane, and Oak Hill Drive (1 mi)

The portion of the in-vehicle coverage gap targeted for the Philipstown project for the AWS/PCS LTE license includes the following areas/roadways:

- Route 9 from Old Albany Post Road to Briars Rd (1.65 mi)
- Route 301 from Rockwald Road to Jaycox Road (1 mi)
- Lane Gate Road from Oak Hill Drive to Route 9 (0.45 mi)
- Pond Road, Luzmira Lane, and Oak Hill Drive (1 mi)

According to the NYS DOT Highway Data Services Bureau the average annual daily traffic (AADT) along route 301 is 4,983 and along Route 9 is 15,368.

Paragraph five of Menkes December 21st report doesn't fully represent the statement made in PierCon's September 6, 2017 RF report. PierCon's report stated: *"The total number of residents that are located within the targeted area (not including areas already covered by the existing McKeel's Corners site) is 430 according to the 2010 US census. This quantity does not include the businesses located along Route 9 near Jaycox and Torchia Road nor does it include visitors or travelers in the area."*

PierCon's supplemental report of December 20th identifies that an average of 15,368 vehicles travel Route 9 daily; and as noted above an average of 4,983 vehicles travel along Route 301. These travelers are going to businesses along Route 9 and certainly increase the number of in-building users far greater than the incremental 430 residents referenced. Mr. Menke's analysis and conclusion on the total number of possible affected Verizon customers is not applicable in terms of qualifying the significant gap. The FCC created multiple licensed operators to create competition and drive down prices. Therefore, all of the population, workers and travelers to the area are potential customers; not just a representative sample percentage. Mr. Menkes analysis and conclusion regarding the number of Verizon users is in my opinion not a valid approach and completely under qualifies the significance of the gap. Mr. Menkes allusion that the gap may not be significant based upon his numerical calculation is simply incorrect and unfounded. Furthermore, during a prior hearing Mr. Graiff, the board's original expert, stated on the record that Verizon has a significant gap in the area.

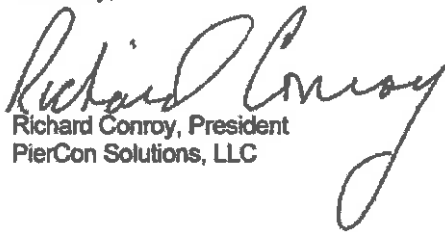
Based on the total number of residents, the number of travelers in the area including along 2 major roads (State Route 9 and Route 301), the number of businesses in this area and the overall geographic area, as demonstrated by numerous propagation maps, 2 drive tests and access failure and dropped call rates, it is my opinion, and concurred with previously by the Town Consultant Ronald Graiff, that Verizon Wireless has a significant gap in reliable service in the Town of Philipstown.

Lastly, an upon further evaluation, the site a McKeels Corner at 190 feet has been demonstrated to not be effective or desirable at solving the significant gap even as high as 190 feet. Mr. Menkes incorrectly represents Mr. Feehan's statement in his November 30, 2017 report by omitting Mr. Feehan's sentence that followed the one Mr. Menkes referenced. Mr. Feehan's sentence to follow indicated: *"However, given that level of coverage provided is for reliable in-building coverage, it would be more precise to count the number of buildings in the affected areas rather than compare the total area of coverage."* In the paragraphs to follow from the November 30th, 2017 report Mr. Feehan concludes that the regardless of whether the Nelsonville site gets approved and built the subject site at 140' provides better in-building coverage than the McKeels Corner site. Mr. Feehan's statement as characterized by Mr. Menkes was not meant as an overall comparison of both sites. As previously documented the proposed 50 Vineyard Road site is on whole far superior to hypothetically raising McKeels Corners to 190 feet since McKeels Corners would still leave a significant gap along Route 9 to the north, an area that would be fully covered by 50 Vineyard Road. Accordingly, it is incorrect to state that Mr. Feehan or PierCon believe that hypothetically raising McKeels Corners is preferable or a better engineering solution to the proposed 50 Vineyard Road site, with or without a site

to the west in Nelsonville. Moreover, raising McKeels Corners is purely speculative at this point, whereas it is fairly certain that a site will ultimately be located to the west in Nelsonville given the significant gap in that location.

In conclusion, the existing McKeels Comer site is in a zone that only permits 110' structure. Considering a 190' structure that doesn't effectively resolve the in-building gap is an absurd proposal. The subject site at 50 Vineyard Road is in a zone that permits towers up to 195'. The proposed site at 140' has been demonstrated to remedy the largest portion of the in-building gap even without the future Nelsonville site. Verizon Wireless has documented its significant gap in service with numerous propagation maps, 2 drive tests and access failure and dropped call rates. The Town Consultant, Mr. Graiff, previously concurred that Verizon Wireless has a significant gap in service in Philipstown that will be remedied by a facility at 50 Vineyard Road.

Sincerely,



Richard Conroy, President
PierCon Solutions, LLC



Site Planning	Environmental Studies
Civil Engineering	Entitlements
Landscape Architecture	Construction Services
Land Surveying	3D Visualization
Transportation Engineering	Laser Scanning

December 19, 2017

Honorable Chairman Robert Dee and
Members of the Zoning Board of Appeals
Philipstown Town Hall
238 Main Street
Village of Cold Spring, NY 10516

Re: JMC Project 15004
Homeland Towers Philipstown – NY171
2700 U.S. Route 9
Village of Cold Spring, NY 10516

Dear Chairman Dee and Members of the Board:

JMC Planning, Engineering, Landscape Architecture and Land Surveying, PLLC respectfully submits this letter in response to questions put forth at a public hearing in connection with the above captioned matter regarding potential ice fall.

Homeland Towers, LLC, is proposing the construction of a wireless telecommunications facility at the above referenced site. The facility will consist of the construction of a 140-foot monopole and related equipment at the base of the structure. The monopole will be secured within a 4,232-square foot compound enclosed by a 8' tall chain-link security fence. The proposed monopole location is approximately 277 feet from the nearest street and 185 feet from the nearest property line on a forested property in excess of 64 acres in size.

Based on the following general observations, we believe that there is a minimal risk from falling ice:

1. Ice forms during freezing rain events which are minimal during four months of the year.
2. For a piece of ice to fall, several events are required to occur. First, there has to be a freezing rain event. Second, the event has to be of sufficient duration to allow for the accumulation of a thickness of ice. Third, thawing has to occur with sufficient rapidity such that ice can come loose before a substantial amount of it melts. This must happen in conjunction with a wind of sufficient speed to affect the trajectory of the falling ice.
3. In general, ice accumulates on structural members in a roughly uniform thickness around the component. For the ice to come loose, it is necessary for the temperature to rapidly rise above freezing and thaw the bond between the ice and the structure. Unlike ice that forms on the gutters of a house, tower ice does not form due to the thawing and re-freezing of melting water, as the tower and components are an unconditioned structure.

JMC Planning Engineering Landscape Architecture & Land Surveying, PLLC | JMC Site Development Consultants, LLC

120 BEDFORD ROAD | ARMONK, NY 10504 | 914.273.5225 | MAIL@JMCPLLCCOM | JMCPLLCCOM

4. It should be noted that a smaller piece of ice will travel more horizontal distance than a larger piece. Potential larger and heavier pieces of ice would fall almost vertically within the secured compound. As mentioned above, the monopole is located within a 4,232 square foot secured and unmanned compound.
5. The design of the structure as a monopole, rather than a lattice tower, results in significantly less surface area capable of accumulating ice, thereby significantly decreasing the potential for ice accumulation.

Based on the design of the facility as a monopole, its remote location on the property within a secured fenced compound, and infrequent visits by technicians, we believe that there is not a significant risk posed by falling ice in this situation.

Please feel free to contact our office at (914) 273-5225 with any questions you may have regarding this matter.

Sincerely,



David P. Lombardi, PE
Sr. Project Manager

cc: Vincent Xavier, Homeland Towers, LLC
Robert Gaudioso, Esq., Snyder & Snyder

LANE APPRAISALS, INC.

Real Estate Valuation Consultants

EDWARD J. FERRARONE, MAI
PAUL A. ALFIERI, III, MAI
GREGORY FAUGHNAN, MAI
JANE MOSS
STEVEN BAMBACE
JOSEPH P. SIMINSKY
LORI COADY

178 MYRTLE BOULEVARD
LARCHMONT, NEW YORK 10538
914-834-1400
FAX 914-834-1380

E Mail : lane.app@verizon.net

JOHN W. LANE, MAI (1907-1993)

December 18, 2017

Honorable Chairman Dee and
Members of the Zoning Board
Town of Philipstown
238 Main Street, P.O. Box 155
Cold Spring, NY 10516

Re: Revised Report Based on ZBA Comments
Proposed Wireless Telecommunications Facility
50 Vineyard Road, Cold Spring, NY

Dear Chairman Dee and
Members of the Zoning Board:

In accordance with the request of Homeland Towers, LLC ("Homeland") and Verizon Wireless, together known as the Applicant, ("Applicant"), I have reviewed the Memorandum in Opposition, prepared by Michael R. Valente, Esq. which although undated, was prepared in opposition to the application by Homeland Towers & Verizon Wireless.

On Page 16 of his memorandum, Mr. Valente states that the installation of the proposed Facility should be denied because it could "inflict a substantial and wholly unnecessary loss in the values of the adjacent and nearby residential properties." He cites several studies to support his contention on Page 16 of the memo. These studies involved unidentified properties in New Jersey or in other undisclosed locations. Further, three of the studies were conducted between 1984 and 2004, which means that they are quite out of date for consideration in a 2017 application. Since the studies themselves were not presented as an Exhibit, it is impossible to analyze them or to comment further. Without providing the studies and the actual underlying data, it is impossible to draw the conclusion that they provide evidence that the proposed Facility will impact property values.

His further contention that the FHA does not allow loans for properties within the fall zone of a cell tower is without merit as the proposed tower is at least 185' from the closest residential property line and is over 750' from the nearest abutting home.

Finally, Mr. Valente relies on an opinion from various local real estate brokers that the construction of the proposed Facility to homes which are in close proximity to the tower would "have a likely diminished value of between 15 and 30 percent or more." This is strictly an unsupported opinion and is absolutely devoid of any objective proof what-so-ever. This opinion is so unsupported and so extreme, and lacks any validation or methodology, that it should be given no credence.

My studies, which have been supplied to the Zoning Board, demonstrate that there has not been a not diminution of value due to the construction of similar

facilities in the Putnam County area during the recent past. My studies are over a long period of time, have been performed during numerous real estate markets, and include many facilities throughout numerous municipalities in the region. My studies are based on accepted methodology and include the underlying data.

We understand that some questions have been raised about the view from some of the sales near the Sky Lane site in Philipstown. I have returned to the neighborhood to check on the views once again. The concern seems to be that the sales at the southerly end of Sprout Brook Road at 303, 308, 319 and 322 have a winter view from ground level in the street that is not significant. To address this concern I reviewed the sales at the northerly end at 471, 492, 495, 504 and 516 which do have clear winter views of the radio tower. When those sales are switched, the same range in average sales prices exists, with the sales having views averaging \$188 per square foot and those without views averaging \$190 per square foot.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Paul A. Alfieri III". The signature is written in dark ink and is positioned above a thin horizontal line.

Paul A. Alfieri III, MAI
Certified General Appraiser
State of New York #46-9780
December 18, 2017

SARATOGA ASSOCIATES

Landscape Architects, Architects,
Engineers, and Planners, P.C.

December 21, 2017

Honorable Chairman Robert Dee and Members of the Zoning Board of Appeals
Town of Philipstown
238 Main Street
Cold Spring, NY 10506

Re: Visual Resource Assessment
Proposed Wireless Telecommunications Facility
50 Vineyard Road
Phillipstown, NY

Dear Honorable Chairman and Zoning Board of Appeals Members:

Saratoga Associates is writing on behalf of Homeland Towers, LLC regarding the proposed monopole telecommunications tower and associated equipment at the above referenced address. Saratoga Associates prepared the Visual Resource Assessment (VRA) submitted for this project.

At the December 11 public hearing a number of comments were made concerning the accuracy and representative nature of visualizations presented in the VRA and the PowerPoint presentation (with copies provided to the Board).

All photographs presented were taken by Saratoga Associates during balloon visibility studies conducted on June 27, 2017 and November 1, 2017. On both June 27 and November 1, Town Engineer Ron Gainer was present to observe balloon visibility and confirm photo locations. Photos used in the PowerPoint presentation were taken from:

- > 60 Round Hill Road – back deck;
- > 100 Rockwald Road – back deck;
- > 43 Rockwald Road – back deck; and
- > 24 White Rocks Lane – back yard

SARATOGA ASSOCIATES

Hon. Robert Dee
December 21, 2017
Page 2 of 2

At each location the property owner was present and led the Saratoga Associates photographer to one or more potential photo locations. Only Mr. Gorevic (960 Round Hill Road) requested photos be taken from a second floor window as well as from the back deck.

The photos used in the PowerPoint Presentation are representative of the most exposed, commonly used outdoor vantage point at each residence. Although other locations were photographed at some of these properties, no outdoor locations with greater project visibility were identified. From the Gorevic property the balloon flown at 160 feet was visible at the tree line. As you know a 140 foot monopole has been proposed as an alternative. At such height the monopole would be below the tree line from this location. From the first floor deck (outdoor location used in the PowerPoint presentation) this balloon even at 160 feet, being 20 feet higher than the 140 foot monopole, was hidden below the foreground tree line.

In summary, the visual renderings prepared and submitted show the worst case scenario. The photo locations were not cherry picked to indicate diminished potential visibility. In fact, they were cherry picked to show the worst case scenario. All viewpoint locations in the VRA were chosen in conjunction with the Town Engineer retained by the Zoning Board and/or with the individual property owners. At no time before the balloon tests were scheduled with the Town or during the tests was there ever a request to take a photo from any location that was not in fact taken, including from any parks or trails.

Thank you for your attention to this matter.



Matthew W. Allen, RLA
Principal

SARATOGA ASSOCIATES

Landscape Architects, Architects, Engineers, and Planners, P.C.



CORPORATE OFFICE
Mountaintop, NY (800) 828-6631

1279 Route 300
Newburgh, NY 12560

(845) 567-6656
www.tectonicengineering.com

Honorable Supervisor Doherty and
Members of the Town Board
Town of Kent
25 Sybil's Crossing
Kent Lakes, NY

April 8, 2013

RE: **W.O. 4506.NY161**
HOMELAND TOWERS, LLC
21 SMOKEY HOLLOW CT.
KENT LAKES, NY 10812

Honorable Supervisor and Members of the Town Board:

Tectonic Engineering Consultants & Surveyors, P.C. (Tectonic) has been provided a copy of "An Analysis of Cell Tower Ice Falls" prepared by Mr. Dennis Rogers dated March 28, 2013.

Based on the review of the said letter we would like to offer the following:

1. Mr. Rogers incorrectly assumes an antenna size of 2 x 1 meters (6'-6" x 3'-3"). These values translate into a surface area of 21.6 sqft. A more realistic antenna size for one of the major wireless carriers (Verizon Wireless) is approximately 8ft x1ft, which has a surface area of 8 sqft. This value is significantly less than the area used in the analysis referenced above.
2. Mr. Rogers assumes an ice thickness of 6 cm (2.36 inches) which would result in a piece of ice weighing approximately 108 kg (237 lbs). The proposed installation is governed by ANSITIA.

Per the latest version of the TIA publication, ANSITIA-222-G-2005, "Structural Standard for Antenna Supporting Structures and Antennas", published by the Telecommunications Industry Association. Standard, the Maximum Basic Design Ice Thickness for Putnam County is listed as 0.75 inches. The code also requires that the ice be escalated with height when calculating the ice weight and wind on ice loads. Therefore the radial ice calculated at 160' (top of the proposed pole) is approximately 1.75 inches. Utilizing this ice thickness and an area of 8 sqft, the mass of potential ice would be reduced to approximately 66 lbs. See attached calculations for determination of radial ice based on the TIA standard which is lower than the arbitrary thickness assumed by Mr. Rogers.

3. In our professional opinion, the photo of Cell Tower ice build up found in the summary of Mr. Rogers is not a proper representation of typical conditions found in the northeast. Our research indicates that this photo is available on the World Wide Web and is most likely of a self-support tower located in Cordova Alaska. It should also be noted that the structure shown in the photo is of a self-support lattice structure and not a monopole structure that is proposed at this location. As noted in

PLANNING • ENGINEERING • CONSTRUCTION AND PROGRAM MANAGEMENT

An Equal Opportunity Employer

Homeland Towers
4508.NY181

2



April 8, 2013

the Tectonic letter dated March 15, 2013; the proposed structure has significantly less surface area capable of accumulating ice, thereby significantly decreasing the potential for ice accumulation.

In conclusion, the photograph presented by Mr. Rogers is not relevant to the proposed facility in the Town of Kent. It's our professional opinion that based on the design of the facility as a monopole, its location within a secured fenced compound at a Town-owned Highway Garage, and the minimal possibility of ice accumulation and fall, we believe there is not a significant risk to persons or property from ice fall in this situation.

If you should have any further questions, please do not hesitate to call us.

Sincerely,

TECTONIC



Kavish Zaver P.E.
Sr. Project Manager

cc: Manny Vicente-Homeland Towers, LLC
Robert Gaudioso-Snyder & Snyder

G:\Newburgh\Projects\4508-Homeland Towers\4508.NY181 Kent Smokey Hollow Court\Letters\NY181 Sup Ice Letter 4-8-13.doc

LAW OFFICES OF
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94 WHITE PLAINS ROAD
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LESLIE J. SNYDER
ROBERT D. GAUDIOSO

DAVID L. SNYDER
(1956-2012)

NEW JERSEY OFFICE
ONE GATEWAY CENTER, SUITE 2800
NEWARK, NEW JERSEY 07102
(973) 824-8772
FAX (973) 824-8774

REPLY TO:

westchester office

June 19, 2014

By Overnight Delivery

Putnam County Clerk
Supreme Court, Putnam County
40 Glencida Avenue
Carmel, New York 10512

RE: Index No. 1023/2013
Bruenn, et al. v. The Town Board of Kent, et al.

Dear Madam or Sir:

Enclosed for filing in the above referenced matter please find Defendant-Respondent, Homeland Towers, LLC's Notice of Entry with original proof of service attached.

Thank you for your consideration and please call me at (914) 333-0700 should you have any questions at all regarding this matter.

Sincerely,


Douglas W. Warden

DWW:bto

cc: Homeland Towers

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF PUTNAM

-----X
PETER BRUENN, CYNTHIA BRUENN,
MARCUS LOVETT, CHRISTINE LOVETT,
ALEXSANDRA VAUGHN, JOHN DEARMAN,
DANIELLE DEARMAN, DENNIS ROGERS,
LUNA BLECHER, GLEN DAVIDSON,
and LINDA DAVIDSON,

Index No. 1023/2013

NOTICE OF ENTRY

Plaintiffs/Petitioners,

For an Order and Judgment Under Articles 30 & 78
of the New York State Civil Practice Law and Rules,


- against-

THE TOWN BOARD OF THE TOWN OF KENT,
KATHERINE DOHERTY, MICHAEL TEIRNEY,
PENNY ANN OSBORN, JOHN A. GREENE,
LOUIS TARTARO, Constituting the Town Board
of the Town of KENT, THE TOWN OF KENT and
HOMELAND TOWERS, LLC,

Defendants/Respondents.
-----X

PLEASE TAKE NOTICE, that the within Opinion, Decision, Order and Judgment is a true copy
of an Opinion, Decision, Order and Judgment duly entered in the office of the Clerk of the within
Court on June 17, 2014.

Dated: Tarrytown, New York
June 19, 2014


Douglas W. Warden, Esq.
Snyder & Snyder, LLP
Attorneys for Petitioners
Tarrytown, New York 10591
(914) 333-0700

TO: See Circulation List Attached

CIRCULATION LIST

Timothy J. Curtiss, Esq.
Counsel for Municipal Respondents
20 Church Street
Carmel, New York 10512
Phone: (845) 225-5500
Fax: (845) 225-5946

Andrew J. Campanelli
Attorney for Petitioners
1757 Merrick Avenue, Suite 204
Merrick, NY 11566
(516) 746-1600

Gregory L. Folchetti
Costello & Folchetti
1875 Route 6
Carmel, NY 10512
(845) 225-1900

PUTNAM COUNTY
CLERK

2014 JUN 17 AM 11:30

H:\Orange\Article 78\Bruenn v. Kent.wpd

To commence the 30 day statutory
time period for appeals as of right
(CPLR 5513[a]), you are advised to
serve a copy of this order, with
notice of entry, upon all parties

**SUPREME COURT OF THE STATE of NEW YORK
COUNTY OF PUTNAM**

-----X
PETER BRUENN, CYNTHIA BRUENN, MARCUS
LOVETT, CHRISTINE LOVETT, ALEXANDRA
VAUGHN, JOHN DEARMAN, DANIELLE DEARMAN,
DENNIS ROGERS, LONE BLECHER, GLEN
DAVIDSON and LYNDA DAVIDSON,

Petitioners,

For an Order and Judgment Under
Article 30 & 78 of the New York State
Civil Practices Law and Rules,
Municipal Law §51 and CPLR §3001,

THE TOWN BOARD OF THE TOWN OF KENT,
KATHERINE DOHERTY, MICHAEL TIERNEY,
PENNY ANN OSBORN, JOHN A. GREENE,
LOUIS TARTARO, consisting the TOWN
BOARD OF THE TOWN OF KENT, THE TOWN
OF KENT and HOMELAND TOWERS LLC,

Respondents.

-----X
LUBELL, J.

The following papers were considered in connection with this
petition for an Order and Judgment under Article 30 and Article 78
et seq of the New York State Civil Practices Law and Rules:

PAPERS	NUMBERED
NOTICE OF PETITION/PETITION/EXHIBITS A-K	1
MEMORANDUM OF LAW IN SUPPORT OF PETITION	2
AFFIDAVIT IN OPPOSITION (DOHERTY)	3
AFFIDAVIT IN OPPOSITION (WILSON)/EXHIBIT A	4
VERIFIED ANSWER TO PETITION	5
AFFIRMATION IN OPPOSITION (GAUDIOSO)/EXHIBIT A	6
VERIFIED ANSWER	7
MEMORANDUM OF LAW IN OPPOSITION	8
REPLY AFFIRMATION IN FURTHER SUPPORT/EXHIBITS A-C	9
REPLY MEMORANDUM OF LAW IN SUPPORT	10

Plaintiffs-Petitioners are Town of Kent (the "Town") homeowners (the "Homeowners") situated within the immediate vicinity of the Town of Kent Highway Garage, a Town owned parcel located at 21 Smokey Hollow Court, Carmel, New York, (the "Site") upon which the Town Board of the Town of Kent (the "Town Board") authorized respondent Homeland Towers, LLC ("Homeland") to build and maintain a 150-foot monopole wireless telecommunications tower (the "Tower"). The Tower will not only be used for the enhancement of Town public safety services, it will also be leased for profit by Homeland to five federally licensed public utility wireless providers. In turn, the Town will benefit from its lease of a portion of the site to Homeland.

The Homeowners commenced this hybrid CPLR Article 78 proceeding/Declaratory Judgment action seeking to annul and vacate the two underlying April 16, 2013, resolutions authorizing same, and for a declaration adjudging and declaring that said resolutions, and any authority to use the Site or build the Tower are illegal and *void ab initio*.

The Homeowners argue that the Town Board resolutions are null and void *ab initio* to the extent that they (a) purport to authorize Homeland to build and maintain structures prohibited under the Zoning Law of the Town of Kent (the "Zoning Law"), (b) exempts Homeland from the requirements of obtaining use and area variances from the Kent Zoning Board of Appeals (the "ZBA"), and (c), thereby "grants Homeland *de facto* variances". In other words, the Homeowners argue that Homeland's application for the erection of the Tower should have been subjected to the review of the ZBA and that the Town lacked authority to perform the "immunity balancing test" established in the seminal case of Matter of County of Monroe (City of Rochester), 72 NY2d 338 (1988). The Homeowners also argue that the Town Board's determinations are arbitrary and capricious and not supported by substantial evidence.

The Court disagrees. The Town Board has the authority to perform the immunity balancing test and, upon doing so, properly conducted same. Its determinations are rational, supported by substantial evidence in the record and are neither arbitrary nor capricious. Finally, the Homeowners fail to state a claim for relief under section 51 of the General Municipal Law, or any other section of law or theory of recovery advanced.

The immunity balancing test is applicable to the proposed project. Even though the erection of the Tower will advance the private entity interests of its owner, Homeland, and that of the

five federally licensed public utility wireless providers who will be able to use the Tower in furtherance of their commercial enterprises, such "does not undermine the public purposes" for which the Tower will be erected and maintained" (Crown Communication New York, Inc. v Dept. of Transp. of State of New York, 309 AD2d 863, 866 [2d Dept 2003] affd sub nom. Crown Communication New York, Inc. v Dept. of Transp. of State, 4 NY3d 159, 824 NE2d 934 [2005]). The public benefits of having the Tower erected include the enhancement of services of Town public safety entities to the community, the ability to allow five federally licensed public utility wireless providers to co-locate on the Tower which helps minimize the number of towers needed to effectuate widespread reliable cell service, and the ability to remedy a significant gap in service. It is "the public nature of the activity sought to be regulated by the local zoning authority that is determinative . . ." (Crown Communication New York, Inc. v Dept. of Transp. of State of New York, 309 AD2d 863, 866 [2d Dept 2003] affd sub nom. Crown Communication New York, Inc. v Dept. of Transp. of State, 4 NY3d 159, 824 NE2d 934 [2005]).

The applicability of the Monroe immunity balancing test is not limited to situations where there exists a conflict between competing government entities or subdivisions with differing interests. Although the immunity balancing test arose out of such circumstances (see Matter of County of Monroe, supra, [county vs city]), its application has evolved and is not so circumscribed (see e.g., Armenia v Luther, 152 AD2d 928 [4th Dept 1989][town immune from its own zoning regulations upon installation of floodlights at tennis courts and softball diamond situated in a town park]; Dunn v Town of Warwick, 146 AD2d 601, 604 [2d Dept 1989][town not obligated to obtain planning board approval for the construction of proposed town hall on town property]).

The Homeowner's position with respect to the powers of zoning boards of appeal, generally, and the ZBA specifically, are accurately stated in its memoranda of law (see Matter of Real Holding Corp. Lehigh, 2 NY3d 297 [2004][zoning boards of appeals are vested with the exclusive power to grant or deny, in the first instance, a variance from zoning ordinances]; see also Carbone v Town of Bedford, 144 AD2d 420 [2d Dept 1988]; Town Law §267-b(3); §267(1), §267-b; Matter of Comco Inc. v. Stanley P. Amelkin et al., 62 NY2d 260 [1964][exclusive authority of a zoning board of appeals cannot be circumvented by a town board]; see also Article XVI of the Town of Kent's Zoning Laws). Nonetheless, such does not vitiate the power of the Town Board to employ the "immunity balancing test" of Matter of Monroe, supra, to determine whether, in the first instance, an entity should be granted immunity from local zoning requirements. Application of the immunity balancing

test is not within the exclusive jurisdiction of a zoning board of appeals (see e.g., Matter of Monroe, supra, [no zoning board involvement in balancing test]; Town of Hempstead v State, 42 AD3d 527, 529 [2d Dept 2007] [Supreme Court properly employed "balancing of public interests" test and correctly determined telecommunications tower was immune from local zoning laws]; King v County of Saratoga Indus. Dev. Agency, 208 AD2d 194, 199-200 [3d Dept 1995] [Supreme Court correctly determined that challenged decision of Saratoga Industrial Development Agency was in keeping with Matter of County of Monroe, supra, and it "properly concluded that the benefits inherent in the development of a project necessary to the economic well-being of an area . . . outweigh the interest of the Town in the banning of such projects from its precincts"; Nanuet Fire Engine Co. No. 1, Inc. v Amster, 177 Misc 2d 296, 297 [Sup Ct 1998] [matter remitted to Town of Clarkstown, in the first instance, to apply the balancing of interest test, there having been no public hearing with respect to the proposed project and the record before the court failing contain sufficient information to enable court to determine whether petitioner is subject to local zoning]; Town of Riverhead v County of Suffolk, 39 AD3d 537, 539 [2d Dept 2007] [due to conflicting evidence in the record, court could not determine under the "balancing of public interests test" whether county was entitled to construct and utilize a new fueling facility]; Town of Fenton v Town of Chenango, 91 AD3d 1246, 1251 [3d Dept 2012] lv to appeal dismissed in part, denied in part, 19 NY3d 898 [2012] [Supreme Court's analysis and conclusion, upon application of the factors articulated in County of Monroe, upheld as sound]). As such, contrary to the Homeowners' assertion, the Town Board has not and is not about to act in excess of its jurisdiction or powers (see CPLR §7803[2], CPLR §3001).¹

Upon review of the challenged determinations, the Court finds that they are neither illegal, arbitrary, or capricious nor do they constitute an abuse of discretion (Baker v. Brownlie, 248 A.D.2d 527, 528 [2d Dept 1998]; Matter of Tarantino Zoning Board of Appeals of Town of Brookhaven, 228 A.D.2d 511, 512 [2d Dept 1996]). The determinations are also supported by substantial evidence in the record (Retail Property Trust v. Town of Hempstead, 98 N.Y.2d 190, 196 [2002] citing Matter of Toys "R" Us v. Silva, 89 N.Y.2d 411, 423 [1996]). The record clearly reflects an exhaustive six-year Town Board process involving seven public hearings addressing the Monroe balancing test alone.

¹Application of the immunity balancing test must be distinguished from the balancing test employed by a zoning board when, for example, considering area variance applications pursuant to Town Law §267-b(3).

Contrary to the Homeowners' assertion, the Town Board properly and adequately considered multiple alternative locations, including the "superior" alternative location advanced by the Homeowners. A Generic Environmental Impact Statement was prepared and the Town Board adopted a Town-wide Wireless Infrastructure Plan before even embarking upon the specific Town-owned Highway Garage location upon which the Tower was approved.² Not only was the Site reviewed, but, as well, there was an Alternative Site Analysis and a Supplemental Alternative Site Analysis wherein the following is found:

The fifth site was Identified as Route 301 (owned by CMF Property LLC) . . . This property is currently undeveloped. This site was rejected due to the difficult topography of the lot. Such topography would result in potential environmental impacts during construction, including tree clearing and grading associated with lengthy access road and the facility compound. Moreover there are no existing utilities on site. It also appears that the NYC DEP owns the land between Route 301 and this lot. This would mean that access to the site at this location would require an access road of up to a half a mile through very difficult terrain resulting in potential environmental impacts. Accordingly, this site is not a feasible alternative site.

In any event, the availability of the site is speculative and far from certain (see T-Mobile v. City of Anacortes, 572 F.3d 987, 998 [9th Cir. 2009][speculative alternative location does not constitute viable alternative]) and is hardly developed from a technical, engineering, and environmental feasibility viewpoint.

The Court also uphold's the Town Board's determination regarding the risk of ice fall as rational, supported by substantial evidence in the record and neither arbitrary or capricious.

Whether or not this is a proper Monroe issue, and it appears not to be, the Town Board draws the Court's attention to the Engineering Certification letter from Kavish Zavar, a New York State Licensed Professional Engineer from Tectonic, dated March 15,

² The Homeowners do not challenge the Town Board's Negative Declaration under the State Environmental Quality Review Act (N.Y. Env'tl. Conserv. Law, Art 8).

2013. This letter was submitted in response to the Homeowners' concerns about the danger of ice falling from the Tower. Therein, Engineer Zawar concludes:

[B]ased on the design of the facility as a monopole, its location within a secured fenced compound at the Town-owned Highway Garage, and the minimal possibility of ice accumulation and fall, we believe there is not a significant risk to persons or property from ice fall in this situation.

The concerns raised by physicist Dennis L. Rogers on the subject of ice fall were presented to the Town Board at its March 19 and April 2 and 16, 2013, public hearings. They were not ignored. In response, Engineer Zawar submitted a Supplemental Engineering Letter dated April 8, 2013, addressing asserted inadequacies of Mr. Rogers' calculations due to incorrect assumptions and design criteria. The issue was further addressed at the April 16th Town Board public hearing at which time there was discussion about the weather conditions one might expect in the Town of Kent and how that would not pose an icing problem.

The Town's determination that there is a need for the Tower at the proposed location will also not be disturbed.

Again, whether or not a proper consideration under the Monroe balancing test, the Court concludes that the Town Board's determination that there is such a need is rational, supported by substantial evidence in the Record and is neither arbitrary nor capricious.

This determination derives from the Town's six-year review of this project, including its adoption of a Generic Environmental Impact Statement and a Wireless Infrastructure Plan (the "WIF"). The WIF demonstrates through actual drive test data and signal propagation maps that a significant gap in reliable wireless services exists in the vicinity of the Highway Garage. There is other support in the record as well. (See Supplemental Alternative Site Analysis of Vincent Xavier -Verizon Wireless propagation maps). In addition, the Town of Kent Police Department had the following to say in a submission of February 26, 2013:

I am writing this letter in support of the proposed installation of a cell tower off of Smokey Hollow Ct. Currently our cell phones and mobile computers use Verizon Wireless for cellular service. Often in the western part of

the Town of Kent the cellular signal strength is weak which limits cell phone service and causes officers to lose connection on their mobile computers. Loss of connection does not allow officers to access DMV [Department of Motor Vehicle] or communicate with the front desk via the computer. The possibility of Verizon accessing this tower would improve cellular signal strength therefore increase public and officer safety. This tower may also be used for any future enhancements to our radio system.

There is other support as well, including: letters from federally licensed wireless telecommunications carriers Verizon Wireless and AT&T, confirming their intent to co-locate on the Tower to remedy a gap in service in the Town of Kent; a letter from NYCOMCO, the professional communications provider for the Town of Kent Police Department, Highway Department and Fire Department, dated March 7, 2013, which states that the Tower at the Highway Garage "will improve public safety wireless communications and help secure the health, safety and welfare of the community."

There is also substantial evidence in the record that the Town conducted a thorough analysis of the impact of the proposal on property values, including the Lane Appraisal Report which concludes that "the installation, presence, and/or operation of the proposed Facility will not result in the diminution of property values or reduce the marketability of properties in the immediate area." There is also a supplemental Lane Appraisal Report (see T-Mobile v. Town of Ramapo, 701 F. Supp. 2d 446 [S.D.N.Y. 2009]). The Town Board's acceptance of same will not be disturbed by the Court (Retail Property Trust v. Town of Hempstead, 98 N.Y.2d 190, 196 [2002] citing Matter of Toys "R" Us v. Silva, 89 N.Y.2d 411, 423 [1996]). This determination is neither illegal, arbitrary, or an abuse of discretion (see e.g. Baker v. Brownlie, 248 A.D.2d 527, 528 [2d Dept 1998]); Matter of Tarantino v. Zoning Board of Appeals of Town of Brookhaven, 228 A.D.2d 511, 512 [2d Dept 1996]).

Notwithstanding the Homeowners' allegations, the Court finds that the record, as a whole, adequately supports the Town's position that the public in general and the Homeowners specifically were accorded an adequate opportunity to have any relevant and material concerns raised and addressed over the six-year review process, which included seven duly noticed public hearings held on November 27, 2012, December 18, 2012, January 29, 2013, February 26, 2013, March 19, 2013, April 2, 2013 and April 16, 2013. There were also numerous additional duly noticed public hearings and workshop meetings associated with the Generic Environmental Impact

Statement, the Town Wireless Infrastructure Plan, the lease agreement between Homeland and the Town, and the amendment to said lease. (See New York SMSA Limited Partnership v. Village of Floral Park Board of Trustees, 812 F.Supp.2d 143 [E.D.N.Y. 2011]; Cellular Telephone Company v. Town of Oyster Bay, 166 F.3d 490, 494-495 (2d Cir. 1999) ("generalized health concerns of citizens are insufficient to rise to the level of substantial evidence").

Finally in this regard, the Court does not find that the Town Board abused its discretion or otherwise acted arbitrarily, capriciously or contrary to law when it limited residents' final statements to three minutes during its seventh and final public hearing on the matter, April 16, 2013. In addition, their unfounded fears about radio frequency emissions were properly addressed.

The Court further finds that, within the confines of this CPLR Article 78 proceeding/Declaratory Judgment action, the Homeowners have failed to state a cause of action under section 51 of the General Municipal Law and 42 U.S.C. 1983. An action under GML §51 cannot be sustained in the absence of a showing of fraud, collusion, bad faith or public mischief (Bernstein v. Feiner, 13 A.D.3d 519, 521 [2d Dept 2004]).

The 1983 action must fail as well. "The essential elements of the cause of action are conduct committed by a person acting under color of State law, which deprived the Plaintiff of 'rights, privileges, or immunities secured . . . by the Constitution or laws of the United States'" (Bower Associates v. Town of Pleasantville, 304 A.D.2d 259, 262 [2d Dept 2003]). In any event, it is not properly raised in the context and nature of proceedings currently before the Court (*id.* at 263).

Based upon the foregoing, it is hereby

ORDERED, ADJUDGED and DECLARED, that the challenged Town Board resolutions are not void ab initio, are valid and of full legal effect, are not affected by errors of law, are neither arbitrary, capricious, nor contrary to law, are supported by substantial evidence in the record and are not otherwise actionable as illegal acts under General Municipal Law §51 or as otherwise herein advanced by Homeowners; and, it is further

ORDERED, that, Homeowners application for injunctive relief be and is hereby denied; and, it is further

ORDERED, that, the action be and is hereby dismissed in all respects.

The foregoing constitutes the Opinion, Decision, Order and Judgment of the Court.

Dated: Carmel, New York
June 13, 2013



HON. LEWIS J. LUBELL, J.S.C.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF PUTNAM

-----X
PETER BRUENN, CYNTHIA BRUENN,
MARCUS LOVETT, CHRISTINE LOVETT,
ALEXSANDRA VAUGHN, JOHN DEARMAN,
DANIELLE DEARMAN, DENNIS ROGERS,
LUNA BLECHER, GLEN DAVIDSON,
and LINDA DAVIDSON,

Index No. 1023/2013

Plaintiffs/Petitioners,

For an Order and Judgment Under Articles 30 & 78
of the New York State Civil Practice Law and Rules,

- against-

THE TOWN BOARD OF THE TOWN OF KENT,
KATHERINE DOHERTY, MICHAEL TEIRNEY,
PENNY ANN OSBORN, JOHN A. GREENE,
LOUIS TARTARO, Constituting the Town Board
of the Town of KENT, THE TOWN OF KENT and
HOMELAND TOWERS, LLC,

Defendants/Respondents.

-----X
State of New York)
) ss.:
County of Westchester)

Douglas W. Warden, being duly sworn, deposes and says: I am over eighteen years of age, reside in the County of Westchester, State of New York and am not a party to the above entitled proceeding. On the 19th day of June, 2014, I served the attached Notice of Entry upon all parties herein, by placing copies of the foregoing documents into the custody of the United States Post Office, Tarrytown, New York, in a first class postage prepaid envelope addressed to each of the parties as set forth in the attached circulation list.

Dated: Tarrytown, New York
June 19, 2014


Douglas W. Warden

Sworn to me this 19th day of
June, 2014


Notary Public

Michael P Sheridan
Notary Public State of New York
Westchester County
Commission Expires 08/15/2017
No. 02SH6131715

CIRCULATION LIST

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Memorandum In Support of The Multiple Grounds for the Philipstown Zoning Board of Appeals (ZBA) to deny the Application of Homeland Towers, LLC and New York SMSA Limited Partnership d/b/a Verizon Wireless to Construct a Cell Phone Tower at 50 Vineyard Rd., Cold Spring, N. Y.

December 28, 2017

The Philipstown Zoning Board of Appeals (ZBA) at its December 11th, 2017 public hearing announced, with consent of the Applicant, that the "shot clock" expiration was extended from January 5, 2018 to January 8, 2018. It is our understanding that the ZBA plans to make a decision at that public hearing on the Application. It is critical that the ZBA, whatever its decision, create a well-crafted written document based on the record before it, in support of its decision. The purpose of this memorandum is to provide a reference to relevant, critical information in the record for the ZBA to consider in developing such a document.

We also learned at the Dec. 11, 2017 public hearing that Homeland Towers, LLC's (HT) longstanding representations that the "oft-stated" purpose of constructing the 50 Vineyard Rd. tower was to replace the McKeels Corner tower site. This was not true. Numerous, on the record, verbal exchanges between ZBA Chairman Robert Dee and HT Attorney Robert Gaudio support this conclusion.

One such exchange occurred at the Oct. 2, 2017 ZBA meeting, quoted below:

"Chairman Robert Dee: Okay, I'm gonna, like you say, ask RF engineer to address that but I have a question there. You have like several pages of where towers are and so and so forth. And then you have Mekeels Corner, okay. Then you have with Mekeels Corner and without Mekeels Corner. And also I saw some note that you were gonna maybe abandon Mekeels Comer and replace it with this?"

Robert Gaudio: We would replace Mekeels Corner with this site. Correct.

Chairman Robert Dee: So why wouldn't you just leave Mekeels Corner and then we wouldn't need this.

Robert Gaudio: Because Mekeels Corner does not provide the full coverage to the area whereas this would and then this would be duplicative of Mekeels Corner so that's why we would eliminate Mekeels Corner.

Chairman Robert Dee: Aright so we have a cell tower you're eliminating for, to put this one in.

Robert Gaudio: Correct."

Additionally, at the same meeting the original RF engineer Ronald Graiff indicated the reason why McKeels Corner is duplicative:

"Chairman Robert Dee: Okay. Now is this, let me ask a question, are these done with the theory that the Mekeel tower is gonna be eliminated or Mekeel tower is in place.

Ronald Graiff: Mekeels Corners is going away.

Chairman Robert Dee: Going away. Okay. If Mekeels Corners stayed, and this tower didn't go in ...

Ronald Graiff: Oh you'd have to, you'd have 2 issues with that. You'd have a significant duplication of coverage because the sites are relatively close together. I've located, by the way, Mekeels coverage is a tree pole. It's a 100 foot tree pole just north of 301 almost at the intersection of 9. And if you look on Google Maps or Bing Maps, there it is. And then if you look at that distance between it and the proposed site, it really isn't that far away, so we have an interference issue with 2 sites and when 2 sites are close together then we get duplicate of coverage because we're kind of wasting this whole thing that we're covering the same area twice.

Chairman Robert Dee: Too many cell towers."

However, at the Dec. 11, 2017 public hearing it was revealed, in a statement by Atty. Gaudio, that the actual purpose for constructing the new tower at 50 Vineyard Road was only to allow for the removal of the Verizon Wireless equipment from the McKeels Corner tower site, which is owned by Crown Communications Inc. (CCI), and to relocate Verizon's equipment to the proposed Homeland Towers' 50 Vineyard Rd. tower site. **Therefore, this Application is really about moving revenues from the CCI, McKeels Corner tower, over to the HT, 50 Vineyard Rd. Tower!**

Listed below are many of the legal and factual grounds, already in the record, that the Board could cite in its written decision in the event it denies the Application.

Applicant's Standing to Make the Application

The above revelations about the actual purpose of the Application and the refusal of the Applicant's attorney, Mr. Gaudio, at the December 11th public hearing, to even describe the nature of the alleged arrangement of HT and Verizon Wireless, or any arrangements of these parties with CCI, or the terms of the lease with the property owner of the proposed tower site is incomprehensible. The refusal of Mr. Gaudio to provide any documentation of the complex arrangements necessary to accomplish the removal of Verizon equipment from McKeels Corner to 50 Vineyard Rd. is very disturbing. It points to the need for the ZBA to conduct an inquiry into the organizational documents of the Applicant and other relevant documents, in order to determine what the actual enforceable contractual arrangements are, if any. The Applicant has no right to complain about the requests for the following documents at this point in the process. It is the Applicant's concealment/intentional obfuscation of the real purpose of the Application that requires production of the following information and/or documents:

1. There is no documentation of the contractual arrangement of the alleged parties, Homeland Towers, LLC and New York SMSA Limited Partnership d/b/a Verizon Wireless. In his last appearance before the ZBA, Mr. Gaudio refused a Board member's request to even describe the nature of the arrangement amongst the parties. The ZBA does not have necessary information to determine whether there is a binding arrangement between the parties to occupy the HT Tower, if approved. Thus, the Application may contain speculative arrangements.
2. There is no documentation provided to the ZBA that shows a commitment from Verizon Wireless to move its equipment from McKeels Corner to 50 Vineyard Road.
3. There is no documentation provided to the ZBA regarding Verizon's and CCI's contractual arrangement at McKeels Corner.

4. Mr. Gaudioso flatly refused to provide the ZBA with a copy of the HT lease agreement with the lessee. Therefore, the Board cannot determine whether there are contingencies that would terminate the agreement. This issue could have been easily resolved by providing a copy of the lease to the ZBA, but no explanation was given for said refusal.
5. The licensee for the FCC radio frequency licenses for the proposed tower is with an entity described as Cellco Partnership. The Board has not received any documentation describing the relation between Cellco Partnership and the other alleged parties. This issue can be easily resolved by the provision of the relevant documentation.
6. Given all of the above, the Board should deny the Application based on the recent disclosures concerning the complexity of the business plan and the refusal of HT to provide even a verbal description of the formal arrangements making this Application "speculative".

The Application does not meet the requirements in Section 175-46 of the Town Code that requires a demonstration of necessity for current, not future needs

The purpose for the HT Tower, according to the September 6, 2017 RF report prepared by PierCon (the Report), is to remedy alleged current gaps in personal wireless services that occurs primarily along Routes 9 and 301. We believe the record establishes that the Application does not meet the requirements set forth in the Town Code, Section 175-46, et al. The sole purpose of a new tower is, apparently, to allow the removal of the Verizon equipment from the CCI-owned tower to the proposed HT-owned tower eight-tenths of a mile away. Despite the Applicant's clear representations that the Vineyard Road tower would replace the McKeels Corner tower, we only found out at the December 11, 2017 public hearing that the McKeels Corner tower will remain even after the potential construction of the Vineyard Road Tower. This information was not volunteered by the Applicant's attorney, but was confirmed after an attorney representing adjacent property owners raised the issue. Clearly, that purpose does meet the tests established by the Town Code. The facts in the record that support that conclusion are the following:

1. The Report states that "Philipstown (the 50 Vineyard Rd. tower) is intended to replace the existing site named McKeels Corners and is therefore also designed to provide coverage to most of the same areas as the existing McKeels Corners site." This statement is critical to understanding HT's actual goal. We believe that the Applicant misled the ZBA and community into thinking that "replacing the McKeels Corner site" meant that the tower would be taken down. It would have been very easy for the Applicant to disclose in its May 23, 2017 Application that the purpose of the Application was to, "move the Verizon antennas from the existing site to a new tower owned by a different party".

Creating a tower simply to provide, essentially, the same coverage merely to change revenue streams is in clear violation of the Code's requirement of the demonstration of "necessity." Necessity does not include "revenue necessity." If the Applicant had initially stated that was the purpose of the Application, it would have been summarily rejected. We believe this gross mischaracterization was designed to disguise the real purpose of the plan as well as to lull the ZBA into thinking that under the Application, "one tower going up, one going down." Instead the 2 towers will exist if the Vineyard Rd tower is approved.

2. HT has been "fishing" for a tower location in the general location since 2014. Please see the Application timeline submitted by the Rockwald Road Association (RRA) in its

submission at the December 11, 2017 ZBA/Conservation Board public hearing. During time period the Applicant would have had time to create an extensive record demonstrating gaps in service such as dropped call reports, consumer complaints and the standard Verizon system drive test analyses that are described below. The Applicant's first actual field road test was allegedly conducted on February 20, 2017, but no supporting data was provided. The failure of the Applicant to provide this easily obtained supporting data such as dropped call records should be construed against the Applicant.

3. Given that the real purpose of the HT Tower was to generate revenues for HT, a rationale had to be developed to appear to comply with the Town Code. The strategy developed was to formulate a "necessity rationale." HT then directed PierCon to produce an RF report containing propagation maps for two radio frequencies, 700 and 2100 MHz frequencies. Those two frequencies are primarily used to support its 4G LTE service which is designed to provide high speed data sessions. The above report intentionally ignored Verizon's 850 MHz service broadcast from McKeel's tower that provides good voice and data coverage to the area to be serviced by the proposed 50 Vineyard Road tower.
4. The propagation maps provided to the ZBA were computer generated with no supporting documentation such as the sources of any underlying data, software used, formulas and other assumptions used to generate them. There is no independent verification that this information was supplied by or reviewed by Verizon Wireless or was independently confirmed by PierCon. More telling; why was there no mention in the above report of the Verizon 850 MHz frequency broadcast from the McKeels Corner tower? In hindsight, it is now obvious.
5. The design of the HT Tower is in direct violation of the Town Code in that new towers must address shortcomings in **current service**. The rationale for the tower is that, in addition to broadcasting the 700 MHz frequency, it will also provide service via the 2100 MHz frequency. According to the Report, the 2100 MHz frequency provides much less area coverage than 700 MHz, but is needed because it adds "capacity" if there were too many calls using the 700 MHz frequency. There is not a single reference in the entire record that there is a lack of **capacity** for any existing frequency or service. Given the coverage inefficiency of the 2100 MHz frequency, the only reason for its inclusion in the tower design would be to cover potential future usage. Building a tower based on future need is a clear violation of the Code. We believe the 2100 MHz frequency was added simply to be able to "demonstrate" an artificially created gap in service to justify building a new tower. Because the tower is designed to meet highly speculative future needs, the Application should be denied.
6. The Application, even if correct in all other aspects, is designed to address future use and conditions. The PierCon RF Report states, "The Philipstown project is designed to work with the adjacent project named Nelsonville." HT has also targeted the small community of Nelsonville with a tower application. It is pure speculation whether and when a Nelsonville tower may be built. Also, there is no description of how the two towers would interact in the future. Therefore, this Application is dependent on future event(s), not current necessity. If this Application is approved and the Nelsonville application is not approved, or is otherwise delayed, , it is likely that HT would propose a new tower to cover the gaps

that would have been covered by a Nelsonville tower. This is precisely the type of situation the Town Code and the courts have sought to prevent.

7. There has been absolutely no showing by the Applicant of necessity. As we have extensively covered in previous submissions, the Applicant has presented no evidence that there is a necessity for a tower to provide coverage for "gaps" in service. Mr. Gaudioso, without explanation, has declined to provide his definition of necessity in his presentations before the two Boards.
8. However, the Applicant's RF Report did list 26 gaps in service covering 430 persons (and an un-enumerated number of transients). However, because the RF Report only analyzed two Verizon frequencies primarily designed for high speed data and ignored all others, the RF Report, as a matter of law, does not have any relevance whatsoever to demonstrating necessity. The Applicant may not pick and choose which frequencies it broadcasts to show necessity. There is no justification for failing to provide information about other Verizon frequencies available. The sole reason for that omission is to create the appearance of a gap in service. The courts, in the event of an appeal of a denial of the permit, would only look at whether there is adequate voice service. See *Sprint Spectrum, L.P. v. Willoth United States Court of Appeals, Second Circuit, 176 F. 3d 630 (1999)*. We have made this point *ad nauseum* in prior submissions. The existing Verizon 3G coverage from McKeels Corner provides voice and data services, albeit at a somewhat slower rate, according to Verizon. The Town Code does not implicitly or explicitly guarantee high speed data sessions and the Applicant cannot establish such a right as a matter of law.
9. Even working under the assumption that the Applicant's RF Report may be considered by the ZBA, an analysis by the ZBA's second RF Engineer, Mr. Menkes, showed that the alleged gaps only cover two groups of approximately 60 Verizon customers, one north of Rt. 301 and one south of Rt. 301. Further work by the Rockwald Rd. Association resulted in a map submitted to the Boards showing the alleged gaps primarily involve a small number of homes located in small clusters on adjacent local dirt roads. Nevertheless, the Rockwald Road Association observers were able to make voice calls on three different drive tests from each of the alleged gaps. Even, assuming *arguendo*, that these gaps exist, there is no requirement under the applicable court decisions to require granting a special use permit to cover those alleged gaps because they are not "significant".
10. It is inconceivable that Verizon actually initiated this tower application to "correct" the alleged gaps in the PierCon propagation maps. Why would Verizon move its equipment from one tower to another that results in essentially the same RF coverage? It is entirely likely that HT initiated this Application in order to garner the Verizon rental revenues. There is not a single document in the record actually executed by Verizon Wireless that reflects its participation in the Application!

Has Any Actual Reliable Data on Gaps in Coverage Been Presented to the Board?

We believe that there has been substantial evidence submitted to the Board regarding the absence of necessity or gaps in service. Challenging the Applicant's RF data is like disproving the existence of ghosts. It is all fiction. The Applicant's (*PierCon's*) RF Report and the ZBA's second RF engineer, Mr. Menkes, both relied on the propagation maps prepared by PierCon in performing their analyses. Mr. Menkes reports primarily reviewed the potential for alternate sites for the 50 Vineyard Rd. tower. We have previously raised the issue: why did the Applicant's RF Report only consider the 700 and 2100 MHZ frequencies and not evaluate coverage by other Verizon frequencies. We are extremely puzzled why Mr. Menkes did not consider all frequencies in performing his analysis. How can his report be considered relevant unless it analyzed all available frequencies such as the 850 MHZ voice communications band?

Given these unexplained failures by all RF engineers in all of their analyses to consider all available frequencies, the Rockwald Road Association undertook its own survey using the coverage test as set forth in *Sprint v. Willoth* cited above. The RRA presented data it collected during three different test drive days which reflected a 100% successful voice call rate from each of the alleged gaps in service including one continuous call for 54 minutes. This methodology was criticized by the PierCon engineer as "pseudoscience" and by the ZBA's RF engineer in the same vein. The gist of their criticism is that the only "scientific" method of collecting data is by making large numbers of observations; either computer-generated propagation maps or by making literally thousands of phone calls. These standards may be applicable to designing/analyzing large systems, but we believe that they are not applicable to analyzing the small areas in Philipstown where the Applicant alleges gaps in service.

With regard to drive tests, the ZBA's original RF engineer, Ronald Graiff, at the October Board meeting indicated the following:

Ronald Graiff: "In looking at these I can see an insignificant difference that any difference would be a function of the accuracy of this presentation. Remember the drive test didn't agree perfectly with the calculated, so there's some uncertainty there. So whenever you see one of these you have to take it with (inaudible) now the one thing that many municipalities do, when push comes to shove on this, the applicant does a continuous wave drive test. "

Mr. Graiff's testimony establishes that it is common practice in the telecom industry to use single day drive tests to establish adequacy of coverage in a limited area covered by one tower. Representations that coverage adequacy can only be established by tens of thousands of voice calls or millions of computer simulations, we believe, is a ridiculous proposition in this circumstance. Our position is supported by expert testimony in the record.

What reliable actual and reliable coverage data has been submitted to the ZBA?

1. We believe that the field test data submitted by the RRA is more reliable than the fatally incomplete propagation maps used by the two RF engineers. The RRA memorandum submitted to the Board at the November 13, 2017 public hearing, included an email from Dr. Brian Kopp, Ph.D., professor of Electrical Engineering at the University of North Florida. Dr. Kopp stated unequivocally that field testing is a much superior method to test RF coverage than propagation maps. He also wrote that after a review of our prior submissions to the ZBA, in his opinion, our drive test data was worthy of consideration by the appropriate jurisdiction, i.e., the ZBA.

2. In reaction to the above RF engineers' criticism, we asked Dr. Kopp if there might be a simpler way to test RF coverage than the two RF engineers suggested. He suggested that we look at the following YouTube video in which a Verizon Field Test Engineer describes how Verizon field tests its existing coverage nationwide:

<https://www.youtube.com/watch?v=CxM9e2zGjDA>

The video demonstrates the equipment and methodology Verizon company field test engineers use to measure system performance. They drive an SUV along the main auto routes in their designated territory and use 4 "every day" voice cell phones (two for Verizon and one each for other providers) controlled by a computer to make voice phone calls approximately every ¼ mile, connect for 1 ½ minutes, hang up and continue, etc. along their daily route. The voice antenna is on the roof of the SUV, so it probably has better reception than if it used the antenna in the phone. The data-tower connection is provided by antennas attached to the side window. The computer keeps track of any "glitches" in either the voice or data connections and these are reported back to Verizon engineers to take appropriate action. According to the video, each route is test driven four times per year. This supports our contention that if Verizon was experiencing coverage issues, it could easily provide the ZBA the dropped call data, or any other mobile phone connection issues.

The video also supports our contention that the RRA field test methodology is not very different than the Verizon field test methodology. The main difference is that their field testing is done periodically and is automated. That makes it even more inexplicable why, if there truly were a gap in service, such data has not been provided by Verizon to the ZBA. If the Applicant were to contend that this video is not representative of Verizon Wireless' coverage testing methodologies, the ZBA should only accept a written explanation of its methods by Verizon Wireless to contradict this highly probative evidence.

3. **RootMetrics Data Coverage Reports.**

RootMetrics is an independent company that provides online access to their nationwide mobile phone coverage reports. Verizon is typically one of their highest rated providers. Please refer to the following link: (<http://www.rootmetrics.com/en-US/methodology>). Mr. Paul Eldridge made a presentation at the December 11, 2017 ZBA public hearing regarding RootMetric's online reports on the Verizon Wireless coverage for the 50 Vineyard Rd. tower coverage area. Mr. Eldridge's report explained the RootMetric's methodology and resultant analysis for the 50 Vineyard Rd. tower's intended coverage area. Mr. Eldridge produced copies of the coverage maps prepared by RootMetrics using millions of phone connections (including voice and data) it collects on a national basis. The RootMetric's coverage maps can be accessed via the following link: <http://webcoveragemap.rootmetrics.com/en-US>.

These coverage maps can be accessed down to street level detail. As the map copies provided by Mr. Eldridge showed, RootMetrics analyses showed good coverage for voice and data on Rt. 9 (north and south) and Rt. 301 (east and west); the areas the 50 Vineyard Rd. tower was to be constructed to cover.

4. Verizon Coverage Map Solid 4GLTE Coverage - At the December 11, 2017 public hearing a member of the public referred to the Verizon Wireless website advertising the excellence of its national coverage. He specifically referred to the coverage for the area to be covered by the 50 Vineyard Rd. tower.

Please refer to the following link to see that Verizon Wireless claims virtually uninterrupted 4G LTE service in the 50 Vineyard Rd. coverage area: See: (<https://www.verizonwireless.com/featured/better-matters/?intmcp=INT-SEA-NON-SE-coverage-051614-DE-SR-LP-T#maps>).

Clearly, Verizon claims excellent existing service for both voice and data in the area, more than the law requires. After the member of the public referred to the website coverage information with respect to the proposed 50 Vineyard Rd. tower, Attorney Gaudioso claimed, in effect, that the Verizon Wireless coverage maps are not to be believed. He stated that he would produce evidence at the next hearing that the coverage maps were not what they seem and there were significant gaps in service despite the Verizon Wireless advertising.

We respectfully suggest that the Board require a writing from Verizon Wireless that Mr. Gaudioso's writing/testimony on this subject is correct before accepting Mr. Gaudioso's information. If Mr. Gaudioso is correct, then it appears that he is suggesting Verizon engages in false, or at least misleading, advertising.

Thus, in sum, there is much more than a scintilla of evidence to support the Board's decision to deny the Application on the basis that there has been no showing of necessity in providing reliable voice service and the Application is predicated entirely on speculative future needs. We believe that the failure of the applicant to map/field test all Verizon Wireless frequencies as well as provide supporting dropped call data requires the ZBA to determine the Applicant has not proved "necessity" under any standard.

Least Intrusive Alternative

While we strongly believe that the record would support the ZBA's determination that the Application does not meet the requirements of the Town Code to construct a new tower, the ZBA has suggested that the Applicant use the McKeels Corner tower to correct any alleged deficiencies in service. The Board has indicated it would consider granting a variance to increase the tower height to 190' as well as provide other variances to permit the tower to be built at the existing site. HT has not accepted any of the ZBA's offers saying that it would not correct the alleged gaps in service. The ZBA's RF engineer has stated in remarks at the December 11th public hearing that moving the Verizon equipment from the McKeels Corner tower to 50 Vineyard Rd. would fix some gaps in service, but would create some new gaps. In other words, the move would be a "wash".

While we strongly disagree with any finding that there is a gap in service, we believe the sole reason for HT's refusal to consider McKeels Corner is that another company owns that tower and HT would not make any money from moving the Verizon equipment 80 ft. higher on someone else's tower.

An additional complication, according to Mr. Campanelli, is that Mr. Gaudioso also represents CCI, the owner of McKeels Corner tower. This potential conflict could have complicated or prevented any real

effort to negotiate improvements in McKeels Corner to address the alleged gaps by improvements at the McKeels site. In fact, Mr. Gaudioso has stated that he has never spoken to anyone at CCI. We can reasonably infer from these facts that there was never a real effort to explore McKeels Corner as the least intrusive alternative. This alone is grounds for rejection of the Application.

Aesthetics

Saratoga Associates presented the results of the second balloon test at the December 11, 2017 ZBA public hearing. Although the balloon test was done at 150', Saratoga Associates projections purported to show what the effect of a 140' tower would be on the surrounding properties. The projections were artfully presented to show the tower screened by trees. Attached are photographs taken by a Rockwald Road Association member, with leaves still present on most trees despite a request for a balloon test with the majority of the leaves off the trees, clearly showing the visual effects from the decks of 43 and 100 Rockwald Road of a 4' balloon flown at 150'.



The Saratoga Report indicates a lack of visual impact but relied on creative angles to show trees screening the tower from view. If one takes a few steps to the right or left, the tower is in clear sight. Additionally, trees are subject to adverse effects from natural processes and human acts: fire, drought, ice storms, flooding, and insect predation. For example: In 2015 & 2016 gypsy moths defoliated an estimated 380,000 acres of woodlands in neighboring Connecticut. Defoliated trees do not screen cell towers, and after multiple defoliations there will be trees that do not recover.

Finally, since according to law the tower can be raised without additional approvals from the ZBA, the 140' balloon test is going to be irrelevant when assessing the visual impact of a much higher tower.

Adverse Effect on Property Values

Common Sense, the Board members' experience as residents and comments from the public in this unique community should support a finding that construction of the tower will have a significant adverse effect on property values of adjacent properties.

The Applicant has provided reports showing by the "paired comparison appraisal method" that there are no adverse consequences to the property values of homes in view of a cell phone tower. While courts in some cases have accepted these comparisons, the analysis provided by this Applicant defies common sense, is based on inapplicable comparisons and is intellectually dishonest.

The effect on property values due to the construction of a tower adjacent to a residential area cannot be reasonably determined by sales price comparisons made years after the construction of the tower. Homes purchased after the tower's construction probably had the tower's effect already "priced in." For "pre-existing" towers there are simply too many variables to make valid comparisons years after the construction of the tower.

These variables include:

- View shed's importance to the property value,
- home size (not just sq. ft.) and bedrooms, bath rooms
- condition,
- finishes
- landscaping, etc.

Those conditions and changes in market conditions over time make valid comparisons highly suspect, even if the comparisons were of "cookie cutter" suburban subdivisions. As anyone who has their home appraised in this area, e.g., for a mortgage refinance etc., he/she knows how difficult it is for the appraiser to find comparable homes within a reasonable distance from the home being appraised. The small number of "comparable" homes in the 50 Vineyard Rd. area makes a statistically valid comparison statistically impossible. Bank appraisers have to comply with strict standards, whereas, the appraiser for HT has no such standards. This appraisal has clearly been designed to meet HT's objectives.

In our opinion, the only "scientific" way to establish the effect of a newly constructed tower on the property value of an existing home would be to have a valid appraisal of the home before tower construction (or general knowledge a tower was to be constructed) and then an appraisal after the building of the tower. While this method is not perfect, it would involve far fewer variables than the completely unreliable paired comparison method appraisal submitted to the ZBA.

A major element of the value of the homes in this area is their rural nature and the view shed. A cell phone tower looming over the adjacent properties would destroy the very "soul" of those properties. It would negate the reason it was purchased in the first place. The noise from 45 minutes of weekly generator testing would intrude on the peaceful nature of the woodland area surrounding the tower. A tower in a "cookie cutter" suburban community with ¼ acre lots may not have a major effect on the

view shed. The view shed was probably not a major feature contributing to its value compared to the effect it would have in this instance. This is just common sense.

Perhaps the best evidence of the destructive presence of a cell tower on the adjacent properties affected by this Application is the insistence of the site lessee that the tower could only be built where he wouldn't see it. HT acquiesced in that demand, even though they admit there are better locations on the property for the tower.

The Application contained so many errors and misrepresentations that the Applicant does not come before the Board with "Clean Hands" and the Application should be denied

The Applicant has made so many errors and misrepresentation in its multiple Applications that its lack of honesty, credibility and accuracy requires the Board to treat the Application with extreme skepticism. Some of these items have been raised in this memorandum and others, but we believe that they should be reviewed again in their totality. If this Application is approved, the ZBA would be granting a demonstrably "unreliable" developer the authority to build and maintain a major structure adjacent to several residential properties in an important view shed. Some examples from the record are set forth below:

1. The Application, initially, was framed as a request for a special use permit to build a 180 ft. monopole tower to correct 26 gaps in personal wireless services. The Application and testimony before the Board stated that the that McKeels Corner site would be eliminated, but, in fact, that was never the plan. In reality, the purpose of the construction of a new tower was to provide for the removal of Verizon's existing equipment from the McKeels Corner Tower owned by another company to the 50 Vineyard Rd. tower to be owned by HT. There would be no significant difference in coverage due to the move. If the real purpose of the Application had been disclosed in the original Application, it probably would have been denied early on.
2. There is no real gap voice service. The record clearly shows that the Applicant was "trolling" the area for years looking for a place to erect a tower. The majority of the consultant work product required to submit the Application was completed a year before it submitted the irrelevant RF Report. Misleading RF Engineering reports were submitted that omitted Verizon Wireless frequencies that are broadcast from McKeels Corner tower that currently provide completely adequate voice and data services to the area in question. This flawed Application has forced the ZBA and the Philipstown community to spend countless hours to disprove a "chimera."
3. The Application contained numerous mistakes, misstatements and outright falsehoods, none of which were corrected until they were pointed out by the ZBA and/or the public commentators. All of the Applications were submitted under oath, by HT's agent/attorney. The Board should investigate if there are any remedies for such a misleading application:

A sample some of the misstatements are:

- a. In order to gain support for their tower, the Applicant falsely stated that a Putnam County emergency communication antenna would be placed on top of the proposed tower. A

consultant report created in 2016 even named the manufacturer and model number of the supposed antenna system. Unfortunately for its credibility, the Applicant had contacted the County about installing the antenna on the proposed tower numerous times and was turned down. That misstatement has not been corrected nor how this misstatement occurred has never been explained.

- b. The Applicant's attorney at the public hearing on November 13, 2017 made an extremely misleading statement about the legal process that would occur, in the event, that the ZBA denied the Application. He stated that if the decision were appealed to the District Court, the Court would hold a "de novo" hearing on whether the ZBA's decision was supported by the evidence. It is hard to understand how/why such a talented and experienced attorney as Mr. Gaudioso would make such a statement to the Board. What was his purpose?
- c. The original and subsequent Applications contained numerous errors and misstatements of fundamental information and conditions. It demonstrates the sloppiness with which it was created:
 - i. The Applicant was described in the initial May 23 Application and in subsequent Applications as Homeland Towers LLP, an entity that does not exist. It is Homeland Towers LLC. While, this is an easily corrected error, it was not corrected until October 31, well after it was pointed out by a public commentator. The error was dismissed as a typo. If you can't even check your affirmation for accuracy, how can you be relied upon to check the rest of the extensive documentation?
 - ii. The initial Application listed that 500 persons a year would see the tower, a ludicrous number when the reality is that it was in the thousands of cars on Route 9 on a daily basis. This patently false number probably was submitted in a lame attempt to minimize the visual impact of the tower. It was corrected after being pointed out by Chairman Dee.
 - iii. In the initial Visual analysis report there were numerous obvious mistakes including:
 - 1. Missing Rockwald Road – only corrected after public comment
 - 2. Incorrectly measuring the distance from the tower to various homes - corrected only after public comment
 - 3. The distance from the tower to a turn in Rockwald Road closest to the tower site, was listed as 490 feet away which was actually 290 feet away, resulting in the tower being much more visible than claimed

Conclusion

We believe that this document provides the ZBA with numerous substantial grounds on which to deny the 50 Vineyard Rd. tower Application based on the record it has accumulated over the past six months.



Menkes Associates, LLC

Hank Menkes, President
menkesassoc@gmail.com

December 21, 2017

Mr. Robert Dee, Chairman
Phillipstown Zoning Board of Appeals
238 Main Street
P. O. Box 155
Cold Spring, New York 10516

Re: Homeland Towers/Verizon Wireless application for a proposed cell tower at
50 Vineyard Road, Phillipstown, NY

As requested, this letter provides a professional opinion relative to the justification for a proposed cell site and 140 foot tower at 50 Vineyard Road, Phillipstown, New York; and, if determined to be necessary, whether alternative sites may satisfy the coverage requirements for reliable in-building service in the areas identified by the applicants along Route 9 and Route 301.

To facilitate making these decisions, the predicted coverage plots from the various PierCon Solution RF reports were employed. The use of calibrated predictive, computer generated coverage plots is well established in the wireless industry so there is no reason to doubt the use of the supplied coverage plots for predicting the RF signal levels for this application. However RF coverage plots are not the only criteria in determining the real-world impact of a wireless network's performance.

Although there is correlation between RF signal strength and network performance, it is also true that if the RF signal strength is less than the service provider's targeted performance objective, it does not mean that calls or data sessions cannot be established or sustained. This was demonstrated by the evidence provided by the residents. Rather, it only means that the statistical success rate of those calls and data sessions is reduced. A more definitive measure of impaired coverage is the actual call performance records in the area of consideration. The user equipment generates this information, the network elements record this data, and all service providers utilize these records to determine the performance of their network. The Board requested the call performance data, but the applicants refused the request claiming that it was proprietary even though such information has been presented for other Verizon applications when it was to their benefit.

The signal strength plots for the existing Verizon network in Philipstown show reference signal received power (RSRP) at 700 MHz as less than -95 dBm along a northerly section of Route 9 and an area of Route 301 west of Route 9. However at -105 dBm, the in-vehicle target value, these same areas offer reliable service. This indicates that the RSRP values in the areas of reduced call quality range between -105 dBm and -95 dBm. This indicates completely reliable in-vehicle service for the claimed compromised areas. However the applicants, on this application, assert less reliable in-building service.

The applicant has indicated in their September 6, 2017 PlerCon RF report that the affected population in the area be considered in determining the impact of the purported less reliable coverage. Their RF report states that, according to the 2010 census report, there are 430 residents in the targeted area exclusive of the businesses along Route 9. The exact area is not explicit, but it will be assumed that it includes both the areas around Route 9 north of Route 301 and Route 301 west of Route 9. This is a relatively small population number to start, and it must be further adjusted to represent actual Verizon subscribers. According to the Pew Research center, as of November of 2016, 77% of all Americans owned a smart phone and an additional 18% owned a basic cell phone. Only smart phones can access LTE technology, the technology of focus for this application. Of the 77% who own a smart phone, 35.7% are Verizon subscribers. As a result, of the 430 people in the area of concern, and applying these nationwide averages to this limited area of Philipstown, approximately 119 people could potentially be Verizon subscribers. According to the applicants' report this number does not include the businesses along Route 9 with their employees and customers. Consequently an additional 25% will be added resulting in approximately 150 total potential Verizon in-building subscribers divided between the Route 9 and Route 301 areas. By any measure, erecting a new cell site and tower to serve an additional potential 150 subscribers is questionable and speaks to the numerical insignificance of the in-building coverage gaps.

Apart from the questionable need for a new cell site and tower, the Menkes Associates, LLC report of November 28, 2017 concluded that "Raising the antenna elevation to 190 feet and adjusting the antenna orientations at the McKeel's Corners site would improve the in-building coverage at 700 MHz along Route 301 west of Route 9; however a gap would remain along Route 9 north of Route 301. Conversely, the proposed tower at 50 Vineyard Road provides reliable in-building service at 700 MHz along Route 9, but leaves a larger portion of Route 301 without reliable service."

The applicants raised the possibility of erecting an additional tower in the Nelsonville area to address the remaining reduced in-building coverage along Route 301. However, the Philipstown Board has indicated that they do not have jurisdiction over the fate of the proposed Nelsonville tower and as such must consider the issues associated with the application at hand. Consequently, the existing McKeel's Corners site with a 190 foot tower is the better choice based on offered coverage. The applicants' RF engineer, Mr. A. Feehan, agrees with this conclusion as recorded in his November 30, 2017 RF report which states, "Based solely on the area of coverage provided by the two options, Mr. Menkes is correct in concluding that the existing site option is the better choice without Nelsonville."

In conclusion, the impact of the areas of reduced in-building coverage in the existing Verizon 700 MHz wireless network has been quantified using the applicants' methodology and numbers. The result is that for approximately 150 subscribers the applicants are proposing a new cell site and tower. As indicated above, the data submitted by Verizon when viewed in the context of the applicants' refusal to provide call performance data, and the lack of evidence from any resident establishing actual impaired or compromised in-building coverage representing a verifiable gap in coverage raises questions regarding the need for a new cell site and tower.

Prepared and submitted by:

A handwritten signature in black ink, appearing to read "H. E. Menkes". The signature is written in a cursive, flowing style.

H. E. Menkes
President

TOWN OF PHILIPSTOWN
STATE OF NEW YORK

-----X

In the Matter of the Application of

**Homeland Towers, LLC and New York SMSA Limited
Partnership d/b/a Verizon Wireless
for a Special Use Permit**

Premises: 50 Vineyard Road
Cold Spring, NY 10516

**AFFIDAVIT
IN OPPOSITION**

Special Use Permit

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF PUTNAM)

MARGARETTA M. BICKFORD, being duly sworn, deposes and says:

1. I reside at 119 ROCKWALD ROAD within the Town of Phillipstown.
2. My residence is located within the specific geographic area within which the applicant, Homeland Towers LLC is alleging there exists a “significant gap” in *Verizon’s* personal wireless services.
3. I have been a *Verizon* customer for a continuous period of more than ten years immediately preceding the filing of Homeland’s application. During such period, I actively and continuously used *Verizon’s* personal wireless services both inside and outside of my home.
4. During this time, I had used *Verizon’s* personal wireless services exclusively, to make cell telephone calls, receive telephone phone call on my cell phone, and to both send and receive text messages on my *Verizon* cell phone from within my house with no interruption of service.
5. During such period, I have averaged sending and/or receiving not less than three

or four telephone calls and text messages, per day from the inside of my home, on my *Verizon* cell phone using *Verizon's* personal wireless services.

6. Alternatively stated I averaged not less than 21 calls and texts each week, for an annual average of 252 calls per year, for a total of not less than 2420 calls and texts.

7. In each and every one of such wireless communications, I was able to initiate, maintain and successfully conclude all of my cell calls without interruption, call failure, or loss of personal wireless service.

8. In similar vein, all of my texts were successfully sent and received with no delay or failure in communication transmissions, and all of those personal wireless communications were successfully undertaken and completed "*in building*," meaning that they were undertaken and completed from within my home.

9. Contemporaneously, I have made additional use of *Verizon's* personal wireless services, during that same ten year period, in using my cell phone and *Verizon's* personal wireless services while driving through the specific geographic area within which Homeland Towers is claiming there exists a "significant gap" in *Verizon's* personal wireless services.

10. At all times throughout that entire ten year period, I was able to initiate, maintain, and conclude many calls and text messages from my *Verizon* cell phone without any failure or problems whatsoever while driving in my car through the area that Homeland Towers and Verizon claims that there is a purportedly "significant gap" in *Verizon's* personal wireless service coverage.

MARGARETTA M. BICKFORD

Sworn to before me on this
26TH day of December, 2017



NOTARY PUBLIC

ROBERT C. BICKFORD
Notary Public, State of New York
No. 02BI4616432
Qualified in Putnam County
Commission Expires March 30, 19

TOWN OF PHILIPSTOWN
STATE OF NEW YORK

-----X

In the Matter of the Application of

**Homeland Towers, LLC and New York SMSA Limited
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for a Special Use Permit**

Premises: 50 Vineyard Road
Cold Spring, NY 10516

**AFFIDAVIT
IN OPPOSITION**

Special Use Permit

-----X

STATE OF NEW YORK)

COUNTY OF PUTNAM) ss.:

Elyn Varela-Burstein

[name], being duly sworn, deposes and says:

1. I reside at [*52 Lane Gate Rd* address] within the Town of Phillipstown.

2. My residence is located within the specific geographic area within which the applicant, Homeland Towers LLC is alleging there exists a "significant gap" in *Verizon's* personal wireless services.

3. I have been a *Verizon* customer for a continuous period of more than *15* [number of years] years immediately preceding the filing of Homeland's application. During such period, I actively and continuously used *Verizon's* personal wireless services both inside and outside of my home.

4. During this time, I had used *Verizon's* personal wireless services exclusively, to make cell telephone calls, receive telephone phone call on my cell phone, and to both send and receive text messages on my *Verizon* cell phone from within my house with no interruption of service.

5. During such period, I have averaged sending and/or receiving not less than [5 calls 10 texts number of calls and texts per day] telephone calls and text messages, per day from the inside of my home, on my *Verizon* cell phone using *Verizon's* personal wireless services.

6. Alternatively stated I averaged not less than [100 number of call/texts per week] one calls and texts each week, for an annual average of [5,200 number of calls/texts per year] per year, for a total of not less than 78,000 total number of calls/texts in those 15 years six calls and texts. EB

7. In each and every one of such wireless communications, I was able to initiate, maintain and successfully conclude, all of my cell calls without interruption, call failure, or loss of personal wireless service.

8. In similar vein, all of my texts were successfully sent and received with no delay or failure in communication transmissions, and all of those personal wireless communications were successfully undertaken and completed "*in building*," meaning that they were undertaken and completed from within my home.

9. Contemporaneously, I have made additional use of *Verizon's* personal wireless services during that same [15 years number of years that you had *Verizon*] year period, in using my cell phone and *Verizon's* personal wireless services while driving through the specific geographic area within which Homeland Towers is claiming there exists a "significant gap" in *Verizon's* personal wireless services.

TOWN OF PHILIPSTOWN
STATE OF NEW YORK

-----X

In the Matter of the Application of

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Premises: 50 Vineyard Road
Cold Spring, NY 10516

**AFFIDAVIT
IN OPPOSITION**

Special Use Permit

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF PUTNAM)

JEFFREY BURSTEIN, being duly sworn, deposes and says:

1. I reside at 52 CANE GATE RD within the Town of Phillipstown.
2. My residence is located within the specific geographic area within which the applicant, Homeland Towers LLC is alleging there exists a "significant gap" in *Verizon's* personal wireless services.
3. I have been a *Verizon* customer for a continuous period of more than 15 years immediately preceding the filing of Homeland's application. During such period, I actively and continuously used *Verizon's* personal wireless services both inside and outside of my home.

4. During this time, I had used *Verizon's* personal wireless services exclusively, to make cell telephone calls, receive telephone phone call on my cell phone, and to both send and receive text messages on my *Verizon* cell phone from within my house with no interruption of service.

5. During such period, I have averaged sending and/or receiving not less than [5] telephone calls and text messages, per day from the inside of my home, on my *Verizon* cell phone using *Verizon's* personal wireless services.

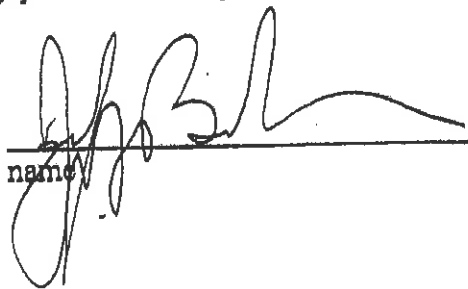
6. Alternatively stated I averaged not less than [35] one calls and texts each week, for an annual average of [1820] per year, for a total of not less than [27,300] six calls and texts.

7. In each and every one of such wireless communications, I was able to initiate, maintain and successfully conclude, all of my cell calls without interruption, call failure, or loss of personal wireless service.

8. In similar vein, all of my texts were successfully sent and received with no delay or failure in communication transmissions, and all of those personal wireless communications were successfully undertaken and completed "in building," meaning that they were undertaken and completed from within my home.

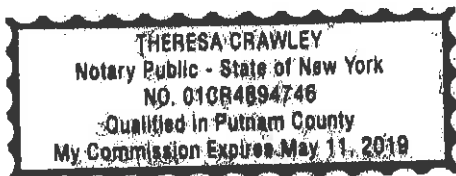
9. Contemporaneously, I have made additional use of *Verizon's* personal wireless services during that same [15] year period, in using my cell phone and *Verizon's* personal wireless services while driving through the specific geographic area within which Homeland Towers is claiming there exists a "significant gap" in *Verizon's* personal wireless services.

10. As all times throughout that entire three year period, I was able to initiate, maintain, and conclude many calls and text messages from my *Verizon* cell phone without any failure or problems whatsoever while driving in my car through the area that Homeland Towers and Verizon claims that there is a purportedly "significant gap" in *Verizon's* personal wireless service coverage.


name

Sworn to before me on this
15th day of December, 2017


NOTARY PUBLIC



TOWN OF PHILIPSTOWN
STATE OF NEW YORK

-----X

In the Matter of the Application of

**Homeland Towers, LLC and New York SMSA Limited
Partnership d/b/a Verizon Wireless
for a Special Use Permit**

Premises: 50 Vineyard Road
Cold Spring, NY 10516

**AFFIDAVIT
IN OPPOSITION**

Special Use Permit

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF PUTNAM)

I, Marian Rockwell, being duly sworn, deposes and says:

1. I am a landowner at 2680 Route 9, directly adjacent to the proposed cell tower property on Vineyard Rd., and within the Town of Phillipstown.

2. My farm is located within the specific geographic area within which the applicant, Homeland Towers LLC is alleging there exists a "significant gap" in *Verizon's* personal wireless services.

3. I have been a *Verizon* customer for a continuous period of more than three years immediately preceding the filing of Homeland's application. During such period, I actively and continuously used *Verizon's* personal wireless services both inside and outside of my home.

4. During this time, I had used *Verizon's* personal wireless services exclusively, to make cell telephone calls, receive telephone phone call on my cell phone, and to both send and receive text messages on my *Verizon* cell phone from within my house with no interruption of service.

5. During such period, I have averaged sending and/or receiving not less than five telephone calls and text messages, per day from 2680 Route 9 / Vineyard Rd. on my *Verizon* cell phone using *Verizon's* personal wireless services.

6. Alternatively stated I averaged not less than 15 number of call/texts per week, for an annual average of 780 number of calls/texts per year per year, for a total of not less than 800 calls and texts.

7. In each and every one of such wireless communications, I was able to initiate, maintain and successfully conclude, all of my cell calls without interruption, call failure, or loss of personal wireless service.

8. In similar vein, all of my texts were successfully sent and received with no delay or failure in communication transmissions, and all of those personal wireless communications were successfully undertaken and completed "*in building*," meaning that they were undertaken and completed from within my home.

9. Contemporaneously, I have made additional use of *Verizon's* personal wireless services during that same three year period, in using my cell phone and *Verizon's* personal wireless services while driving through the specific geographic area within which Homeland Towers is claiming there exists a "significant gap" in *Verizon's* personal wireless services.

10. As all times throughout that entire three year period, I was able to initiate, maintain, and conclude many calls and text messages from my *Verizon* cell phone without any

TOWN OF PHILIPSTOWN
STATE OF NEW YORK

-----X

In the Matter of the Application of

**Homeland Towers, LLC and New York SMSA Limited
Partnership d/b/a Verizon Wireless**
for a Special Use Permit

Premises: 50 Vineyard Road
Cold Spring, NY 10516

**AFFIDAVIT
IN OPPOSITION**

Special Use Permit

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF PUTNAM)

Joel Cooper and Candace Vanessa Crymes, both being duly sworn, jointly depose and say:

1. We reside at 120 Rockwald Road within the Town of Phillipstown.
2. Our residence is located within the specific geographic area within which the applicant, Homeland Towers LLC is alleging there exists a "significant gap" in *Verizon's* personal wireless services.

3. My wife and I have been *Verizon* customers for a continuous period of more than ten years immediately preceding the filing of Homeland's application. During such period, we have actively and continuously used *Verizon's* personal wireless services both inside and outside of our home.

4. During this time, we had used *Verizon's* personal wireless services exclusively, to ~~we~~ make cell telephone calls, receive telephone phone call^s on our cell phones, and both send and receive text messages on our *Verizon* cell phones from within our house and in ours car with no interruption of service.

JC
4

5. During the last five years, we have averaged sending and/or receiving not less than approximately seven telephone calls and text messages per day from the inside of our home, on our *Verizon* cell phones using *Verizon's* personal wireless services.

6. Alternatively stated, we averaged not less than approximately 40 calls and texts each week, for an annual average of approximately 2,000 per year, for a total of not less than approximately 10,000 calls and texts.

7. To the best of our recollections, in each and every one of such wireless communications, she and I were able to initiate, maintain and successfully conclude, all of our cell calls without interruption, call failure, or loss of personal wireless service.

8. In a similar vein, all of the above communications referred to in paragraphs 5-7 above, were successfully sent and received with no delay or failure in communication transmissions, and all of those personal wireless communications were successfully undertaken and completed "*in building*," meaning that they were undertaken and completed from within our home.

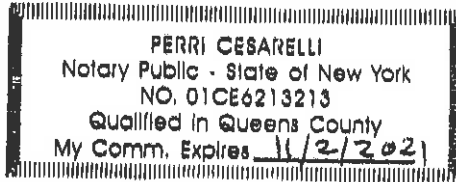
9. Contemporaneously, we have made additional use of *Verizon's* personal wireless services during that same five year period using *Verizon's* personal wireless services while driving through the specific geographic area within which Homeland Towers is claiming there exists a "significant gap" in *Verizon's* personal wireless services.

10. As all times throughout that entire five year period, we were able to initiate, maintain, and conclude many calls and text messages from our *Verizon* cell phones without any failure or problems whatsoever while driving in our cars through the area that Homeland Towers and Verizon claims that there is a purportedly "significant gap" in *Verizon's* personal wireless service coverage.

Joeh Cooper
name *Joeh Cooper*

Sworn to before me on this
18th day of December, 2017

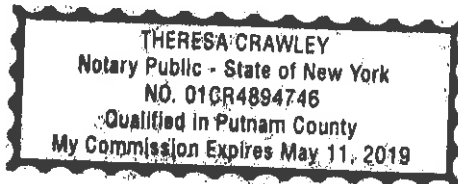
Peri Caselli
NOTARY PUBLIC



Candace Vanessa Crymes
name
CANDACE VANESSA CRYMES
Candace Vanessa Crymes

Sworn to before me on this
20th day of December, 2017

Theresa Crawley
NOTARY PUBLIC



TOWN OF PHILIPSTOWN
STATE OF NEW YORK

-----X

In the Matter of the Application of

**Homeland Towers, LLC and New York SMSA Limited
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for a Special Use Permit

Premises: 50 Vineyard Road
Cold Spring, NY 10516

**AFFIDAVIT
IN OPPOSITION**

Special Use Permit

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF PUTNAM)

 CALI GOREVIC
name

], being duly sworn, deposes and says:

1. I reside at PO Box 247, 60 Round Hill Rd, Cold Spring address within the Town of Phillipstown.

2. My residence is located within the specific geographic area within which the applicant, Homeland Towers LLC is alleging there exists a "significant gap" in Verizon's personal wireless services.

3. I have been a Verizon customer for a continuous period of more than 17 number of years years immediately preceding the filing of Homeland's application. During such period, I actively and continuously used Verizon's personal wireless services both inside and outside of my home.

4. During this time, I had used *Verizon's* personal wireless services exclusively, to make cell telephone calls, receive telephone phone call on my cell phone, and to both send and receive text messages on my *Verizon* cell phone from within my house with no interruption of service.

5. During such period, I have averaged sending and/or receiving not less than [~~number of calls and texts per day~~ 15] telephone calls and text messages, per day from the inside of my home, on my *Verizon* cell phone using *Verizon's* personal wireless services.

6. Alternatively stated I averaged not less than [~~number of call/texts per week~~ 105] one calls and texts each week, for an annual average of [~~number of calls/texts per year~~ 3360] per year, for a total of not less than [~~total number of calls/texts~~] six calls and texts. (8 months)

7. In each and every one of such wireless communications, I was able to initiate, maintain and successfully conclude, all of my cell calls without interruption, call failure, or loss of personal wireless service.

8. In similar vein, all of my texts were successfully sent and received with no delay or failure in communication transmissions, and all of those personal wireless communications were successfully undertaken and completed "*in building*," meaning that they were undertaken and completed from within my home.

9. Contemporaneously, I have made additional use of *Verizon's* personal wireless services during that same [~~number of years that you had Verizon~~ 17] year period, in using my cell phone and *Verizon's* personal wireless services while driving through the specific geographic area within which Homeland Towers is claiming there exists a "significant gap" in *Verizon's* personal wireless services.

10. As all times throughout that entire three year period, I was able to initiate, maintain, and conclude many calls and text messages from my *Verizon* cell phone without any failure or problems whatsoever while driving in my car through the area that Homeland Towers and Verizon claims that there is a purportedly "significant gap" in *Verizon's* personal wireless service coverage.

Dei Forcic
name

Sworn to before me on this
18th day of December, 2017

Deborah A. White
NOTARY PUBLIC

DEBORAH A. WHITE
No. 01WH4963883
Notary Public, State of New York
Qualified in Dutchess County
My Commission Expires 03/19/20 18

TOWN OF PHILIPSTOWN
STATE OF NEW YORK

-----X

In the Matter of the Application of

**Homeland Towers, LLC and New York SMSA Limited
Partnership d/b/a Verizon Wireless
for a Special Use Permit**

Premises: 50 Vineyard Road
Cold Spring, NY 10516

**AFFIDAVIT
IN OPPOSITION**

Special Use Permit

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF PUTNAM)

ROGER GOREVIC
[name], being duly sworn, deposes and says:
P.O. Box 247, 60 Road Hill Road, Cold Spring, N.Y. 10516

1. I reside at [address] within the Town of Phillipstown.
2. My residence is located within the specific geographic area within which the applicant, Homeland Towers LLC is alleging there exists a "significant gap" in *Verizon's* personal wireless services.
3. I have been a *Verizon* customer for a continuous period of more than [*17 YEARS* number of years] years immediately preceding the filing of Homeland's application. During such period, I actively and continuously used *Verizon's* personal wireless services both inside and outside of my home.

4. During this time, I had used *Verizon's* personal wireless services exclusively, to make cell telephone calls, receive telephone phone call on my cell phone, and to both send and receive text messages on my *Verizon* cell phone from within my house with no interruption of service.

5. During such period, I have averaged sending and/or receiving not less than 16 PHONE CALLS + TEXTS PER DAY [] number of calls and texts per day [] telephone calls and text messages, per day from the inside of my home, on my *Verizon* cell phone using *Verizon's* personal wireless services.

6. Alternatively stated I averaged not less than 102 number of call/texts per week [] one calls and texts each week, for an annual average of [] number of (10 MONTHS) calls/texts per year 4,800 per year, for a total of not less than [] total number of ~~calls/texts [] six calls and texts~~

7. In each and every one of such wireless communications, I was able to initiate, maintain and successfully conclude, all of my cell calls without interruption, call failure, or loss of personal wireless service.

8. In similar vein, all of my texts were successfully sent and received with no delay or failure in communication transmissions, and all of those personal wireless communications were successfully undertaken and completed "*in building*," meaning that they were undertaken and completed from within my home.

9. Contemporaneously, I have made additional use of *Verizon's* personal wireless services during that same ~~[] number of years that you had Verizon~~ 17] year period, in using my cell phone and *Verizon's* personal wireless services while driving through the specific geographic area within which Homeland Towers is claiming there exists a "significant gap" in *Verizon's* personal wireless services.

10. As all times throughout that entire three year period, I was able to initiate, maintain, and conclude many calls and text messages from my *Verizon* cell phone without any failure or problems whatsoever while driving in my car through the area that Homeland Towers and Verizon claims that there is a purportedly "significant gap" in *Verizon's* personal wireless service coverage.


_____ name

Sworn to before me on this
18th day of December, 2017



NOTARY PUBLIC

DEBORAH A. WHITE
No. 01WH4983883
Notary Public, State of New York
Qualified in Dutchess County
My Commission Expires 03/19/20 18

LAW OFFICES OF
SNYDER & SNYDER, LLP

94 WHITE PLAINS ROAD
TARRYTOWN, NEW YORK 10591

(914) 333-0700

FAX (914) 333-0743

WRITER'S E-MAIL ADDRESS

Email to rgaudioso@snyderlaw.net

NEW YORK OFFICE
445 PARK AVENUE, 9TH FLOOR
NEW YORK, NEW YORK 10022
(212) 749-1448
FAX (212) 932-2693

LESLIE J. SNYDER
ROBERT D. GAUDIOSO

DAVID L. SNYDER
(1956-2012)

NEW JERSEY OFFICE
ONE GATEWAY CENTER, SUITE 2600
NEWARK, NEW JERSEY 07102
(973) 824-9772
FAX (973) 824-9774

REPLY TO:

Tarrytown office

November 2, 2017

Honorable Chairman Robert Dee
and Members of the Zoning Board of Appeals
Town of Philipstown
238 Main Street
Cold Spring, NY 10516

Re: WHUD Tower Replacement
22 Sky Lane
Garrison, NY 10524

Dear Hon. Chairman Dee and
Members of the Zoning Board of Appeals:

We are the attorneys for Pamal Broadcasting ("Applicant") in connection with the above referenced matter.

The existing WHUD tower ("Tower") was originally approved in 1957 as a "public utility," for use as a transmission tower for the WHUD radio station. In 2003 Sprint received a Building Permit to co-locate telecommunications antennas on the Tower. In 2015 Verizon Wireless received Special Use and Site Plan approvals for co-location of new antennas on the Tower, but the Tower could not support additional facilities and so the Verizon Wireless antennas were never installed. Putnam County also wishes to install emergency services antennas on the Tower.

The Applicant proposes to replace the Tower to be able to support collocation ("Proposed Tower"). The existing WHUD transmission equipment all other users will be relocated to the Proposed Tower, and Verizon Wireless will install antennas in accordance with their approvals granted in 2015 and the County will install its emergency service antennas. Pursuant to §175-62 of the Zoning Code, a pre-application meeting with the Zoning Administrative Officer is required, which was conducted on August 8, 2017.

As the original Tower was granted as Special Permit, Applicant requests Amended Special Permit approval (per §175-64D) from the Zoning Board of Appeals for the Proposed Tower and related antennas.

In furtherance of the foregoing, enclosed please find a check in the amount of \$10,000.00 representing the required application fee, a check in the amount of \$5,000.00 representing the required escrow deposit, a check in the amount of \$250.00 representing the required hearing fee, and nine (9) copies of the following documents and a disk with copies of all documents:

- 1) Special Permit Application;
- 2) Letters of Authorization;
- 3) No Violations Letter;
- 4) Letters of Support;
- 5) EAF; and
- 6) Site Plan.

If you have any questions or require additional information, please do not hesitate to call me at (914) 333-0700.

Respectfully submitted,
SNYDER & SNYDER, LLP

By: 
Robert D. Gaudio

RDG:cae

Enclosures

cc: Pamal Broadcasting

Z:\SSDATA\WPDATA\SS3\RDG\Pamal Broadcasting\ZBA Cover Letter 8.17.2017.docx

APPEAL # _____ Tax Map # _____

APPELLANT'S NAME _____ ZONE / DISTRICT / MAP REFERENCE _____

APPELLANT'S ADDRESS _____

APPEAL VALUE 10,000.00 Assessed Value 5,000.00 Assessed % _____

APPEAL TYPE _____

APPELLANT'S BUSINESS Pamal Broadcasting

APPELLANT'S ADDRESS c/o Snyder & Snyder, LLP, 94 White Plains Road, Tarrytown, NY 10591

APPELLANT'S PHONE N/A BUSINESS PHONE (914) 333-0700

APPELLANT'S E-MAIL ADDRESS _____

APPELLANT'S FAX _____

APPELLANT'S AGENT NAME _____ AGENT PHONE/CELL PHONE _____

APPELLANT'S AGENT ADDRESS _____

APPELLANT'S AGENT PHONE _____

APPELLANT'S AGENT FAX _____

APPELLANT'S AGENT E-MAIL _____

APPELLANT'S AGENT CELL PHONE _____

APPELLANT'S AGENT FAX _____

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APPELLANT'S AGENT E-MAIL _____

APPELLANT'S AGENT CELL PHONE _____

APPELLANT'S AGENT FAX _____

APPELLANT'S AGENT CELL PHONE _____

**22 Sky Lane
Town of Philipstown, NY 10524**

See attached

§§ 175-46, 175-62, 175-64D pursuant to the Town Engineer.

June 1, 2015: New York SMSA Limited Partnership d/b/a Verizon Wireless sought an interpretation or special use permit that would allow them to co-locate antennas and related improvements on the existing tower with equipment at the base thereof. On or about November 9, 2015 the ZBA granted Verizon Wireless special permit approval.

December 27, 1957: the ZBA granted Highland Broadcasting Corporation a Special Permit to construct the original radio tower, in response to Appeal No. 10.

May 31, 1977: the ZBA granted access to the property and tower via the right-of-way, in response to Appeal No. 232.

X

N/A

N/A

100. The tower is located in the same location as the existing tower.

101. The tower is located in the same location as the existing tower.

102. The tower is located in the same location as the existing tower.

Replication of existing tower requires relocation of existing communications facility.

103. The tower is located in the same location as the existing tower.

Replication of existing tower requires relocation of existing communications facility.

104. The tower is located in the same location as the existing tower.

§175-46(B)(4): "New communications tower construction or the location or collocation of communication equipment on an approved communications tower or tall structure within the RC, RR, HR, HM, HC, SR, and IC Zoning Districts is subject to obtaining a special use permit from the Zoning Board of Appeals in accordance with Subsection F and Article IX." Pursuant to the Town Engineer, an amended permit is requested.

James J. Morrell


PAMAL BROADCASTING

By



21 August 2017

Albany State of New York


Andrea L. Stucky
Notary Public, State of New York
No. 01ST8188934
Qualified in Saratoga County
Commission expires June, 16, 2020

Adjoiners List
 Prepared by Tectonic Engineering & Surveying Consultants, P.C.

SECTION	BLOCK	LOT	PROPERTY OWNER	MAILING ADDRESS
TOWN OF PHILIPSTOWN				
83.14	1	41	RICHARD J AND ANABEL S ZAPP	5 RIDGE CREST RD, LAKE PEEKSKILL, NY 10537
83.18	1	4	ROBERT FROMME	69 W MONTE LINDO, GLENDALE, AZ 85310
			HEATHER FROMME	54 CARROLL DR, WAPPINGERS FALLS, NY 12590
83.18	1	5	ROBERT FROMME	69 W MONTE LINDO, GLENDALE, AZ 85310
83.18	1	6	HEATHER FROMME	54 CARROLL DR, WAPPINGERS FALLS, NY 12590
83.18	1	7	COUNTY OF PUTNAM	40 GLENEIDA AVE, CARMEL, NY 10512
83.18	1	12	COUNTY OF PUTNAM	40 GLENEIDA AVE, CARMEL, NY 10512
83.18	1	12	RICHARD MEISTER JR	29 RIDGECREST RD, LAKE PEEKSKILL, NY 10537
83.18	1	13	THOMAS AND ELAINE HENDERSON	RD 1 BOX 63A, MCDONOUGH, NY 13801
83.18	1	14	COUNTY OF PUTNAM	40 GLENEIDA AVE, CARMEL, NY 10512
83.18	1	15	TOWN OF PHILIPSTOWN	238 MAIN ST, COLD SPRING, NY 10516
83.18	1	16	IONEL ALMAZON	P.O BOX 98, GARRISON, NY 10524
83.18	1	17	TOWN OF PHILIPSTOWN	238 MAIN ST, COLD SPRING, NY 10516
83.18	1	18	CONTEFISHER CONSTRUCTION	1420 JOURNEY'S END RD, CROTON ON HUDSON, NY 10520
83.18	1	20	ARVY EBRAHIME	300 MAMARONECK AVE, WHITE PLAINS, NY 10605
83.18	1	21	JOHN M ALBERT	P.O BOX 216, PUTNAM VALLEY, NY 10579
83.18	1	22	JAMES J MORRELL	6 JOHNSON RD, LATHAM, NY 12110
83.18	1	23	JAMES J MORRELL	6 JOHNSON RD, LATHAM, NY 12110
83.18	1	24	COUNTY OF PUTNAM	40 GLENEIDA AVE, CARMEL, NY 10512
83.18	1	26	TOWN OF PHILIPSTOWN	238 MAIN ST, COLD SPRING, NY 10516
83.18	1	27	COUNTY OF PUTNAM	40 GLENEIDA AVE, CARMEL, NY 10512
83.18	1	28	CITY OF NEW YORK, D.E.P	OWSL BUREAU OF WATER SUPPLY, 465 COLUMBUS AVE #350, VALHALLA, NY 10595
83.18	1	29	WENDY K WESTROM	16727 W SNOQUALMIE VALLEY RD NE, DUVALL, WA 98019
83.18	1	40	CAROLYN GARCIA	1240 HOG MOUNTAIN RD, FLEISCHMANS, NY 12430
83.18	1	42	KEVIN AND PAULA SARLES	31 MOUNTAIN DR, GARRISON, NY 10524
83.18	1	43	SCOTT ANDERSON	35 MOUNTAIN DR, GARRISON, NY 10524
83.18	1	45	CAROL MARIA MCELRATH AND RAJISINGH KOCHAR	39 MOUNTAIN DR, GARRISON, NY 10524
83.18	1	46	SUSAN AND THOMAS PHILLIPS	43 MOUNTAIN DR, GARRISON, NY 10524
83.18	1	47	CHARLES CUSTODIO	64 MOUNTAIN DR, GARRISON, NY 10524
			MARIA CUSTODIO	46 POCANTICO ST, SLEEPY HOLLOW, NY 10591
83.18	1	48	JLGYARS GRIETENS	34 MOUNTAIN DR, GARRISON, NY 10524
83.18	1	49	JAMES J MORRELL	6 JOHNSON RD, LATHAM, NY 12110
91.6	2	19	DAVID W FUSIAK AND BODO FISCHER	32 MOUNTAIN DR, GARRISON, NY 10524
91.6	2	21	DAVID W FUSIAK	20 MOUNTAIN DR, GARRISON, NY 10524
91.6	2	42	GUERLENS D DEMOSTHENE AND DOLORES FRANCO	6 LAUREL TER, GARRISON, NY 10524
91.6	2	43	SANIAY AND VANDANA PATHAK	8 LAUREL TER, GARRISON, NY 10524
91.6	2	44	ANTHONY J AND LORRAINE C CIPRIANO	10 LAUREL TER, GARRISON, NY 10524
91.6	2	45	EDWIN AND EILEEN MARTINEZ	12 LAUREL TER, GARRISON, NY 10524
91.6	2	46	ANTHONY AND FELICIA PAONESSA CATALANO	14 LAUREL TER, GARRISON, NY 10524
91.6	2	47	SHEILA M LITTLETON AND KATHLEEN MORAN	11 LAUREL TER, GARRISON, NY 10524
91.6	2	48	TOWN OF PHILIPSTOWN C V WATER DISTRICT	35-802 238 MAIN ST, COLD SPRING, NY 10516
91.6	2	49	RONALD AND MARGARET DE MARCHIS	5 LAUREL TER, GARRISON, NY 10524
TOWN OF PUTNAM VALLEY				
83.64	1	1	ARMONDO VIVENZIO	21 ARMONDO RD, COLD SPRING NY 10516
83.64	1	4	FERNANDO CORREIA	3868 VALLEY VIEW ST, MOHEGAN LAKE, NY 10547
83.72	1	1	DANIEL EDWARD AND DEAN ERIC MULVEY	29 ELINOR PL, LAKE PEEKSKILL, NY 10537
83.72	1	2	DEAN ERIC MULVEY	29 ELINOR PL, LAKE PEEKSKILL, NY 10537
83.72	1	3	PAMAL BROADCASTING	6 JOHNSON RD, LATHAM, NY 12110
83.72	1	4	JOHN B MCMANUS	P.O BOX 331, LAKE PEEKSKILL, NY 10537
			VERA MCMANUS	21 ELINOR PL, LAKE PEEKSKILL, NY 10537
83.72	1	6	LAURA PRESANT	11 STONEHENGE RD, GREAT NECK, NY 11029
83.72	1	7.1	JOHN M ALBERT	P.O BOX 216, PUTNAM VALLEY, NY 10579
83.72	1	7.2	CONTEFISHER CONSTRUCTION, INC.	1420 JOURNEY'S END RD, CROTON ON HUDSON, NY 10520
83.72	1	8	ROBERT KEMPERLE	176 NEW HWY, NO AMITYVILLE, NY 11701
83.72	1	9	ROBERT KEMPERLE	176 NEW HWY, NO AMITYVILLE, NY 11701
83.72	1	10	RICHARD I ZAPP, JR	5 RIDGECREST RD, LAKE PEEKSKILL NY 10537
			ANABEL S ZAPP	146 RIDGECREST RD, LAKE PEEKSKILL NY 10537

83-72	1	13	THOMAS E BIRMINGHAM	11 RIDGECREST RD, LK PEEKSKILL NY 10537
83-72	1	15	RUDOLPH KEMPERLE AND EDELTRAUD BISCHOFF	75 05 64TH ST, GLENDALE, NY 11385
83-72	1	16	MICHAEL AND JULIE DINIZO	8 RIDGECREST RD, LAKE PEEKSKILL, NY 10537
83-72	1	17	JOSEPH J CARDINALE	P.O. BOX 269, PUTNAM VALLEY, NY 10579
83-72	1	18	WILLIAM B BLUNDON	3 HILLAIR RD, LAKE PEEKSKILL, NY 10537
83-72	1	19	DAVID BOZENA	7 HILLAIR RD, LAKE PEEKSKILL NY 10537
83-72	1	53	ROBERT AND VICTORIA HOCHBERG	422 9TH ST, BROOKLYN, NY 11215
83-72	1	54	JANUM MANAGEMENT LLC	132 MONTFORT DR, BELLE MEAD NJ 08502
83-72	1	63	ALLAN GRABOWSKI	12 HILLAIR RD, LAKE PEEKSKILL, NY 10537
83-72	1	65	STEVEN SACHELI	12 ANN PL, LAKE PEEKSKILL, NY 10537
83-72	1	67	FED NATL MORTGAGE ASSOC	7 CENTURY DR, PARSIPPANY, NJ 07054
83-72	1	68	MARCIA S PRESSER AND RAMIA ALESCHIN	67 RIDGE RD, HARTSDALE, NY 10530
83-72	1	69	AUSTIN KOSKINEN FALLS	18 ELINOR PL, LAKE PEEKSKILL, NY 10537
83-72	1	70	LAKE PEEKSKILL IMP DIST	TOWN HALL, PUTNAM VALLEY, NY 10579
83-80	1	1	CAROL, CHARLES AND RAYMOND T WOLFF	3 REICHART ST, LAKE PEEKSKILL, NY 10537
83-80	1	3	JAMES AND REBECCA OBRIEN	7 REICHART ST, LAKE PEEKSKILL, NY 10537
83-80	1	4	NORMAN ANDERSON	152 BARGER ST, PUTNAM VALLEY, NY 10579
83-80	1	5	DONALD AND NATTAKARN OSBORNE	15 REICHART ST, LAKE PEEKSKILL, NY 10537
83-80	1	6	JIM YU	2532 77TH STREET, EAST ELMHURST, NY 11370
83-80	1	7	FISHERHALL INC	10 ANN PL, LAKE PEEKSKILL, NY 10537
83-80	1	8	DANIEL EDWARD MULVEY	29 ELINOR PL, LAKE PEEKSKILL, NY 10537
83-80	1	9	FRANK AND MARGARET LOPUZZO	54 REICHERT ST, LAKE PEEKSKILL, NY 10537
83-80	1	10	EDWARD SISCO	40 REICHART ST, LAKE PEEKSKILL, NY 10537
83-80	1	12	MICHAEL MAJDANSKI	27 TRAVERSE RD, LAKE PEEKSKILL, NY 10537
83-80	1	13	SUSAN E ITALIA	21 TRAVERSE RD, LAKE PEEKSKILL, NY 10537
83-80	1	14	RICHARD E MEISTER JR	29 RIDGECREST, LAKE PEEKSKILL, NY 10537
83-80	1	15	JEFFERY SOUTH AND DOMENICA MASULLO-SOUTH	11 TRAVERSE RD, LAKE PEEKSKILL, NY 10537
83-80	1	16	RICHARD E MEISTER JR	29 RIDGECREST, LAKE PEEKSKILL, NY 10537
83-80	1	17	MICHAEL AND CARISSA MAJDANSKI	27 TRAVERSE RD, LAKE PEEKSKILL, NY 10537
83-80	1	18	KURT FREITAG	31 TRAVERSE RD, LAKE PEEKSKILL, NY 10537
83-80	1	19	MICHAEL AND MICHELLE USAI	35 TRAVERSE RD, LAKE PEEKSKILL, NY 10537
83-80	1	20	M PRESTIGIACOMO	8 DOUGLAS DR, HOLMDEL, NY 07733
83-80	1	64	PAUL AND MARGARET ASTROLOGO	P.O BOX 127, LAKE PEEKSKILL, NY 10537
83-80	1	65	LAKE PEEKSKILL WATER DIST	50-902, TOWN HALL, PUTNAM VALLEY, NY 10579
83-80	1	73	TOWN OF PUTNAM VALLEY	35-406, TOWN HALL, PUTNAM VALLEY, NY 10579
83-80	1	74	PAUL AND MARGARET ASTROLOGO	P.O BOX 127, LAKE PEEKSKILL, NY 10537
83-80	1	75	PAUL AND MARGARET ASTROLOGO	P.O BOX 127, LAKE PEEKSKILL, NY 10537
83-80	1	76	PAUL AND MARGARET ASTROLOGO	P.O BOX 127, LAKE PEEKSKILL, NY 10537
83-80	1	77	TOWN OF PUTNAM VALLEY	35-406, TOWN HALL, PUTNAM VALLEY, NY 10579
91-24	1	7	LAKE PEEKSKILL IMP DIST	TOWN HALL, PUTNAM VALLEY, NY 10579
91-24	1	8	NYC DEPT OF WATER SUPPLY	OFFICE OF WATER SUPPLY WASTERWATER, 465 COLUMBUS AVENUE, STE 3, VALHALLA, NY 10595
91-24	1	9	LAKE PEEKSKILL WATER DIST	50-902, TOWN HALL, PUTNAM VALLEY, NY 10579
91-24	1	11	MATTHEW AND CINDY MARCHESE	6 TRAVERSE RD, LAKE PEEKSKILL, NY 10537
91-24	1	13	TOWN OF PUTNAM VALLEY LK PEEK IMP DIST	35-1304 TOWN HALL, PUTNAM VALLEY, NY 10579

LETTER OF AUTHORIZATION

APPLICATION FOR ZONING/APPROVAL

Sprint Spectrum Realty Company L.P., owner ("Facility Owner") of a facility, including antennas and related equipment, located on the existing WHUD broadcast tower at 22 Sky Lane, Philipstown, New York (the "Property"), does hereby appoint Pamal Broadcasting and its representatives, as its agent for the purpose of consummating any application necessary to insure its ability to replace the existing tower with a new tower and relocate the Facility Owner's existing facility to the proposed replacement tower.

Owner: Sprint Spectrum Realty L.P.

By: [Signature]

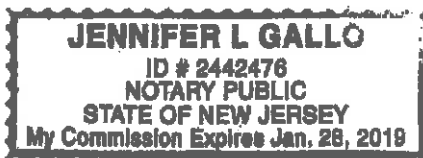
Date: 8/31/17

Sworn to before me this 31st
day of August, 2017

[Signature]
Notary Public

Authorized Agents:

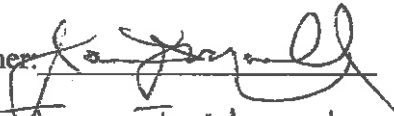
Pamal Broadcasting



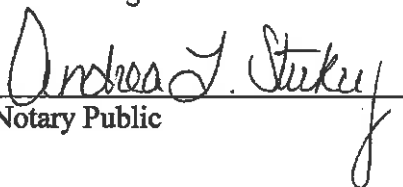
LETTER OF AUTHORIZATION

APPLICATION FOR ZONING/APPROVAL

James J. Morrell, owner of the property located at 22 Sky Lane, Town of Philipstown, New York (the "Property"), does hereby appoint Pamal Broadcasting and its representatives, as its agent for the purpose of consummating any application necessary to obtain any permits in connection with the proposed tower replacement at the Property.

Owner: 
By: James J. Morrell
Date: 8/17/17

Sworn to before me this 17th
day of August, 2017


Notary Public

Andrea L. Stukey
Notary Public, State of New York
No. 01ST6188934
Qualified in Saratoga County
Commission expires June, 16, 2020

Authorized Agents:

Pamal Broadcasting

TOWN OF PHILIPSTOWN
CODE ADMINISTRATOR

238 MAIN STREET
P.O. BOX 155
COLD SPRING, NY 10516

Greg Wunner, Code Enforcement Officer
(845) 265-5202
(845) 265-3929
(845) 265-2687 FAX

DATE: August 18, 2017

TO: Snyder & Snyder, LLP
94 White Plains Rd.
Tarrytown, NY 10591

REF: W HUD Tower Replacement
22 Sky Lane
Garrison, NY 10524
TAX MAP # 83.18-1-23

IN RESPONSE TO YOUR REQUEST FOR "NO VIOLATION LETTER" ON ABOVE MENTIONED PROPERTY PLEASE BE ADVISED THAT AFTER REVIEWING PROPERTY RECORDS THERE WERE NO VIOLATION NOTED.

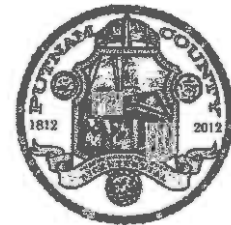
SINCERELY



GREG WUNNER
ZONING ADMINISTRATOR



Office of
Information Technology &
Geographic Information Systems



Thomas C. Lannon, Sr.
Director

MaryEllen Odell
County Executive

August 25, 2017

Robert Furlong
Executive Vice President
Pamal Broadcasting
715 Route 52
Beacon NY 12508

Dear Mr Furlong,

It was a pleasure speaking to you to discuss Putnam County's desire to use the WHUD Tower located in the Town of Philipstown New York. I wanted to summarize our concerns and hope we can form an agreement to allow Putnam County use of the tower.

We are currently faced with several issues that directly impact our emergency radio communications within the Town of Philipstown and the villages of Cold Spring and Nelsonville. The largest concern that directly impacts the safety of the public and first responders is the poor coverage areas within the western part of the County and the lack of true interoperability within County agencies and other municipalities. To mitigate this we have partnered with Motorola to design a new trunked radio system that will allow over 95% guaranteed coverage. This is imperative for our police, fire and EMS responders. Through our analysis we have identified the WHUD tower as a prime location.

We are also plagued with an aging communications infrastructure and must replace our microwave equipment. The current system is out of warranty with no replacement parts available. We have addressed this by leveraging a grant to purchase a new microwave system that will allow us to not only upgrade the existing analog radio system but have the higher bandwidth in place for the new trunked radio system.

In analyzing both our future needs and our current requirements it is clear that the WHUD tower is critical for our emergency radio system. We understand that the current tower will not support the required equipment due to its age and that there is a plan to construct a new tower to replace the current one. I am in full support of this project and offer any assistance to expedite. We are in a position where we need to move forward as quickly as possible. Please let me know if there is anything I can do to assist and I look forward to discussing in the near future.

Yours Truly,


Thomas C Lannon, Sr
Director of IT/GIS
Putnam County

Donald B. Smith County Government Campus
County of Putnam ~ 110 Old Route 6, Bldg 3 ~ Carmel N.Y. 10512
www.putnamcountyny.gov

(845) 808-1800

Fax (845) 808-1810



**PUTNAM COUNTY
BUREAU OF EMERGENCY SERVICES**



Anthony W. Sutton
Commissioner

MaryEllen Odell
County Executive

Robert A. Lipton
Commissioner

Robert Cuomo
EMS Director

September 1, 2017

Mr. Robert Furlong
Executive Vice President
Pamal Broadcasting
715 Route 52
Beacon, New York 12508

Dear Mr. Furlong,

I am writing on behalf of all of Putnam County's first responders to thank you for extending the opportunity for the County to install much needed communications infrastructure on your radio tower. Your facility will help fill in critical coverage gaps in our Police, Fire and EMS radio systems. Your cooperation and courtesy is much appreciated and will undoubtedly result in the saving of lives and the preservation of property here in Putnam. Thank you again for your partnership as we build out our new communications system.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Anthony W. Sutton".

Anthony W. Sutton
Commissioner

cc: County Executive MaryEllen Odell
Deputy Commissioner Ken Clair
Director Thomas Lannon, IT/GIS
Sheriff Donald B. Smith



**PUTNAM COUNTY
OFFICE OF THE SHERIFF
THREE COUNTY CENTER
CARMEL, NEW YORK 10512**



DONALD B. SMITH
Brigadier General, U.S. Army (Ret.)
SHERIFF
(845) 225 - 3000

PAUL A. BOSCIA
Lieutenant Colonel USAF (Ret.)
UNDERSHERIFF
(845) 225 -1460

August 29, 2017

Mr. Robert Furlong
Executive Vice President
Pamal Broadcasting
715 Route 52
Beacon, NY 12508

Dear Mr. Furlong:

I am writing to thank you for hosting a Putnam County Emergency Services antenna on your WHUD tower located in the Town of Philipstown, New York, and to also support your construction of a new tower on the same site that is needed in order to comply with new federal government standards.

As you already are aware, the very rugged terrain and topography in the Town of Philipstown, including the villages of Cold Spring and Nelsonville, provide a tremendous communications challenge for the Putnam County Sheriff's Office and all of our Emergency Services first responders and partners.

Putnam County, as a whole, has tremendous communications challenges, however, without your help, we would not be able to provide satisfactory communications, particularly on the western side of our beautiful county.

Working in cooperation with our Information Technology Director, Thomas C. Lannon, Sr., and our Bureau of Emergency Services, we have partnered with Motorola to design a new trunk radio system that will help us solve these challenges by providing over 95% guaranteed coverage. This coverage will only be possible by us utilizing the WHUD tower as a prime location.

Communications, command and control are essential to the success of any law enforcement or military operation. It is vitally essential that we retain access to the new WHUD tower so that we can provide timely dispatch and effective command and control of all of our law enforcement operations on the western side of the county.

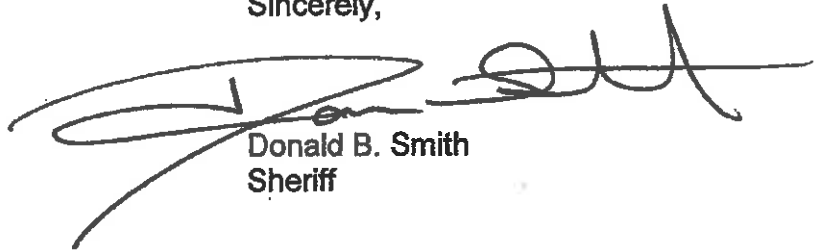
Again, I hereby request that in your plans for constructing a new tower that you continue to include the Putnam County Sheriff's Office and Emergency Services

partners in order to support the safety of all the residents of Putnam County. Please accept this letter as our assurance that you have our full support on this important tower construction project.

In closing, I thank you for all your support and look forward to continuing to work with you in the future to help keep Putnam County a great and safe place to live, work, and raise a family.

Best wishes. Keep the faith!

Sincerely,

A handwritten signature in black ink, appearing to read 'Donald B. Smith', written over a horizontal line.

Donald B. Smith
Sheriff

DBS/mf

cc: County Executive MaryEllen Odell
Commissioner Anthony Sutton, Bureau of Emergency Services
Director of IT/GIS Thomas Lannon
Undersheriff Paul A. Boscia
Captain Frank Christian

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Palma Replacement and Installation of a guyed tower at 22 Sky Lane			
Project Location (describe, and attach a location map): 22 Sky Lane, Phillipstown, NY (Town of Phillipstown, Putnam County)			
Brief Description of Proposed Action: The proposed action is the removal and replacement of an existing Guyed Tower which supports communications services. The replacement does not alter the location of any existing ground based buildings. The replacement is a like-in-kind action upon the property.			
Name of Applicant or Sponsor: Pamal Broadcasting Ltd		Telephone: 602-316-9935	
Address: 6 Johnson Road		E-Mail:	
City/PO: Latham		State: NY	Zip Code: 12100
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Amendment of Special Permit - ZBA, Building Permit			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		12.06 acres	
b. Total acreage to be physically disturbed?		0.005 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		12.06 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input checked="" type="checkbox"/> Other (specify): <u>Communication Services</u>			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: No Changes Are Proposed	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: Action is an unmanned facility which does not produce effluence or waste.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: Action is an unmanned facility which does not produce effluence or waste.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the proposed action located in an archeological sensitive area? (Area of Prior Disturbance)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: No impact to wetlands anticipated	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100 year flood plain?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES			

<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p>		
<p>Applicant/sponsor name: <u>Pamal Broadcasting</u></p>		<p>Date: <u>November 2, 2017</u></p>
<p>Signature: <u><i>Douglas J. Stepien</i></u></p>		<p><u>DMS Consulting Services, Inc.</u></p>

Karen L. Parks
292 Main St., Suite 2A
Cold Spring, NY 10516

klparks@optonline.net

Tel/Fax: (845) 265-2607

November 17, 2017

Robert Dee
Chairman, Zoning Board of Appeals
Town of Philipstown
P.O. Box 155
238 Main Street
Cold Spring, NY 10516

Re: Provan residence, 200 Jaycox Rd., Cold Spring, Tax Map # 27.19-1-28

Dear Mr. Dee and Members of the Zoning Board of Appeals:

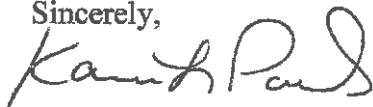
Enclosed please find an Appeal application for a zoning variance requested by David and Ann Provan, pertaining to a proposed addition to their single family residence which will required a side yard setback variance.

Seven individual packets containing the following, are submitted herewith:

- Completed Appeal Application.
- Owner Consent & Authorization Form, dated Nov. 15, 2017.
- Denial of Building Permit & Referral to ZBA, dated Nov. 16, 2017.
- Copy of Deed to property.
- Existing building plans, drawings EX1-EX6, dated Nov.16, 2017.
- Proposed building plans, drawings A1-A6, dated Nov. 16, 2017.
- Survey prepared by Badey & Watson Surveying & Engineering, P.C., dated March 7, 2001, with proposed building addition added by Karen L. Parks on Nov. 16, 2017.
- Copies of Certificates of Occupancy for all existing structures: #4475, #8388, #2007:9913, and #2015:11656.

Thank you for your consideration of our proposed project. Please let me know when we might be placed on your agenda for review of our application for completeness.

Sincerely,



Karen L. Parks

APPEAL # _____ Tax Map # 27.19-1-28

Final hearing date _____ Zoning Board decision APPROVED / DENIED

Date application submitted 11/17/2017

Application fee \$ _____ Escrow \$ _____ Received by _____

To the Zoning Board of Appeals, Town of Philipstown, New York:

I (we), David and Ann Provan

residing at 200 Jaycox Rd., Cold Spring, NY 10516

Telephone: home 845-809-5267 business Same

HEREBY appeal the decision of (name and title) Greg Wunner, Building Inspector
whereby he/she Code Enforcement Officer, Town of Philipstown

GRANTED _____ DENIED X a BUILDING PERMIT X a CERTIFICATE OF OCCUPANCY _____

For Insufficient Side Yard Setback for proposed addition

To David and Ann Provan

of 200 Jaycox Rd., Cold Spring, NY 10516

For property at tax map # 27.19-1-28 in zoning district SR
Suburban Residential

WHEN FILLING OUT APPLICATION, ATTACH ADDITIONAL PAGES AS NECESSARY TO ANSWER QUESTIONS.

1. LOCATION OF PROPERTY: (Give 911 address and a map and detailed narrative giving directions to the property using road names, such as Route 9 or 9D, Old Albany Post Road, East Mountain Road South, etc. and landmarks such as Garrison School, North Highlands Fire House, Highlands Country Club, etc:

From the intersection of Route 9 and 301, head North on Route 9 approx. 1.0 miles Turn Left onto Jaycox Rd. Travel approx. 0.3 miles to #200 Jaycox Rd., on Left.

2. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS (include those opposite on streets/highways. Use additional sheets if necessary. This information may be obtained in the Town assessor's office)

Separate sheet attached

3. PROVISIONS OF ZONING CODE INVOLVED (give Article, Section, Sub-section, paragraph by number, Do not quote text of code)

175-11 Density and Dimensional Regulations
175 Attachment 2 Dimensional Table

4. PREVIOUS APPEAL (If there have been any previous appeals for this property or any portion thereof, set forth the appeal number, date, relief sought and the ZBA decision resulting)

NONE

TYPE OF APPEAL:

an INTERPRETATION of the Zoning Code or Maps

a VARIANCE from the Zoning Code

a SPECIAL USE PERMIT under the Zoning Code

5. DETAILS OF APPEAL (Complete only that section which applies to the appeal you are submitting)

(a) INTERPRETATION of the Zoning Code is requested

(1) An exact statement of the interpretation requested is:

N.A.

(b) a VARIANCE from the Zoning Code is requested:

(1) An exact statement of the details of the variance requested is:

A variance is requested of the required minimum side yard setback of 30'. The setback of the proposed addition will be 11' (feet). Therefore a variance of 19" is requested.

(2) The grounds on which this variance should be granted are:

Due to existing site constraints, (Driveway access to North, Swimming pool to West, and Septic System to East), the Southerly end of the existing structure is the only practical location for the proposed addition. The requested variance is minimal and should have no negative impact on neighboring properties.

(c) a SPECIAL USE PERMIT is requested: *NA*

(1) The reason the permit is requested:

(2) An exact statement of use for which the permit is requested:

(3) The facts showing the use is permitted as a SPECIAL USE under the code and the ability of the applicant to comply with all requirements of the code for granting of a special use permit:

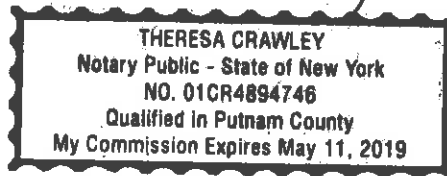
STATE OF NEW YORK, COUNTY OF PUTNAM Karen L. Parks

being duly sworn, says: I have read the foregoing appeal and papers attached; that the statements and representations made therein are true to the best of my knowledge and belief.

Karen L. Parks
Signature of applicant or agent

Sworn before me this 17th day of NOVEMBER ~~2000~~ 2017

Notary, PUTNAM County, Theresa Crawley



SUBMISSION REQUIREMENTS: (1) For a VARIANCE or INTERPRETATION please submit (7) individual packets
(2) For a SPECIAL USE PERMIT please submit (19) individual packets

each packet containing one each of the below listed items. These items are very specific and MUST be complied with exactly

1. Completed appeal form
2. Deed to property
3. Denied application for Building Permit or Certificate of Occupancy
4. Building plans with ONE ORIGINAL professional seal and signature
5. Survey prepared by NYS licensed surveyor, showing all property lines, structures and dimensions to property lines. One survey with ORIGINAL professional seal and signature
6. Certificates of Occupancy for any existing structures
7. Contour maps as required by conditions

PHILIPSTOWN ZONING BOARD OF APPEALS
SUPPLEMENTAL WORKSHEET FOR AREA VARIANCE APPLICANTS

In accordance with state law, the Zoning Board must grant or deny an area variance based on specified factors and a balancing of "the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community". We have developed this Supplement to assist you with preparing, submitting and presenting your case to the Zoning Board. Please complete the factors 1a - 5 below and submit with your application (attach additional pages if necessary). We have provided suggested questions which will assist you in answering each factor and in preparing for the Board's review. It is strongly suggested that you structure your presentation at the hearing in accordance with the factors. Provide facts and proof to support each factor.

FACTORS TO BE CONSIDERED BY THE BOARD

1a. What possible detriment would the variance have on nearby properties?
How close are nearby structures? - Will your structure be visible to others or will it block a view? - Do you propose exterior lights?

None. The nearest structure is approx. 200' away. The proposed structure will be visible by others, but will not block any views. Two exterior residential light fixtures will illuminate exterior doorways, but will not face the nearest neighboring structure.

1b. What impacts would the variance have on the character of the neighborhood?
Have others in the neighborhood received similar variances? - Does the neighborhood contain similar structures with similar setbacks/heights etc.? Is your property similar to or different from others in the area? - If several of your neighbors were to receive variances in the future similar to the one you now request, would the neighborhood be changed?

The proposed variance will have no negative impacts on the character of the neighborhood. Nearby structures are of similar scale, height and setbacks. Should neighboring properties receive similar variances, the character of the neighborhood would not change.

2. If you didn't get the variance, how else could you build what you want or accomplish your goal?
For example: different location or design; shorter fence; smaller deck; smaller overhang or addition?

Due to existing site constraints, (drive way & garage access to North, swimming pool to west, and septic system to east) and the existing configuration of the house, it would not be possible to accomplish the goal of the proposed addition in another location.

3. What is Code requirement you seek to vary? Required minimum Side Yard Setback of 30'

How large of a variance do you seek? The setback of the proposed addition will be 11', thus a variance of 19' is requested.

4. What impact or effect will the variance have on the current physical and environmental conditions in the area? Is there grading (or blasting) proposed? - Will you be paving previously unpaved surfaces? - Are you proposing to remove any vegetation? - Are there wetlands or other watercourses on site? - Will normal drainage patterns be affected? - How close are the nearest wells and septic systems? - Will the proposed use or activity produce emissions (noise or odors)? - Will traffic be increased? - Is the area considered scenic?

There will be no negative impact on the current physical and environmental conditions. Only standard excavation required for residential scale construction will take place. Approx. 4 trees will be removed, as well as woodland underbrush and saplings within proposed footprint.

No paving will take place, No wetlands or watercourses are on site. Drainage patterns will not be altered, Wells & Septic are not near prop. addition.

5. Is the variance requested as a result of a "self-created hardship"? There will be no noise, odor or traffic increase.
Was there a need for the variance when you purchased the property? - How long ago did you purchase the property? - Did you build the structure without a permit?
Is the need for a variance as a result of someone's mistake? Describe

No. Because of the way the property was developed by previous owners, the possible location for the proposed addition was limited.

Provan Residence
200 Jaycox Road
Cold Spring, NY 10516

Tax Map # 27.19-1-28

Adjoining property owners:

194 Jaycox Rd. (Tax Map #27.19-1-29)
Joanne A. Schipf
Edward D. Kenna
194 Jaycox Rd.
Cold Spring, NY 10516

230 Jaycox Rd. (Tax Map #27.19-1-22)
John A. Milner
Debbi E. Milner
230 Jaycox Rd.
Cold Spring, NY 10516

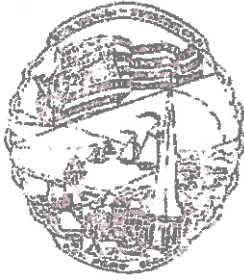
216 Jaycox Rd. (Tax Map #27.19-1-26)
Eileen M. Caulfield
Josephine A. Caulfield
James J. Gallagher
216 Jaycox Rd.
Cold Spring, NY 10516

11 Dry Pond Rd. (Tax Map #27.19-1-2)
Steve J. Sherman
11 Dry Pond Rd.
Cold Spring, NY 10516

207 Jaycox Rd. (Tax Map #27.19-1-3)
Lisa A. Greene
Eileen J. Condon
207 Jaycox Rd.
Cold Spring, NY 10516

1 Dry Pond Rd. (Tax Map #27.19-1-4)
Lowell Kavana
Colleen P. Kavana
1 Dry Pond Rd.
Cold Spring, NY 10516

Jaycox Rd. (Tax Map #38.-2-27.2)
State of New York
Office of Parks, Recreation and Historic
Preservation
C/o Putnam County Commissioner of
Finance
40 Gleneida Ave
Carmel, NY 10512



Town of Philipstown

Code Enforcement Office
238 Main Street, PO Box 155
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

OWNER CONSENT & AUTHORIZED AGENT FORM

Date: 15 NOV 2017

I, DAVID & ANN PROVAN, residing at _____,
Owner

200 Jaycox Rd Cold Spring, NY 10516 do hereby authorize
Mailing Address, being the same as Putnam County Tax Records

Karen Parks ^{working} residing at _____
Authorized Agent

292 Main St., Suite 2A Cold Spring, NY 10516 to act as my agent in
Authorized Agent Resident Mailing Address office

securing permits in the Town of Philipstown at the following location;

200 Jaycox Road, Cold Spring, NY 10516
Street Address and Tax Map Number

I, as owner of this property, understand that I am responsible for any information and work submitted and performed by my agent. I further understand that each time my agent applies for a permit, that he/she must submit a new authorization form to the Town of Philipstown.

Karen Parks (845) - 265-2607
Authorized Agent's signature phone #

David Provan Ann Provan (845) 809-5267
Property Owner or Corporate Officers signature phone #

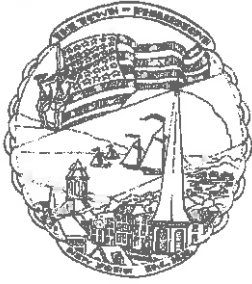
State of New York
County of Putnam

The foregoing instrument was acknowledged before me this 15 day of November, 20 17
By (Owner's name) David Provan and Ann Provan, who is personally known to me or as identification shows: NY State Drivers License
Type of Identification

Notary Public Signature: Lisa J Gordon
Printed Name of Notary: Lisa J Gordon
My commission expires: May 22, 2018

LISA J. GORDON
Notary Public - State of New York
ID No. 01606146706
Qualified in Dutchess County
My Commission Expires May 22, 2018





Town of Philipstown

Code Enforcement Office
238 Main Street, PO Box 155
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

11/16/2017

David and Ann Provan
200 Jaycox Rd.
Cold Spring N Y

Ref: Application of building permit
(1- Story Family Room Addition)

Location : 200 Jaycox Rd. Cold Spring
Tax map # 27.19 – 1 – 28

Included;

- 1 . Application for a building permit
2. Site Plan
3. Building Plans

The application proposes an addition to a single family residence.

A 30 foot side yard set back is required and applicant is proposing 11 feet

Since the proposed project does not meet the dimensional table guidelines of Chapter 175 the application is hereby DENIED and referred to the zoning board of appeals


Greg Wunner

Town of Philipstown CEO

**BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR'S
ACTS (INDIVIDUAL OR CORPORATION)**

STANDARD NYBTU FORM 8007

**CAUTION: THIS AGREEMENT SHOULD BE PREPARED BY AN ATTORNEY AND REVIEWED BY ATTORNEYS FOR SELLER AND
PURCHASER BEFORE SIGNING.**

THIS INDENTURE, made the 7th day of FEBRUARY, Two Thousand Six,
Between

S.
**MAX RISENHOOVER and KATHERINE PAGLIASOTTI, residing at
200 Jaycox Road, Cold Spring, New York 10516**

party of the first part, and

UX
**DAVID PROVAN and ANN PROVAN, residing at
10 Strong Place, Brooklyn, New York 11231**

party of the second part:

WITNESSETH, that the party of the first part, in consideration of One dollar, and other good and valuable consideration, lawful money of the United States, paid by the party of the second part does hereby grant and release unto the party of the second part, their heirs, and assigns forever, all right title and interest in the premises known as:

All that plot parcel and piece of land, with improvements thereon situated, lying and being in the Town of Philipstown, County of Putnam, and State of New York, known and designated on the Tax Map of the Town of Philipstown as Section 27.19, Block 1, Lot 28.

Said premises is more particularly described on Schedule A annexed hereto and made a part hereof.

Said premises being the same premises conveyed to Grantors herein by deed dated December 23, 2002 recorded on January 8, 2003 in Liber 1609 at page 466.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

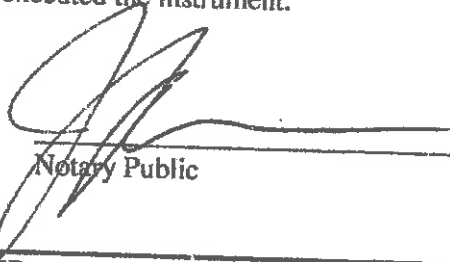
In presence of:

Max S. Risol

(STATE OF NEW YORK) ss.:
COUNTY OF WESTCHESTER)

On the 7 day of February, 2006, before me, the undersigned, personally came MAX S. RISENHOOVER and KATHERINE PAGLIASOTTI, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacity and that by their signatures on the instrument the individuals or the person on behalf of which the individuals acted, executed the instrument.

JEFFREY J. HANE
Notary Public, State of New York
No. 4736529
Qualified in Westchester County
Term Expires ~~11-30-2006~~
11-30-2008



Notary Public

BARGAIN AND SALE DEED

RISENHOOVER

TO

PROVAN

SECTION 27.19 BLOCK 1, LOT 28, TOWN OF PHILIPSTOWN, PUTNAM COUNTY
STREET ADDRESS: 200 Jaycox Road, Cold Spring, New York.

RECORD AND RETURN TO:

Camille S. Linson, Esq.
13 Parrot Street
Cold Spring, New York 10516

SCHEDULE "A"

Title #: 05RF-7205

ALL that certain plot, piece or parcel of land situate, lying and being in the Town of Philipstown, County of Putnam, and State of New York bounded and described as follows:

BEGINNING at a point on the easterly side of Jaycox Road where the same is intersected by the dividing line between the premises herein described and Lot 9 on a certain map entitled, "Subdivision of Property known as Country Manor Estates, situate in the Town of Philipstown, Putnam County, New York", made by Badey and Watson, Land Surveyors, June 14, 1977 and filed in the Putnam County Clerk's Office on January 23, 1979 as Map No. 1690; running thence along the last mentioned dividing line, and continuing through premises shown on Filed Map. 2069, the following three (3) courses and distances: South 35° 24' 13" East, a distance of 339.44 feet; South 48° 00' 00" East, a distance of 195.88 feet; South 72° 00' 00" East, a distance of 157.77 feet to a point on the northerly of premises now or formerly of the State of New York, formerly of Hubbard (Liber 1541 cp 460); running thence along the last mentioned land, South 78° 25' 34" West, a distance of 176.38 feet to a point on the dividing line between Lots 11 and 12 on the aforementioned Map No. 1690; running thence along the last mentioned dividing line the following two (2) courses and distances: North 72° 00' 00" West, a distance of 183.31 feet; North 86° 00' 00" West, a distance of 338.07 feet to a point on the easterly side of Jaycox Road; running thence along the easterly side of Jaycox Road the following two (2) courses and distances: On a curve to the right having a radius of 150.00 feet, a distance of 77.23 feet; North 27° 28' 17" East, a distance of 380.00 feet to the point or place of **BEGINNING**.

CERTIFICATE OF OCCUPANCY

4475

Philipstown Tax Map 34 Block 2 Lot 7.27 + 7.28

Location of Premises Jayson Road - west of Route 9

James J. Pitt of Peipskill, N.Y. 10566 having
heretofore filed an application for a building permit pursuant to the Zoning Law, Sanitary Code, Building Code and the
Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee therefore and the
undersigned having by inspection ascertained that the applicant has subsequently proceeded with the erection or im-
provement of the proposed structure in compliance with the requirements of the laws as aforementioned and that the
said work and materials met every requirement of the laws as aforementioned and that the premises have now been
fully completed and are ready for occupancy pursuant to the provisions of law, Now, therefore, this certificate of

occupancy is hereby issued under the seal of the Town of Philipstown this 12 day of 14, 1984

single family residence TOWN OF PHILIPSTOWN, NEW YORK
By [Signature] BUILDING INSPECTOR

Not valid unless signed in ink by a duly authorized agent and under the seal of the Town of Philipstown.

Philipstown, New York, Spring, NY.

BUILDING PERMIT

4475

Philipstown Tax Map 34 Block 2 Lot 7.27
34 Block 2 Lot 7.28

Location of Premises Jayson Road - west of Route 9

James J. Pitt of Peipskill, N.Y. 10566 having
heretofore filed an application for a building permit pursuant to the Zoning Law, Sanitary Code, Building Code and the
Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee in the sum
100, it appearing from the said application that the proposed
improvements intended to and will comply with the requirements of the law as aforementioned, a building permit is
hereby granted this 27 day of April, 1984

Additional information: single family residence

TOWN OF PHILIPSTOWN, NEW YORK
By [Signature] BUILDING INSPECTOR

Not valid unless signed in ink by a duly authorized agent and under the seal of the Town of Philipstown.

CERTIFICATE OF OCCUPANCY
CERTIFICATE OF OCCUPANCY

8388
8388

Philipstown Tax Map # 27.19 Block 1 Lot 28
(Date)

Fee Paid \$ 50.00

Located At: 200 JAYCOX ROAD
Covering: EXISTING POOL - SHED - FENCE AROUND POOL
FRANK / URSULA KARLSEN 12-12-02
of 200 JAYCOX ROAD RE

having heretofore filed an application for a building permit pursuant to the Zoning Law, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee therefore and the undersigned having by inspection ascertained that the applicant has subsequently proceeded with the erection or improvement of the proposed structure in compliance with the requirements of the laws as aforementioned and that the said work and materials met every requirement of the laws as aforementioned and that the premises have now been fully completed and are ready for occupancy pursuant to the provisions of law, Now, therefore, this Certificate of Occupancy is hereby issued under the seal of the Town of Philipstown this 8TH day of MARCH, 2001

Not valid unless signed in ink by a duly authorized agent and under the seal of the Town of Philipstown.

TOWN OF PHILIPSTOWN, NEW YORK

BY: Robert Emeric
Building Inspector

BUILDING PERMIT

8388

Philipstown Tax Map 27.19 Block 4 Lot 28

Location of Premises 200 JAYCOX ROAD

Type of Construction: EXISTING POOL - SHED
FRANK / URSULA KARLSEN of 200 JAYCOX ROAD

heretofore filed an application for a building permit pursuant to the Zoning Law, Sanitary Code, Building Code and the Laws in effect in the Town of Philipstown, Putnam County, New York, having paid the required fee in the sum of \$ _____ (septic) \$ _____ (well) \$ 220.00 (structure) it appearing from the said application that the proposed improvement is intended to and will comply with the requirements of the law as aforementioned, a building permit is hereby granted this 8TH day of MARCH, 2001, being valid for a period of one year and renewable upon payment of established fee schedule.

INSPECTIONS REQUIRED: Call 265-9668, 2 days notice.

- 1. Soil conditions: (Footings, forms and reinforcement.)
- 2. Foundations: masonry, concrete (Transit-mix slips required)
- 3. Framing: insulation; (prior to drywall or closing)
- 4. Mechanicals: (rough plumbing, piping, ducts)
- 5. Final Driveway Inspection.
- 6. Final Inspection, including safety features.

NOTE: All construction shall comply with the NY State Building Code whether or not shown on approved building plans. This structure, or any portion thereof, for which this permit is issued, shall NOT BE OCCUPIED until a CERTIFICATE OF OCCUPANCY is issued. Permit must be renewed annually until such date of Certificate of Occupancy issuance.

RENEWALS:

	DATE	FEE PAID
#1	_____	_____
#2	_____	_____
#3	_____	_____
#4	_____	_____

TOWN OF PHILIPSTOWN

BY: Robert Emeric
Building Inspector

TOWN OF PHILIPSTOWN

238 Main Street, PO Box 155
Cold Spring, NY 10516
(845)265-5202 / (845) 265-2687 fax

CERTIFICATE OF OCCUPANCY

SEC-BLK-LOT: 89/27.19-1-28

Permit No : 2007:9913

CO/CC Issue Date: 12/14/2009

CO/CC Number : 2007:9913

**OWNER'S NAME: PROVAN DAVID
& ADDRESS PROVAN ANN
200 JAYCOX RD
COLD SPRING, NY 10516**

Location of project : 200 JAYCOX RD

WORK DESCRIPTION : 6 x 6 New bathroom

A building permit having been issued for the herein described project, all required inspections having been completed, all required documentation having been presented, and the project having been found to be complete and in compliance with all applicable codes, rules, and laws, this certificate is hereby issued.

ISSUED BY :


Code Enforcement Officer

**NOT VALID UNLESS SIGNED IN INK BY A DULY AUTHORIZED AGENT AND
UNDER THE SEAL OF THE TOWN OF PHILIPSTOWN**

TOWN OF PHILIPSTOWN

238 Main Street, PO Box 155
Cold Spring, NY 10516
(845)265-5202 / (845) 265-2687 fax

CERTIFICATE OF OCCUPANCY

SEC-BLK-LOT: 89/27.19-1-28

Permit No : 2015:11656

CO/CC Issue Date: 11/4/2015

CO/CC Number : 2015:11656

OWNER'S NAME: PROVAN DAVID
& ADDRESS PROVAN ANN
200 JAYCOX RD
COLD SPRING, NY 10516

Location of project : 200 JAYCOX RD

WORK DESCRIPTION : 8' X 16' EXTENSION TO EXISTING DECK

A building permit having been issued for the herein described project, all required inspections having been completed, all required documentation having been presented, and the project having been found to be complete and in compliance with all applicable codes, rules, and laws, this certificate is hereby issued.

ISSUED BY :



Code Enforcement Officer

NOT VALID UNLESS SIGNED IN INK BY A DULY AUTHORIZED AGENT AND
UNDER THE SEAL OF THE TOWN OF PHILIPSTOWN