

1 PLANNING BOARD COUNTY OF ALBANY
2 TOWN OF COLONIE

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4 LOUDONVILLE PRESBYTERIAN CHURCH
5 22 OLD NISKAYUNA ROAD
6 PROPOSED 360 SQUARE FOOT EQUIPMENT CABINET
7 AND 60 FOOT HIGH BELL TOWER
8 REVIEW AND ACTION ON SEQRA AND FINAL APPROVAL

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10 THE TAPED AND TRANSCRIBED MINUTES of the above
11 entitled proceeding BY NANCY STRANG-VANDEBOGART
12 commencing on May 25, 2010 at 7:03 p.m. at the
13 Public Operations Center 347 Old Niskayuna Road,
14 Latham, New York 12110

15 BOARD MEMBERS:

- 16 CHARLES J. O'ROURKE, CHAIRMAN
- 17 THOMAS NARDACCI
- 18 TIMOTHY LANE
- 19 PAUL ROSANO
- 20 PETER GANNON
- 21 ELENA VAIDA
- 22 PETER STUTO, Jr. Esq., Attorney for the Planning Board

23 Also present:

- 24 Joe LaCivita, Director, Planning and Economic Development
- 25 Michael C. Magguilli, Esq., Town Attorney
- 26 Mike Cusack, Esq., Verizon Wireless
- 27 Sarah Mayberry-Stevens, Verizon Wireless
- 28 Herv Glavota, Tectonic Engineering
- 29 Adrian Berezowsky, IVI
- 30 Wendy Allen
- 31 Atlee Bender
- 32 Mark Calicchia, Jr.
- 33 Mark Calicchia, Sr.

1 Mike Daly
Barbara Eruysal
2 Amy Favreau
Amy Fox
3 Beth Geragosian
Rev. Paul Hartt
4 David Hartwick
Sharon Holub
5 Ryan Horstmyer
Robert Hymes
6 Lynne Jonquieres
Sandy Keeler
7 Diane Lemieur
Shreefal Mehta
8 Lisa Mirabile
Gary Mittleman
9 Marilyn Mittleman
Lois Siegel
10 Lisa Tidd
Richard Woodhouse
11 Pstr. Elaine Woroby
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1 CHAIRMAN O'ROURKE: Last on our agenda
2 this evening is the Loudonville Presbyterian
3 Church, 22 Old Niskayuna Road. It is a
4 proposed 360 square foot equipment cabinet and
5 a 60 foot high bell tower to conceal a stealth
6 cell tower.

7 Joe, do you have anything to add?

8 MR. LACIVITA: I really don't have
9 anything more to add, C.J. It's a continuation
10 of a hearing that we've heard before on the
11 project. The applicant is here and we do have
12 C.T. Male on behalf of the town to review the
13 project for us.

14 CHAIRMAN O'ROURKE: Let me just for the
15 record state that C.T. Male did a technical
16 review for the town on this project. They were
17 not a town designated engineer.

18 Mr. Cusack?

19 MR. CUSACK: Thank you, Mr. Chairman. For
20 the record, I'm Michael Cusack, the attorney
21 for Verizon Wireless.

22 With me this evening are a number of
23 people from our project team in case there are
24 any questions.

25 I have Sarah Mayberry-Stevens who is the

1 real estate manager from Verizon Wireless who
2 is responsible for this project.

3 With Sarah is Rick Andras, the radio
4 frequency engineer from Verizon Wireless who
5 is working on this project.

6 From the engineering side we have Herv
7 Glavota from Tectonic Engineering, and Adrian
8 Berezowsky from IVI. IVI does reviews for
9 environmental impacts and historic effects.

10 Next to Adrian is Mike Orchard who is a
11 real estate expert who helps Verizon Wireless
12 find cell sites.

13 As we have noted in our prior
14 discussions, this project consists of a fully
15 functional 60 foot church bell tower that will
16 be designed to camouflage the colocation of 12
17 Verizon Wireless panel antennas. Associated
18 ground equipment will be placed inside a
19 customized 12 foot by 30 foot equipment
20 shelter. Both the shelter and the bell tower
21 will be designed to match and blend with the
22 color and architecture of the existing church
23 facility. Verizon Wireless' telecommunications
24 components will not be visible to the public.
25 All the utilities and cabling will be routed

1 underground or behind the legs of the bell
2 tower itself. The facility will be unmanned
3 and will draw a minimal amount of traffic.
4 Maintenance visits will be only as needed and
5 they are typically once or twice a month by
6 Verizon Wireless employees in a standard
7 pick-up truck.

8 There is no water, sewage or traffic
9 issues with this facility. It is, as I
10 mentioned, unmanned.

11 I'm going to try to condense a lot of
12 information to try to keep it as simple as
13 possible so that we can get to the questions.

14 When I was last here on February 9, 2010
15 a number of questions were raised by the board
16 and the public. As a result of those comments,
17 Verizon Wireless asked its consultant
18 engineers to re-review the site plan and
19 consider potential opportunities for improving
20 the existing site layout and screening plan to
21 even further reduce the facility's visibility
22 from Old Niskayuna Road. I'm going to focus
23 for a minute on the site plan, which is in
24 your packages and which I have right here up
25 on the board (Indicating).

1 On February 23rd, Tectonic Engineering
2 produced a report to this board containing a
3 number of recommendations to further reduce
4 potential visibility from the project from
5 Old Niskayuna Road.

6 First, the equipment shelter was rotated
7 90 degrees on the site to reduce the profile
8 from the road to the shorter 12 foot side of
9 this improvement (Indicating). An additional
10 staggered row of vegetative screening was
11 added to this area to further shield the
12 improvements from view.

13 Second, the 52 foot driveway extension in
14 our original site plan was eliminated due to
15 the short walking distance from the church
16 driveway and parking lot. This provided two
17 significant benefits.

18 First, a direct line of sight from Old
19 Niskayuna Road, as seen here (Indicating) into
20 the equipment area was eliminated.

21 Second, additional greenspace is now
22 available at the front of the project for
23 landscaping improvements to further screen the
24 facility from view. This was an important part
25 of discussion at the last meeting. It was

1 raised by Mr. Sullivan and Mr. Gannon and
2 several other people as to whether there was
3 anything that we could do to further screen
4 the project from view.

5 Also included in this February 23rd report
6 was two updated sheets to the site plan.
7 Sheets AP1 and AP2 in your packages document
8 that the proposed bell tower is more or less
9 equidistant from all adjoining residences. The
10 range to the nearest residences would be a
11 minimum of 320 feet from the Miranda residence
12 at 17 Laurel Drive to 686 feet from the Phelps
13 residence at 29 Old Niskayuna Road. In
14 providing these ranges we discounted the
15 distance to the Mittleman residence which is
16 820 feet and is currently the farthest away
17 from the proposed bell tower. The Loudonville
18 Elementary School is approximately 1,240 feet
19 away, well to the south of the proposed 60
20 foot bell tower structure. We mentioned these
21 because this was an important question brought
22 up by Mr. Lane.

23 In our original presentation, we provided
24 setback ranges from the tower and equipment
25 shelter to the nearest property line and the

1 question was asked at the hearing: What is it
2 actually setback from for the existing
3 residences themselves, located on the
4 property? So, we did provide that information.
5 It's here on the board for the public to
6 review.

7 As a result of these changes, the total
8 project area changed somewhat and a revised
9 full EAF was filed with the board on April 6th.
10 In general terms, the total project area is
11 3,360 square feet. That's the area that's
12 going to be disturbed. But of that, only
13 495 square feet is going to be permanently
14 disturbed with the foundation improvements.
15 Everything else that we're disturbing will be
16 recovered and reseeded and brought back to
17 greenspace conditions for use for landscaping
18 purposes.

19 From a zoning perspective, the site is
20 large enough to meet all applicable site
21 design criteria and also the setbacks for this
22 type of development. Specifically, the
23 church's property is 5.805 acres in size
24 according to the tax map information. The site
25 has 566 feet of frontage on

1 Old Niskayuna Road. The tower setback under
2 the original town regulations for
3 telecommunications towers would be 1.5 times
4 the height of the bell tower, or 90 feet in
5 this case. We're certainly meeting that here
6 with a minimum setback of 129 feet from Old
7 Niskayuna Road and 177 feet from the nearest
8 residential property to the north. Even if we
9 look at the more modern tower setback under
10 the town's code, which is 110% of tower
11 height, the 66 foot tower height setback would
12 be met.

13 Last but not least, the height of the
14 tower itself is well within the range
15 established in the regulations which is three
16 times the maximum height in the zoning
17 district of 40 feet or 120 feet. So we have up
18 to 120 feet to use and this facility is 60.

19 After considering all of these factors,
20 Tectonic concluded in their February 23rd
21 report that the bell tower location is more or
22 less equidistant from all adjoining
23 residences. Additionally the height of the
24 60 foot bell tower is at or near the height of
25 nondeciduous vegetation and will not be

1 significantly visible off-site. Use of the
2 Loudonville Presbyterian Church property also
3 avoids Colonie's historic overlay district
4 along US Route 9 and will not result in any
5 visual impacts whatsoever to the historic
6 areas, homes, or sites along this corridor.
7 The additional screening or landscaping
8 opportunities provided by the elimination of
9 the Verizon Wireless access drive and
10 relocation of the equipment shelter will allow
11 off-site impacts to be mitigated to the
12 maximum extent practicable, taking into
13 account the neighborhood as a whole.

14 That's a quote from the tectonic report.

15 In this transmittal we asked to be placed
16 on the March 9th Planning Board agenda and a
17 site visit was subsequently set for March 1st.

18 Approximately 30 days later on March 30th,
19 the TDE who has been introduced as C.T. Male
20 provided six additional technical review
21 comments on the minor site plan review
22 application. Verizon Wireless promptly and
23 completely responded to those comments within
24 one week to ensure that we could get back on
25 the agenda promptly. This response was dated

1 April 6, 2009 and it included a discussion of
2 stormwater control measures, lighting
3 mitigation, additional landscaping for
4 screening, reduced tree removal, increased
5 greenspace, site drawings for the alternative
6 cell tower layout with a full environmental
7 assessment form for that alternative layout,
8 an additional photographic simulation and
9 isometric views of alternative bell tower
10 designs to further understand and minimize
11 potential visual impacts.

12 I'd like to focus on what came out of
13 that site visit in particular.

14 When we went out to the site with
15 C.T. Male, referencing the site plan here on
16 the board (Indicating), it was discussed that
17 screening along side the proposed bell tower
18 and equipment shelter was fine before up close
19 screening, but it would be better if
20 additional screening was provided along the
21 outer edge of the church's driveway at the
22 northern end of the property on Old Niskayuna
23 Road so as to take the eye, so to speak, off
24 of the background view of the bell tower
25 itself and the equipment shelter.

1 As a result of those discussions, we did
2 revise the landscaping plan substantially to
3 include a number of additional trees and
4 different types of vegetation as shown on the
5 site plan and in your packages. The resulting
6 reduction to the line of sight is shown here
7 in the color purple (Indicating) on the
8 drawing on the top board and as you can see
9 the view is substantially mitigated towards
10 the facility area itself. It takes away most,
11 if not all, of the equipment area and leaves
12 basically the church's bell tower structure
13 itself.

14 That's an important point from our
15 perspective and the church's perspective, as
16 well. This is intended to be a church bell
17 tower first and it will be a permanent
18 improvement of the church once we leave the
19 site a number of years down the road. The
20 church has had an active hand in the design
21 and the siting of this proposed improvement
22 and they consider it more of a blessing to
23 their architecture and something that will
24 indicate a religious nature to their facility
25 for generations to come.

1 After this effort, the town designated
2 engineer provided a letter dated April 8, 2010
3 notifying the PEDD and Planning Board that
4 Verizon Wireless' response had completely and
5 adequately addressed all of their technical
6 comments and that the application was
7 substantively complete.

8 After that, we learned through a routine
9 FOIL request that at town hall there were some
10 community issues outstanding that were not
11 brought to our attention sooner.

12 Specifically, we learned that there were
13 a number of letters that were filed with town
14 officials; seven letters and one petition
15 ranging in dates from January 25, 2010 to
16 April 10, 2010.

17 As a result, on May 18, 2010, we filed a
18 written response to these letters providing
19 additional information and materials on why
20 this project will not result in any
21 significant impacts to aesthetic or historic
22 resources or to the character of the community
23 or neighborhood.

24 In the package, we reviewed a number of
25 areas of concern. Firstly, aesthetic design

1 and use; second, screening.

2 MR. GANNON: Mike, what's the date of
3 that letter?

4 MR. CUSACK: The date of the letter is
5 May 18, 2010.

6 As part of the review of the aesthetic
7 design, our engineers provided in Exhibit A of
8 that package a bird's eye view of this
9 proposed facility, the site and the existing
10 and proposed vegetation that we're talking
11 about this evening. On the board up here in
12 front (Indicating) I also have a picture of
13 that bird's eye view. As you can see from this
14 illustration, the bell tower structure is
15 designed to integrate or be very close to the
16 church's existing facility. The equipment
17 shelter that has our equipment in it has been
18 moved off into the trees a bit more and is
19 behind further additional landscaping. We
20 believe that this is a substantial improvement
21 on visual impact that we felt was fairly
22 decent to start with.

23 We hope that it addresses the concern
24 that was raised by the two board members to
25 try to provide some additional greenspace and

1 some additional plantings in the front section
2 of the property.

3 Exhibit B to that letter is a photograph
4 of an existing bell tower in Rochester,
5 New York. As seen in this photograph and
6 designed accordingly, these structures can be
7 matched to existing surfaces and finishes and
8 become a part of the site architecture even
9 when not screened by trees or other
10 vegetation.

11 Again, this is an existing bell tower
12 facility. It operates as a bell tower. It has
13 antennas enclosed in it. It's at a church
14 facility in Rochester and the design that
15 we're proposing here is very similar to this.
16 Although, different colors and slightly
17 different architecture were used to match the
18 white and green appearance of the Loudonville
19 Presbyterian Church.

20 The third attachment to that letter on
21 Exhibit C is an updated FAA clearance for this
22 site. We're providing that to you for
23 informational purposes to document that this
24 facility will not require any marking or
25 lighting under FAA rules and regulations. The

1 original determination that we had was valid
2 for a period of time that expired in May of
3 this year. We had that extended so that you
4 have that in your records package.

5 Number four in the package - we wanted to
6 close out the issue of the alternative designs
7 that we considered for this bell tower
8 facility, including a traditional monopole.
9 These are also up on the boards that I have
10 with me this evening. They give you a view as
11 a board of some of the alternative ways of
12 camouflaging these facilities and what led us
13 to conclude that the proposed layout is
14 actually the most pleasing, aesthetically. The
15 church has a very heavy hand, as I mentioned,
16 in determining what the bell tower would look
17 like and where it was located on the property
18 and that was also a factor in the equation,
19 but we wanted to make it clear to the board
20 that we did look at alternatives.

21 Fifth in this package is an update from
22 Adrian Berezowsky, who is here tonight. This
23 update is on the criteria that he considered
24 and the work that he did as background to the
25 determination by the State Historic

1 Preservation Officer or SHPO, as it's
2 abbreviated, that this project would have no
3 effect on cultural resources eligible for
4 inclusion in the National Register of Historic
5 Places.

6 We also provided in this package updated
7 information at Exhibit F documenting how the
8 facility fully complies with all applicable
9 Federal Communications Commission regulations
10 concerning radio frequency emissions and
11 therefore qualifies for the categorical
12 exclusion from local regulation under the
13 Telecommunications Act of 1996 and associated
14 FCC regulations.

15 We did this to respond to the claim in
16 Mr. Mittleman's March 14th letter that RF based
17 regulation is appropriate in this case.
18 Clearly it is not. Based upon these factors
19 and the public relations campaign that we have
20 lived with for the past 90 days, and based on
21 RF health effects, we feel as we stand here
22 today that a good part of the opposition to
23 this project lies with the perceived
24 environmental effects of radio frequency
25 emissions.

1 Our point to the board is that the
2 alleged concerns with existing site
3 conditions, historic, aesthetic resources, or
4 the character of the community or neighborhood
5 not be used as a token or pretext to
6 underlying objections to this project based
7 upon radio frequency emissions.

8 The board at the last hearing gathered a
9 bunch of observations that I grouped together
10 after reviewing the minutes and the transcript
11 to try to answer everything that had come up
12 prior to the February 9th public hearing. We
13 believe that the site plan provided by the
14 applicant meets all of the applicable design
15 criteria in the Town of Colonie Land Use Law
16 and that minor site plan approval is warranted
17 in this case.

18 The first general area of concern that
19 you brought up as a board was location on the
20 property. As I've stated, the location of the
21 proposed bell tower on the property is more or
22 less equidistant from the adjoining
23 residences, and the measurements have been
24 previously mentioned. The Loudonville
25 Elementary School is over 1,000 feet to the

1 south and the selective location minimizes the
2 removal of existing vegetation on the
3 property, thereby allowing existing
4 nondeciduous pine trees in the 60 to 65 foot
5 tall range to screen the facility from view to
6 substantial portions of the surrounding area.
7 We think that the location is appropriate.

8 We know that subsequent to the board's
9 discussion, neighbors have filed an objection
10 that no location on the property is
11 appropriate.

12 We respectfully submit that it's not the
13 function of a site plan review to judge
14 whether the use is appropriate on the site.
15 That is determined by the zoning regulations
16 or any existing variances. The function of
17 site plan review is to look at the layout and
18 how the proposed improvements are planned and
19 make sure that they meet the stated criteria
20 in the town's regulations.

21 CHAIRMAN O'ROURKE: Mr. Cusack, just let
22 me interrupt.

23 MR. CUSACK: Sure, go ahead.

24 CHAIRMAN O'ROURKE: Again, this board is
25 charged with following the Land Use Law. So,

1 although you may feel that way and can argue
2 that, this board is still bound by the law of
3 the town. I just want to interject that.

4 MR. CUSACK: Thank you.

5 The second area of concern that came up
6 as a result of the hearings was the bell tower
7 design itself. First and foremost, the
8 Loudonville Presbyterian Church is of a modern
9 architectural design. It currently lacks a
10 steeple, bell tower, or other religious
11 architectural feature. Church officials have
12 been searching for a number of years for a way
13 to replace a 60 foot cross that was previously
14 located on the same site. Church officials
15 have also repeatedly testified that the bell
16 tower will constitute a welcome improvement
17 that will serve an important part in their
18 religious identity.

19 The second point under the bell tower
20 design is that the bell tower itself is in
21 furtherance of an established allowable land
22 use on the property.

23 Third, the bell tower is entirely
24 consistent with the modern architectural
25 design of the Loudonville Presbyterian Church

1 and church facilities in the United States,
2 generally.

3 Fourth, the Loudonville Presbyterian
4 Church is as much a part of the history of
5 this area as any other building. It's been
6 there since the 1950's - 1960's and the
7 addition of an architecturally designed bell
8 tower to this modern church facility would be
9 entirely consistent with that modern
10 architecture and established use.

11 Fifth, the 60 foot bell tower is in scale
12 with the existing church facilities and height
13 of surrounding vegetation. Verizon Wireless
14 telecommunications use will be substantially
15 invisible and completely passive, subordinate,
16 and incidental to the underlying religious
17 use.

18 Sixth, while alternative bell designs
19 have been considered as part of the process to
20 arrive at this design and in this context the
21 proposed church bell tower will not
22 commercialize the neighborhood or community as
23 the opposition is stating. Moreover,
24 telecommunications components of this facility
25 are not a commercial operation, but rather a

1 public utility use. To the naked eye, this
2 facility will be exactly what it is, a church
3 bell tower and not a standard cell tower, as
4 the opposition is asserting.

5 The next area of concern that came up was
6 the visual impact on the community, itself.

7 We have here up on the board tonight the
8 results of our balloon test analysis that was
9 required by the town's regulations. This
10 analysis, which is included at Tab 7 of the
11 application package, confirms that visibility
12 of the church bell tower is limited to the
13 areas at or immediately surrounding the site.
14 Notably, the project contains a dense mature
15 stand of trees in the 60 to 65 foot tall range
16 with similar dense and mature vegetation and
17 significant portions of the surrounding
18 community.

19 There was a letter filed in the community
20 materials that I referenced earlier that
21 incorrectly referenced these trees as Austrian
22 Pines. They're actually Norway Pines. They are
23 not susceptible to the failures that are
24 described in that letter.

25 The church takes very seriously the stand

1 of trees that are part of its character and
2 included on its logo and the pinecones are a
3 part of their routine ceremonies and presented
4 to people at various religious events. This is
5 not something that's taken lightly and there
6 is a maintenance plan. The maintenance plan is
7 constantly being evaluated and improvements
8 are sought where necessary.

9 In our application package, we also
10 listed off approximately seven bullet points
11 on how this bell tower design complies with
12 the town's telecommunications facility
13 regulations. I'm going to try to hit those
14 quickly.

15 The camouflage bell tower design
16 minimizes potential visual impact to the
17 surrounding community and is entirely
18 consistent with the stealth - to use the
19 town's word - tower design criteria in the
20 telecommunication facility regulations.

21 Second, the proposed equipment shelter
22 will be designed to match the architectural
23 color of the church itself, thereby maximizing
24 the ability of this feature to blend with
25 natural surroundings as required by the

1 telecommunications facility regulations.

2 Third, as mentioned, the height is
3 limited to 60 feet, allowing the structure to
4 blend in with its natural church surroundings
5 and will also be screened by dense mature
6 vegetation on the site in the 60 to 65 foot
7 tall range. This 60 foot church bell tower
8 height is also well below the 120 foot maximum
9 height limitation, which I mentioned earlier.

10 Verizon Wireless is proposing a site
11 development plan that utilizes existing access
12 and parking improvements and minimizes the
13 disturbance and removal of existing mature
14 vegetation and brush to the maximum extent
15 practicable, thus allowing these features to
16 screen the tower base and significant portions
17 of the tower from public view.

18 As a result of the town designated
19 engineer review process, the site plan has
20 been further improved to reduce the profile of
21 the equipment shelter from Old Niskayuna Road
22 and also provide additional project screening,
23 decrease tree removal and increase greenspace
24 and landscaping.

25 The proposed church bell tower will be

1 designed with the capacity for colocation by
2 at least one additional wireless service
3 provider, thereby furthering an important
4 objective of the Colonie Land Use Law. As I
5 mentioned as long as the height is less than
6 70 feet, no FAA marking or lighting will be
7 required.

8 So, that covers the visual impact point.
9 I only have a couple of additional points to
10 cover.

11 The historic concerns that were brought
12 up in the community letters are also addressed
13 in our package. As I mentioned first and
14 foremost, the Loudonville Presbyterian Church
15 is as much a part of the history and character
16 of this area as any other structure in the
17 vicinity. The addition of an architecturally
18 designed bell tower to this modern church
19 facility would be entirely consistent with the
20 established and allowable religious use.

21 Second, the project components will not
22 result in any significant visual impact as
23 mentioned above. A lot of the historical type
24 concerns we feel can be addressed by the
25 visual discussion that I just went through, so

1 I won't repeat what was said there. I'll just
2 incorporate it here by reference.

3 Third, the project is not located within
4 the boundaries of the Town of Colonie historic
5 overlay district, nor within the Loudon Road
6 historic district.

7 Fourth, the New York State Historic
8 Preservation Officer has reviewed the project
9 and determined that the bell tower and
10 associated camouflaged telecommunications
11 equipment will have no effect on cultural
12 resources in or eligible for inclusion in the
13 National Register of Historic Places. It's
14 important to note that this review included
15 consideration of the Loudonville historic
16 district that I mentioned earlier.

17 From a site plan review standpoint, the
18 construction of a fully functional church bell
19 tower that's designed to match the modern
20 architecture of the church and existing church
21 facility and include camouflage
22 telecommunications equipment integrates land
23 uses based upon their characteristics and the
24 special characteristics of the area in which
25 they are located. The proposed bell tower will

1 provide the Loudonville Presbyterian Church
2 with a working improvement that will be an
3 important part of its identity for years to
4 come. Verizon Wireless' telecommunications use
5 will be integrated with an established
6 religious use.

7 Second, the project will enable Verizon
8 Wireless to provide adequate and safe handheld
9 wireless telephone service to a significant
10 area of the Town of Colonie within the
11 confines of applicable technological
12 limitations and the minor site plan review
13 requirements in the Colonie Land Use Law. The
14 interests of the health, safety, welfare,
15 comfort, and convenience of the public will be
16 promoted through the availability of moderate
17 emergency and nonemergency fourth generation
18 wireless communications services.

19 As I mentioned, we believe that the site
20 plan review criteria have been met. We have
21 engineering representatives here to discuss
22 any questions that you might have. I'd like to
23 again, reiterate that the purpose of site plan
24 review is not to address the suitability of
25 the use. This has already been decided in the

1 February 9th meeting.

2 The last point that we have in our
3 presentation are the concerns with RF
4 emissions. We see that the opposition
5 continues to raise concerns regarding radio
6 frequency emissions and this simply is not a
7 legitimate basis for denial or any further
8 delay of the application. We hope that these
9 concerns are not the real concerns underlying
10 the statements concerning historic and
11 aesthetic resources of the area which we
12 think, in any event, we have addressed by the
13 comments that I just made.

14 We also note that we provided substantial
15 evidence in the form of a report from a New
16 York State licensed electrical engineer,
17 documenting compliance with applicable federal
18 communications regulations. Accordingly, this
19 project qualifies for the categorical
20 exclusion from local regulation and the
21 Federal Telecommunications Act and the
22 associated FCC regulations.

23 At this point, Mr. Chairman, I'll turn it
24 over to any questions you might have.

25 CHAIRMAN O'ROURKE: Thank you,

1 Mr. Cusack.

2 We will have comments from the board and
3 then we will open it to the audience. I will
4 give some speaking guidelines and things that
5 we will listen to. There will be a three
6 minute time limit. We'll go into that as we
7 open it up to you.

8 Ms. Vaida has a statement that she would
9 like to read into the record.

10 MS. VAIDA: I'm just going to say that I
11 reside on Reddy Lane and I feel that it's best
12 for me to recuse myself from voting tonight
13 and having any say on what's going on here
14 because where I live, I was personally
15 notified of the balloon test when they did the
16 balloon test.

17 Also, there was an issue raised about the
18 descriptions in the Reddy Lane fees with maybe
19 future litigation enforcing that covenant, so
20 I think it would be best to keep to myself.

21 CHAIRMAN O'ROURKE: Thank you.

22 Peter?

23 MR. GANNON: Thank you, Michael, for the
24 thorough presentation. I think that all the
25 things are covered. You can tell that a lot of

1 thought and a lot of energy and ideas have
2 been put into trying to make this the best
3 possible presentation that we could see.
4 That's evident. I do applaud you for that.

5 I also want to applaud Joe LaCivita and
6 the Planning Department for the efforts that
7 they made. Maybe it's just the general public
8 awareness about the issue, but the first time
9 that I was a member of the board and we heard
10 this issue. I had expressed concerns about the
11 public notification and the concerns over the
12 tower that sort of seemed to come in after the
13 fact as we were about ready to take a vote
14 that night. Based on the fact that there is
15 such a strong turn out, I either commend all
16 of you for - whichever side of the issue that
17 you are on and participating in, and Joe and
18 the Planning Department for doing the job to
19 make sure that everybody is informed on this
20 issue that the board will be hearing tonight.

21 Those things being said, I'm at a point
22 where I'm still stuck with the issues.
23 Specifically, I've prepared a written remark
24 for this evening but my concern center around
25 the town Land Use Law, specifically Article 11

1 Section 190-56 which you read from tonight and
2 have read from in the past.

3 In that section, for those who are
4 unfamiliar, under Subsection C there are 16
5 provisions for consideration when working on
6 site plan review. Two of those provisions I
7 think are specifically applicable in tonight's
8 proceedings. Provision 13 reads:

9 Impact of the proposed use on adjacent
10 land uses - Adjacent and neighboring
11 properties should be protected against noise,
12 glare, on-site limits, or other objectionable
13 features. Where a proposed use is a
14 nonresidential use which would adjoin
15 residential areas, special consideration shall
16 be given by the Planning Board to minimize the
17 impact of the proposed use on residential
18 properties.

19 Provision 15 from the same subsection C
20 reads:

21 The design elements of the site shall be
22 in harmony with the natural environment and
23 keeping with the character of the surrounding
24 neighborhood.

25 With respect to provision 13, in my

1 estimation, the proposed commercial use for
2 the structure impacts the surrounding
3 residential areas significantly. this board
4 and others, including members of the
5 community, yourself, Michael, the folks that
6 you represent at Verizon, the folks that
7 you've partnered with at the church have
8 sought six ways to Sunday to mitigate the
9 impact. But simply, in my mind, there are no
10 alternatives that exist.

11 As for number 15, most recently today
12 we've heard from the Town Historian Emeritus.
13 With regard to the historical significance of
14 this portion of the town, I understand that
15 you feel that you have addressed the issue and
16 the design efforts are extensive. My
17 determination in my mind is that the
18 commercial use of the facility jeopardizes the
19 historic character of this portion of the
20 town; unequivocally.

21 With that said, I guess I'll pass it to
22 my colleagues and step off my soapbox, but I'm
23 sure that you have an indication of where I'm
24 going on the issue. Those are the points that
25 we focused on and I hope that alleviates some

1 of your concern that this wasn't about radio
2 frequencies.

3 You have some folks who perceive the
4 situation in the Gulf of Mexico right now as a
5 minor drip in the bucket and there are other
6 people that think it's the biggest
7 environmental catastrophe ever. Some people
8 believe that there is such a thing as global
9 warming and other folks don't. Whether or not
10 the radio frequencies have an impact on our
11 health, this board isn't equipped to handle
12 that decision. In my deliberations,
13 personally, I couldn't consider it because I
14 don't tend to be an expert on the issue with
15 the conflicting opinions out there of what the
16 ramifications are. I've stuck straight to the
17 book here and those are my feelings on the
18 issue.

19 With that, I'll pass it to Tim.

20 CHAIRMAN O'ROURKE: Thanks, Peter.

21 MR. CUSACK: Mr. Gannon, I just had one
22 question. Have you factored into your thinking
23 that the proposed bell tower is an allowable
24 use in the district but for the Verizon
25 wireless antennas? In a residential district -

1 MR. GANNON: Michael, I would say that is
2 probably exactly what I factored in my
3 decision. The check at the end of the day is
4 if we're talking about a bell tower, do I
5 think that -

6 CHAIRMAN O'ROURKE: I'm not going to
7 allow Mr. Cusack to ask the board questions.
8 I'm sorry. This isn't Perry Mason.

9 MR. GANNON: Like I said, I'm going to
10 pass it to Tim Lane.

11 MR. LANE: Could you give the board and
12 the audience a brief recitation on the efforts
13 of Verizon to locate a site for this cell
14 tower and as to why there was no other
15 location that was found feasible? It's rather
16 difficult to me to find that was something
17 that was -- I'm sure that it was discussed. I
18 know that there were some other balloon tests.

19 MR. CUSACK: The process for looking at
20 alternative sites is specified in the town's
21 regulations. We did include an overview of
22 that in the application package.

23 MR. LANE: Like I said, this isn't just
24 for me. This is for the public.

25 MR. CUSACK: For the benefit of the

1 public; I understand. First and foremost, the
2 applicant is required to demonstrate that they
3 have a need. There was no serious dispute that
4 there was a need for service in this area.
5 It's a well known problem area for dropped
6 calls and blocked calls and no service.

7 CHAIRMAN O'ROURKE: For Verizon?

8 MR. CUSACK: For Verizon Wireless,
9 correct.

10 CHAIRMAN O'ROURKE: The drop zone is up
11 on Crumitie, sir. You're on the record in
12 previous meetings saying that this cell tower
13 will not affect the drop zone on Crumitie; am
14 I correct? It doesn't reach that far.

15 MR. CUSACK: We may also have a problem
16 there. I'm not sure what you're referring to
17 previously, Mr. Chairman, but we do have in
18 the record in writing a report documenting the
19 dropped and blocked calls and no service in
20 the area of Ireland's Corners. In addition to
21 any problems or discussions that we might have
22 had about Crumitie Road, which I understand is
23 an area of complaint for a number of residents
24 in Colonie -- I was just speaking with Sarah
25 and she asked me to try to confine this to

1 what is actually in front of the board.

2 The actual use itself and the
3 alternatives that were considered by Verizon
4 Wireless - that evaluation was done at the
5 Zoning Board of Appeals level and is covered
6 by the variance that was issued. Very briefly,
7 we looked at existing structures in the
8 area - existing tall structures that would be
9 able to host our antennas. There were none.
10 The closest tall structures are near town
11 hall, across from Siena College and we are
12 already a tenant of the town's on the water
13 tank that is there. So, in the absence of
14 those structures, you have to start looking
15 for new sites. We ended up at the Loudonville
16 church property because it was the only larger
17 sized lot in the area that could accommodate
18 our facility that was not dedicated to
19 residential use.

20 We also evaluated and talked about in the
21 proper hearing three alternative sites that
22 were brought up at the Zoning Board of Appeals
23 level.

24 The first was the state police tower,
25 which is too close. It's roughly next door to

1 the town hall site that we're already on.

2 The second is a cable television tower at
3 the south end of Colonie just over the border
4 in the City of Albany, which was terrain
5 blocked and too far away to provide service to
6 the area.

7 The third is an existing tower that
8 existed at one point and may still be there on
9 the Maloy construction property that could not
10 make it over the Latham ridge to provide
11 service to this area.

12 An important constraint that we were
13 dealing with is the FAA's effort to clear out
14 the Latham ridge of any tall obstructions so
15 as to improve the line of approach to the
16 north/south runway at the Albany International
17 Airport. So that's what put us on this side of
18 the ridge that the church is on and looking
19 for a facility.

20 I hope that answers your question.

21 MR. LANE: What about the rural cemetery?
22 That's a large property. Was that ever under
23 consideration?

24 MR. CUSACK: That's not near where we
25 were looking. As I mentioned, the alternatives

1 that we considered were covered at the Zoning
2 Board of Appeals stage when we got our
3 variance. That's how the use got approved.

4 MR. LANE: Thank you.

5 CHAIRMAN O'ROURKE: Just for
6 clarification, that is single family
7 residential. The church is a permitted use in
8 SFR, in the Town of Colonie.

9 MR. CUSACK: That's correct. Churches are
10 permitted uses in the single family
11 residential zoning district.

12 CHAIRMAN O'ROURKE: You said it was not
13 SFR. I'm just correcting you for the record.

14 MS. MAYBERRY-STEVENS: No, he said site
15 plan review, SPR.

16 MR. CUSACK: Not site plan review. I
17 meant the variance review. I'm sorry I
18 confused you on that. I apologize.

19 CHAIRMAN O'ROURKE: Just for
20 clarification.

21 MR. CUSACK: No, I understand. Thank you.

22 CHAIRMAN O'ROURKE: Paul?

23 MR. ROSANO: I don't have any comment
24 right now.

25 CHAIRMAN O'ROURKE: Tom?

1 MR. NARDACCI: I'm just going to make two
2 quick statements here. I don't want to go on
3 and on.

4 First I just would like to make a
5 statement on public participation, again, with
6 regard to this Planning Board. I think that
7 it's important and I agree with Peter that
8 it's great to see so many people turn out for
9 any issue. While sometimes it makes the
10 meetings long, I think that it's worthwhile
11 because it means that there is public
12 participation.

13 I have been on the board for two and a
14 half years and many residents have commented
15 that previous boards may not have thoroughly
16 reviewed projects, nor did they encourage
17 public participation. We have probably
18 reviewed 200 projects since I've been on the
19 board and we have gone above and beyond to
20 make sure that applications receive a thorough
21 and open review. This is a credit to Joe and
22 Pete.

23 Despite giving Joe a hard time, we have
24 to take the time to give him credit when they
25 do a Yeoman's job which is to ensure the

1 public understands what's happening. It's more
2 or less the board leadership under Jean
3 Donovan and now under C.J. It's important to
4 make sure that the public is fully aware of
5 the things that are happening in their
6 neighborhoods.

7 That said, I would like to make a
8 separate statement in regard specifically to
9 this project and this applicant.

10 Remaining consistent to statements that
11 I've made publicly for a number of months and
12 under no pretext with regard to radio
13 frequency as the applicant implied in his
14 remarks, I will be casting a no vote to this
15 matter because a cell phone tower is out of
16 character with the surrounding neighborhood.

17 Loudonville is a well documented
18 historically significant area listed on the
19 National Register of Historic Places. To my
20 knowledge, commercial industrial structures of
21 this nature are nonexistent on private
22 property in this single family residential
23 area. The town's Land Use Law clearly states
24 that this board must consider the character of
25 the neighborhood. In my opinion, a cell phone

1 tower is inconsistent and should not be
2 permitted.

3 CHAIRMAN O'ROURKE: One thing that I'm
4 sure of, Mr. Cusack, if you had chosen the
5 Albany Rural Cemetery, there wouldn't be this
6 many people here.

7 I have many questions.

8 In looking at your EAF, could you explain
9 the AC units?

10 MR. CUSACK: I'd like to ask Herv Glavota
11 from Tectonic Engineering to address that.

12 MR. GLAVOTA: My name is Herv Glavota
13 from Tectonic. What specifically are you
14 looking for?

15 CHAIRMAN O'ROURKE: In the full EAF that
16 was submitted, it talks about the AC units.

17 MR. GLAVOTA: For the equipment shelter
18 they need HVAC heating and cooling within the
19 equipment shelter, so there are two pads where
20 we put AC units on the pad. We're just listing
21 them as separate items on that.

22 CHAIRMAN O'ROURKE: So the condenser is
23 outside?

24 MR. GLAVOTA: Yes.

25 CHAIRMAN O'ROURKE: What is the decibel

1 level on those?

2 MR. GLAVOTA: I couldn't tell you.

3 CHAIRMAN O'ROURKE: You don't know?

4 MR. GLAVOTA: I don't know.

5 CHAIRMAN O'ROURKE: While Mr. Cusack
6 looks for that -

7 MR. GLAVOTA: I know that when we used
8 the units that are on the shelter themselves,
9 they are approximately in the range of 55 to
10 60 decibels.

11 CHAIRMAN O'ROURKE: But you don't know.

12 MR. GLAVOTA: I don't know.

13 CHAIRMAN O'ROURKE: Thank you.

14 Who prepared the EAF, Mr. Cusack?

15 MR. GLAVOTA: I did.

16 CHAIRMAN O'ROURKE: Is the project
17 substantially contiguous to or contain a
18 building site or district listed on the State
19 or National Registers of Historic Places? You
20 marked no. Can you explain that to me?

21 MR. GLAVOTA: The historic district is
22 not adjacent to -

23 CHAIRMAN O'ROURKE: Do you know how many
24 feet the historic overlay is from your
25 proposed cell tower?

1 MR. GLAVOTA: It's about a half mile.

2 CHAIRMAN O'ROURKE: No, I disagree. I
3 disagree. A half a mile at 5,280 feet right?

4 MS. NEWBERRY-STEVENSON: It's greater than
5 1,000 feet from our site.

6 CHAIRMAN O'ROURKE: I don't believe that
7 to be the case. But you don't know for sure?
8 Is it 1,001 feet, ma'am?

9 MS. NEWBERRY-STEVENSON: It's greater than
10 1,000 feet. I do not know if it's 1,010 -

11 CHAIRMAN O'ROURKE: So you really don't
12 know.

13 MS. NEWBERRY-STEVENSON: According to our
14 expert, it is greater than 1,000 feet; that I
15 know.

16 CHAIRMAN O'ROURKE: Is your expert here
17 with you, ma'am?

18 MS. NEWBERRY-STEVENSON: Yes, he is.

19 CHAIRMAN O'ROURKE: Can I listen to the
20 expert?

21 MS. NEWBERRY-STEVENSON: Sure.

22 MR. BEREZOWSKY: Good evening. Adrian
23 Berezowsky from IVI.

24 It's actually very difficult to determine
25 the exact distance due to the fact that the

1 maps provided by the town, in their overlay
2 are not very specific. However, we're
3 certainly more than 1,000 feet away.

4 CHAIRMAN O'ROURKE: Okay, because I paced
5 it off at 65 paces.

6 MR. BEREZOWSKY: And what were you basing
7 the actual -

8 CHAIRMAN O'ROURKE: Off the corner of the
9 school. The school is outside -- the triangle
10 of the school?

11 MR. BEREZOWSKY: Yes, that is outside of
12 the historic district.

13 CHAIRMAN O'ROURKE: Right, but from that
14 back yard -

15 MR. BEREZOWSKY: I apologize. I was
16 actually speaking of the locally designated
17 historic district. Were you talking about the
18 Loudon Road historic district which is on the
19 national register?

20 CHAIRMAN O'ROURKE: Yes.

21 MR. BEREZOWSKY: Then we are definitely
22 more than 1,000 feet. Given that the school
23 itself is located over 1,000 feet and the
24 school -

25 CHAIRMAN O'ROURKE: The school is 1,200

1 feet.

2 MR. BEREZOWSKY: Yes, as previously
3 stated by Mr. Cusack.

4 CHAIRMAN O'ROURKE: But that historic
5 district cuts through those yards along -

6 MR. BEREZOWSKY: No, the historic
7 district is actually south of Menand Road.

8 CHAIRMAN O'ROURKE: No, it goes all the
9 way to Siena College.

10 MR. BEREZOWSKY: That's what I was asking
11 for clarification on. That's the locally
12 designated historic district. The national
13 register -

14 CHAIRMAN O'ROURKE: That's the one that
15 this board is concerned with. The Town of
16 Colonie has it as a historic overlay.

17 MR. BEREZOWSKY: Exactly - and that's why
18 I was asking for clarification. I do
19 apologize.

20 The locally designated historic district
21 is also over 1,000 feet away, based on our
22 calculations and best efforts to determine the
23 exact boundary as it is listed on the zoning
24 plan and on the town map.

25 CHAIRMAN O'ROURKE: I would disagree, but

1 let's move on.

2 Also in your full EAF, you talk about job
3 generation. This is going to increase jobs?

4 MR. CUSACK: The question reads: Number
5 of jobs generated during construction. Five.

6 CHAIRMAN O'ROURKE: So, you're generating
7 those or are they just another company that
8 already has those five workers? There is no
9 net increase?

10 MR. CUSACK: It's five new jobs. The job
11 itself to build the facility is put out to
12 bid. Any company who is qualified to do the
13 construction can bring in their people to take
14 the work. In our mind, they are new jobs.

15 CHAIRMAN O'ROURKE: Again, as I looked at
16 this project and certainly spoke to it at the
17 last meeting, my concern certainly was with
18 Loudonville and the architecture, the quality
19 of life, and all things that our Land Use Law
20 protects. Actually, I would like to take this
21 opportunity to just read from the Land Use Law
22 Section 190-55.

23 The purpose of site plan review is to
24 allow the community to properly integrate uses
25 based on their characteristics or the special

1 characteristics of the area in which they are
2 to be located to accommodate growth that will
3 have a harmonious relationship with the
4 existing or the permitted use of contiguous
5 land and of the adjacent neighborhood without
6 crating adverse effects to ensure that the
7 health, safety, welfare, comfort and
8 convenience of the public is fully considered.

9 As I read that, in my statement at the
10 last meeting I thought that the Zoning Board
11 of Appeals erred in granting that Rosenberg
12 variance. As I looked at it, I though that
13 this board's hands may be tied. I have come to
14 a different conclusion after reading into the
15 law. Certainly I'm not a lawyer. I'm not as
16 smart as you, Mr. Cusack, so I have to read
17 these things and digest them. As I did that
18 and I looked at the community, I have to go to
19 a few of your statements. One you made during
20 your application at the ZBA where you on the
21 record stated:

22 In a residential and historic area, there
23 are just not a lot of tall structures.

24 So if there are not a lot of tall
25 structures in a residential area, which you

1 have granted in a residential and a historic
2 district - whether it be outside the bounds or
3 not, you say that it is. Why would we want one
4 if there isn't any? That's one point of
5 contention that I certainly have difficulty
6 digesting.

7 There is another point that I've had
8 difficulty with. I'm apolitical. I'm not a
9 political person, but certainly I think that
10 some of the problems with this was that there
11 were four people at the Zoning Board of
12 Appeals that night. I have gone through the
13 transcript. Actually one of the members,
14 Mr. Kraus, asked:

15 So all we're looking to do is to vote on
16 whether 60 foot or 40 foot and that's the only
17 issue?

18 So when I read something like that from a
19 board, I'm concerned.

20 As Tom stated, we as a board certainly
21 try and read and understand everything. Now
22 this has come to a position in my opinion that
23 it is probably going to end up in litigation.
24 It could be argued that this structure doesn't
25 fit the residential and historic aspects of

1 the community. As a matter of fact, I think
2 that it goes further.

3 I think that I'm looking to deny the
4 application on the grounds that the project
5 does not properly integrate into the special
6 characteristics of the area.

7 Number 2, it will not have a harmonious
8 relationship with the existing and permitted
9 uses of the contiguous lands and adjacent
10 neighborhoods.

11 Number 3, that a legitimate concern that
12 the welfare as well as the comfort and
13 convenience of the public and citizens could
14 be jeopardized with this project.

15 Lastly, this project borders a historic
16 overlay district and is not in keeping with
17 that district.

18 That's the way that I feel after doing
19 much, much research. Unfortunately, that's how
20 will I will move forward this evening.

21 That being said, I'm going to open this
22 now to the floor and I just want to go over
23 some general speaking guidelines.

24 The board will not hear and has no
25 jurisdiction over restricted deed covenants.

1 These are individual property right questions
2 whose arguments must be heard by a court in a
3 different venue.

4 All those wishing to speak will be given
5 three minutes and it will be timed. You will
6 only be permitted to speak on one occasion.
7 Nobody, Mr. Mittleman, can give you any of
8 their time; as much as I'd love to hear you
9 speak.

10 I also want to read into the record that
11 no state or local government may regulate
12 placement, construction, and modification of
13 personal wireless service facilities on the
14 basis of the environmental effects of radio
15 frequency emissions to the extent that such
16 facilities comply with the commission's
17 regulations concerning such emissions.

18 I am making that statement because I am
19 fully convinced that Mr. Cusack's people met
20 the minimal federal guidelines in regard to
21 this and we as a board cannot consider
22 anything further than that. They have met the
23 federal guidelines and we will not waste your
24 time or our time this evening with that. It
25 specifically falls under federal law and it's

1 very specific. I think that Verizon has met
2 the minimum requirements in regard to that.

3 That being said, this board is interested
4 in how the proposed project will either
5 positively or negatively impact property
6 owners, and effect either positively or
7 negatively the character of any adjacent
8 neighborhoods. If anybody has any realty
9 background and knows that it would effect
10 property values, that would be something that
11 this board would certainly want to consider.
12 If you own a historic home, if there are
13 guidelines within that which you want to speak
14 about, certainly we would love to hear things
15 on that. Again, we all don't live in these
16 neighborhoods so what's important to us is to
17 understand the characteristics of your
18 particular neighborhoods. So, all of those
19 things are open and I will not hit the buzzer
20 unless you go outside of those realms.

21 Yes, Mr. Cusack?

22 MR. CUSACK: I'd like to respond to your
23 Zoning Board of Appeals comments later, if
24 that's all right?

25 CHAIRMAN O'ROURKE: You may right now.

1 MR. CUSACK: At the time of the meeting
2 when we read the remark about the existing
3 tall structures, we were talking about finding
4 an existing tower or something else to locate
5 our facility on as required by the town's
6 code. We weren't trying to say that you
7 couldn't have one in the district.

8 CHAIRMAN O'ROURKE: I believe that it's
9 misleading. I can argue one way and you're an
10 attorney so you're way better at arguing than
11 I am. I think that's for somebody else to
12 decide.

13 MR. CUSACK: As to the statement by
14 Mr. Kraus that he was concerned on whether
15 they were voting on 60 feet alone, I feel that
16 was clarified by the board in the later
17 discussion in the minutes. I'm sorry that we
18 disagree.

19 CHAIRMAN O'ROURKE: I actually have one
20 other thing in your original book that you had
21 given to us.

22 Compliance with the Rosenberg standard,
23 which is on page three of the ZBA application
24 tab. Under number 2, you actually state due to
25 the historic status of the Ireland's Corners

1 area and the densely developed nature of
2 surrounding property, no tower or other tall
3 structures of sufficient height exist in the
4 Loudonville area that could be used by Verizon
5 Wireless to provide adequate and safe service
6 to the target area. Again, you used the word
7 safe.

8 MR. CUSACK: It's functional.

9 CHAIRMAN O'ROURKE: Again, it could be
10 argued as many things. I don't know what your
11 intent was when you wrote it. Safe may mean
12 something different to somebody in the
13 audience. I'm just bringing that out for you.

14 MR. CUSACK: Which is a reference to the
15 historic district that we stayed out of. In
16 any event, thank you for your time.

17 CHAIRMAN O'ROURKE: Thank you.

18 We'll start right with you, ma'am.

19 MS. JONQUIERES: I know that I have three
20 minutes, so I want to do this quickly. Jean
21 Olsen asked me to read her statement.

22 My name is Lynn Jonquieres and I'm the
23 coordinator for the Greater Loudonville
24 Association. I'm also the mother of the
25 president of the Loudonville School PTA. You

1 all are my friends, my neighbors and my
2 family. I know many of you.

3 Paula, our grandchildren know each other.
4 They have ridden ponies together with my
5 grandchildren at the Pruyn House. I publicly
6 call Joe my hero because every time I get into
7 a mess doing whatever project that I seem to
8 get into, he's there to help.

9 Tim, I've known your fiancé for over
10 20 years and she is one of my favorite people
11 and you're about to get married and have your
12 own family. So, you understand the concern of
13 a parent and a grandparent.

14 Joe LaCivita, I know your wife and I've
15 been to your adorable store many times. It's
16 the only place that you can get really good
17 local wine.

18 Amy Fox, you have worked like a dog on
19 this project for the community and I want to
20 thank you very much.

21 Gary Mittleman, you too, have worked like
22 a dog and we all know that.

23 Marilyn, you're my friend and our kids
24 swim together and we have a logo thing that I
25 didn't write down.

1 In any case, I'm not speaking for the GLA
2 nor for the PTA, nor for any other
3 affiliation. I'm speaking to you as a
4 grandmother of a third grader at Loudonville
5 School.

6 Would you like to know what the children
7 are saying about this? They're terrified of
8 us, the adults, putting up a cell tower right
9 next to their school. They know all about it.
10 We talk about it and it's on TV. We can't hide
11 it from them. One little girl that I listened
12 to while driving her home from dance said that
13 she was even scared to go to school if there
14 was a cell tower.

15 CHAIRMAN O'ROURKE: Ma'am, I'm sorry,
16 your time is up.

17 MS. JONQUIERES: I'll submit the rest for
18 the record. Thank you for your time.

19 CHAIRMAN O'ROURKE: You'll pardon me if I
20 butcher any names.

21 Mr. Mittleman.

22 MR. MITTLEMAN: I thank the board for
23 hearing my comments tonight. The building of
24 the cell tower at 22 Old Niskayuna Road has
25 generated great community resistance and much

1 of this is evident by a letter that was signed
2 by over 600 people that was sent to the board.
3 I do have copies of it with me. I will not
4 read the names or the addresses of all the
5 people that signed. However, if I could, the
6 last two sentences read, and I quote:

7 Erecting the proposed tower is not in
8 keeping with the character of the residential
9 community of historic Loudonville. We ask you,
10 as a Planning Board to find that there is no
11 suitable building site for this tower on the
12 church property.

13 Tonight I believe that you will hear a
14 number of Loudonville residents that will
15 confirm that as to why they believe that it is
16 not appropriate to build a tower on this site.
17 I will not go into all of those reasons. I
18 believe that was so well pointed out by the
19 board earlier. These reasons are highly
20 consistent with the Land Use Law 190-56
21 paragraph 13 and other parts of the law, as
22 was discussed earlier.

23 We have also heard that the cell phone
24 tower is going up because of lack of coverage.

25 First let me say that when Congress

1 enacted the 1996 Telecommunication Law, they
2 saw to achieve what they called universal
3 coverage throughout the United States, but
4 universal coverage never meant 100% coverage.
5 In fact since that time, many in Congress have
6 been told to say that 97% was a reasonable
7 target to shoot for.

8 I have Verizon cell phone service now, as
9 does my family. We have not experienced the
10 dropped calls at that corner like many other
11 people claim that they have had. I'm not
12 saying that they haven't. I'm saying that
13 there is some uncertainty as to whether there
14 are calls being dropped or not.

15 Further, as a former executive of
16 corporate strategy at Ameritech, one of the
17 nation's largest telecommunication companies,
18 I contend that Verizon's real interest in
19 putting a cell phone tower up on the site has
20 very little to do with the drop in coverage or
21 lack of coverage that we're seeing at
22 Ireland's Corners - or that they claim to see.
23 Rather, it has to do with expanding a very
24 profitable new line of business which is
25 offering wireless interconnects to the

1 homeowners as well as wireless video on
2 demand.

3 CHAIRMAN O'ROURKE: I'm sorry,
4 Mr. Mittleman, your time is up.

5 MR. MITTLEMAN: Thank you.

6 MR. STUTO: Mr. Cusack, may I ask a
7 couple of questions? You referenced a letter
8 from CT Male - a letter stating that your
9 application was substantially complete; is
10 that correct?

11 MR. CUSACK: That's correct. It was dated
12 May 8th, I believe.

13 MR. STUTO: Could it have been
14 April 8, 2010?

15 MR. CUSACK: Excuse me, April 8th; yes.

16 MR. STUTO: Did that letter say that we
17 have conducted a review of the applicant's
18 submission dated April 6, 2010 which included
19 the following: A letter dated April 5, 2010
20 from Tectonics Engineering responding to the
21 March 30, 2010 C.T. Male comment letters. A
22 revised set of site plan drawings dated
23 April 5, 2010, a revised EAF dated
24 April 5, 2010 and additional stealth bell
25 tower -- is that in the letter?

1 MR. CUSACK: I'm looking for the letter
2 now.

3 I have the letter now let's see if I can
4 understand your question.

5 MR. STUTO: On the front page does it say
6 as I just read at the bottom there, those four
7 items that they reviewed?

8 MR. CUSACK: Yes, four bullet points are
9 listed on page one of that letter?

10 MR. STUTO: Do you have any disagreement
11 with the fact that was submitted to them?

12 MR. CUSACK: I don't have any
13 disagreement, no.

14 MR. STUTO: Thank you. That's all I
15 wanted to ask you.

16 CHAIRMAN O'ROURKE: Next is Barbara
17 Eruysal.

18 MS. ERUYSAL: Why does Newtonville
19 Methodist Church have a tower and St. Francis
20 DeSales have a tower when there are all
21 residents living around there?

22 CHAIRMAN O'ROURKE: I'm not sure that I
23 can answer that, ma'am. I think that it's up
24 to the congregation.

25 MS. ERUYSAL: And we can't have a tower.

1 CHAIRMAN O'ROURKE: Elaine Woroby.

2 PSTR. WOROBY: I'm Elaine Woroby, Pastor
3 at Loudonville Presbyterian Church. As we have
4 said from the beginning of this process, our
5 interest in having an attractive bell tower
6 added to our church building. We feel that the
7 tower that is proposed is attractive. It
8 matches the architecture of our church. We
9 plan to have it as part of our church going
10 forward, even after Verizon has no use for it.
11 It's American modern architecture. It does fit
12 the style of our building. We're part of our
13 neighborhood. We're not adding anything that
14 is offensive or unattractive to our neighbors.

15 Our second purpose was in upgrading cell
16 service in our neighborhood and third is to
17 use the income to support and increase our
18 ongoing service projects.

19 Throughout this process we have worked
20 hard to make accurate information available to
21 our neighbors, media and to you. We are deeply
22 saddened by any negative impact that this
23 project has had on friendships, our neighbors
24 enjoyment and use of our church facilities,
25 and damage to our church's image. Our bell

1 cell tower is attractive and no one looking at
2 it would know that it was a cell tower. It's
3 first, an attractive addition to our building;
4 a bell tower. We stand together as a
5 congregation to say that we believe that this
6 bell/cell tower proposal is safe and
7 attractive. It is not a commercial use. There
8 is no sign that says that this is a Verizon
9 cell tower. It will simply look like part of
10 our church. We are not a commercial venture.
11 All of the money goes into the mission of
12 serving our local community. We will continue
13 to be present at 22 Old Niskayuna Road to
14 faithfully serve our neighbors and our local
15 community.

16 We are here to stay and we hope that we
17 are here to stay with a beautiful bell tower.
18 Thank you.

19 CHAIRMAN O'ROURKE: Thank you, ma'am.

20 Lois Siegel, 37 Aspen Road.

21 MS. SIEGEL: I have been a member of
22 Loudonville Presbyterian Church since 1962. I
23 hope that those who feel that they are against
24 the cell tower would immediately throw away
25 all of their cell phones and portable phones

1 as you are exposing yourself to more radiation
2 than from this tower. You should start home
3 schooling your children as school houses all
4 the equipment and all the other quote,
5 harmful, end quote, things that you wish you
6 avoid. I guess you might have to consider
7 moving out of Loudonville, as there are 58
8 cell towers within a four mile radius of the
9 church. Thank you for listening and your
10 consideration.

11 CHAIRMAN O'ROURKE: Thank you,
12 Ms. Siegel.

13 Shreefal Mehta, 20 Old Niskayuna Road.

14 MR. MEHTA: Thank you for hearing my
15 comments. Me and my family live at
16 20 Old Niskayuna Road, which is right next
17 door to the church. We love our neighbors and
18 we appreciate the fact that Elaine Woroby has
19 mentioned that she does the same and this is
20 certainly an occasion for her to express that.

21 The decision that was made by the church
22 has actually brought the community together in
23 harmony and in disagreement over this, which
24 is not the best way for a community to be
25 around a church.

1 We also don't want any activity relating
2 to commercial or utility trucks being around
3 our area. This is not what we looked for six
4 years ago when we bought a house in historic
5 Loudonville. This is a single family
6 residence. This is not what we were looking
7 for in a peaceful neighborhood where utility
8 trucks can come in 24/7 and service whatever
9 the problem might be. Then they may add more
10 service and add more cell companies to this
11 tower and there will be an increase in that
12 traffic. We are not akin to have that happen
13 at all. It's certainly not in keeping with
14 what we intended. Thank you, very much for
15 hearing me.

16 CHAIRMAN O'ROURKE: Thank you, very much,
17 sir.

18 Kate Owens, 29 Old Niskayuna Road.

19 MS. OWENS: Thank you, very much. My name
20 is Kate Owens and my family and I live at 29
21 Old Niskayuna Road, across from the church. We
22 moved in almost five years ago. We loved the
23 community and we loved the landscaping and I
24 fell in love when I realized that the property
25 that we purchased had two 200 year old Beech

1 trees. I'm a tree person and I love them.

2 I take an issue with Verizon's screening
3 idea that the pines are going to screen the
4 cell tower. I wish that were the case. You say
5 Norway and I say Austrian Pines. I live across
6 the street and three years ago I had to remove
7 10 of these trees, 40 feet plus -- I had to
8 removed them because they were diseased and
9 were dying. I replaced all of them with
10 evergreens that are suited to our area. That
11 was three years ago and they are only eight to
12 ten feet tall. I'm going to be heartbroken
13 every time I'm waiting for the bus with my
14 little girl and I look at the church and those
15 trees are dying. You don't have to be an
16 arborist to know. Just drive by. They are
17 dead. The branches are coming down.

18 During the last ice storm, the branches
19 came down and knocked the wires and got in the
20 road. It's sad. I hate to see any tree die but
21 that's the case. At some point we're going to
22 just be able to look at a 60 foot cell tower
23 and I know that it's matching, but it's still
24 not going to be attractive and I'm going to be
25 heartbroken when those trees are gone. I

1 really don't want to see a 60 foot cell tower.
2 Thank you, very much.

3 CHAIRMAN O'ROURKE: Thank you, ma'am.

4 Robert Hymes, 27 Old Niskayuna Road.

5 MR. HYMES: My name is Robert Hymes and I
6 live at 27 Old Niskayuna Road. I live across
7 the street from the church.

8 My concern is there are risks that the
9 neighbors are going to have to take with this
10 church's action. These risks include property
11 values, if they do decrease and the increased
12 negative activity on the property itself as
13 well as the aesthetic nature of the area.

14 Like the Mehtas and the Owens, we bought
15 our house five years ago and when we purchased
16 our house, we never thought that this was
17 going to happen in this area. Had we known, I
18 think that our decision would have been
19 different. I don't know if we would have
20 purchased a house. I do believe that this cell
21 tower will fundamentally change the nature and
22 use of that land. I do find it objectionable.
23 It's a 60 foot tower. The scale of it, to me,
24 is huge, in my estimation.

25 We live on the smallest house on the

1 block and that's fine. We bought that house
2 knowing full well that it was in Loudonville
3 and it was historic area and was beautiful. At
4 the time, the church was seen as a blessing.
5 It was something that we could count on to
6 make good decisions for the community as a
7 whole and for us.

8 I do ask that the board do look to
9 protect property and the taxpayers and the
10 future taxpayers because this may have a
11 negative property value. Thank you.

12 CHAIRMAN O'ROURKE: Thank you, Mr. Hymes.

13 At this point, there will be a block of
14 speakers. There will be six speakers to
15 summarize the SAFE and Loudonville petition to
16 tonight's cell tower. First is Amy Fox.

17 MS. FOX: Good evening and thank you.
18 Amy Fox, Patroon Place, Loudonville.

19 I'm going to cut to the chase because I
20 heard what you're interested in hearing. I'd
21 like to say that in relation to triangulation,
22 we know that this tower is part of a larger
23 plan to triangulate with two other sites.
24 There is case law that says when weighing the
25 extent of intrusion of a proposed facility,

1 the municipality may consider among other
2 things, the aesthetic impact of a facility and
3 it may reject the construction of a particular
4 facility if there is evidence establishing
5 that a service gap can get closed by a less
6 intrusive means. Verizon Wireless has never
7 looked at the possibility of roaming. The FCC
8 has explained that with the roaming
9 requirements - I've put them in your packet
10 for you - it appears that there is no good
11 reason why Cellco Verizon customers cannot
12 have seamless coverage through an appropriate
13 roaming agreement.

14 I'd like to touch on that the project
15 does not fall under the height exception,
16 footnote 1. This is on page two of the packet
17 that I gave you.

18 The federal government does not consider
19 this a bell tower. It considers it a cell
20 tower, first. So, you can't take the cloaking
21 and the wrapping paper of something that it's
22 not, the variable, to apply it to the constant
23 that it is. I believe that this height
24 footnote exception has been misappropriated
25 and it will create a harmful precedent for

1 future tall structures in Loudonville where
2 they do not exist. Anything tall can claim to
3 want to cloak itself as something that falls
4 under the belfry as fire exception to get it.
5 I object to this.

6 The last point that I want to make is
7 that when you look at the exception use
8 variance that was requested by the applicant,
9 this changes the nature of the action from
10 unlisted where it started with the ZBA to a
11 Type 1 action. I see that there are too many
12 variables that are not mitigatable. I ask that
13 the board finish this and spare the residents
14 the further angst by voting it down tonight.
15 Thank you.

16 CHAIRMAN O'ROURKE: Thank you, Mrs. Fox.
17 David Hartwick.

18 MR. HARTWICK: Good evening. My name is
19 David Hartwick and I live on Clover Lane. I'm
20 the father of two young girls.

21 Indeed, the FCC has failed to generate
22 any safety standards for Verizon's proposed
23 746 to 757 megahertz and 776 to 787 megahertz
24 signals at all.

25 CHAIRMAN O'ROURKE: Sir, we're not going

1 to talk about -

2 MR. HARTWICK: Okay, I'm going to go on
3 to Mr. Cusack's point that he's trying to
4 cover a very small area within a mile of the
5 cell site.

6 Signals travel a great distance and
7 Loudonville may not be required to support
8 these services for towns and cities beyond its
9 borders under the constitution. Mr. Cusack
10 attempts to show this new tower as needed both
11 to render adequate and safe handheld telephone
12 service to a significant area of the town in
13 and around Ireland's Corners. He claims that
14 without the construction of a communications
15 facility that is proposed, the public would be
16 deprived of an essential means of a
17 communications, which in turn would jeopardize
18 the safety and welfare and the community and
19 traveling public. Despite the number of people
20 who report no problems with coverage in and
21 around this area, Verizon would have us
22 believe that since we've had no tower or
23 facility to date, that we must have been and
24 are currently living in a state of constant
25 danger.

1 Colonie Police Traffic Safety Sargent Rob
2 Donnelly describes the Town of Colonie vehicle
3 accident statistics for this target
4 intersection over the past 14 years as quote,
5 statistically insignificant, end quote, as you
6 can see in Exhibit 22.

7 As a long time Loudonville resident and
8 graduate of Shaker High School class of '88, I
9 am keenly aware of the value of a North
10 Colonie education. This is why when my wife
11 became pregnant with our second daughter back
12 in 2004, we focused our search for a larger
13 home within the North Colonie School District
14 with a special emphasis on the area served by
15 the award winning Loudonville Elementary
16 School. I can also tell you that had a cell
17 tower existed or even been proposed at this
18 site back in 2004, I would not have even
19 considered raising my family in the area of
20 Loudonville. Of course this was not an issue
21 at the time.

22 My wife and I were ecstatic to find a
23 home less than a mile from our school of
24 choice. Now, everyday before work, I watch my
25 oldest daughter hop on the bus and I can't

1 help but smile knowing that I have done
2 everything in my power to provide my girls
3 with the best opportunities for their future
4 that I possibly can. I then drive to work
5 knowing that I'm truly living my version of
6 the American dream. I ask the board, please do
7 not turn that dream into my worst nightmare.
8 Thank you.

9 CHAIRMAN O'ROURKE: Thank you,
10 Mr. Hartwick.

11 Mike Daly.

12 MR. DALY: Thank you for letting me speak
13 tonight. I attended a meeting at the
14 Loudonville Presbyterian Church. I was invited
15 by some members in the neighborhood and I
16 really hadn't heard about this before. I went
17 there with an open mind and I left there
18 feeling very betrayed by my neighbors, the
19 church. There were issues raised by people
20 within the audience about health issues,
21 potential hazards to children and potential
22 hazards to the school, which I felt weren't
23 answered.

24 I'm a physician. I'm very familiar with
25 radio frequency technology. I use it in the

1 office and I use it in the operating room. Not
2 cell tower technology, but more internal
3 energy in the operating room. It's something
4 that I'm very familiar with.

5 I have two children. I have an eight year
6 old daughter and a five year old son. It's a
7 great concern. I live within the visualization
8 of the balloon. I can see the balloon from my
9 front windows. It's just an area that I feel a
10 great concern for my children. I know that my
11 wife and I discussed this until about 2 in the
12 morning after the meeting at the Loudonville
13 church. The next morning, she was on the phone
14 with a real estate agent trying to arrange a
15 showing for our house. We moved here about
16 three and a half to four years ago. It's not
17 an area that she feels comfortable living in
18 anymore with the cell tower directly across
19 the street. It's not an area that I feel
20 comfortable with my children either.

21 I know that we're not really supposed to
22 address health care risks. There are certain
23 risks that I feel are posed by having a tower
24 directly across the street. I feel that it
25 poses a risk to my children. There are really

1 no good studies that actually show the effects
2 on biological organisms, especially children.
3 By putting something like this in our midst,
4 you're setting up kind of like a case control
5 study -

6 CHAIRMAN O'ROURKE: Sir, we're not
7 discussing that.

8 MR. DALY: I know and I'm sorry. I feel
9 like my children are being placed in jeopardy.
10 That's not something that I signed up for when
11 I bought a house.

12 CHAIRMAN O'ROURKE: If you feel that
13 strongly on that, we need to address the
14 federal government. They are the ones that
15 wrote that law.

16 MR. DALY: I know. They did, but it's
17 something that when people expose children to
18 something -

19 CHAIRMAN O'ROURKE: Sir, your time is up.

20 MR. DALY: Thank you.

21 CHAIRMAN O'ROURKE: Thank you, Mr. Daly.
22 Atlee Bender.

23 MS. BENDER: I'll try to read quickly
24 because I know that I have just three minutes.

25 Good evening, Mr. Chairman and members of

1 the board. My name is Atlee Bender. I live on
2 Graystone Road here in Loudonville. My husband
3 and I are the parents of four children; two of
4 which are still attending Loudonville
5 Elementary School. I am also an executive
6 board member of the PTA at Loudonville School.
7 My profession is as a pediatric nurse
8 practitioner.

9 I am tonight here to oppose the cell
10 tower and any other communication facility at
11 22 Old Niskayuna Road. I'm here to ask you to
12 deny the application for the cell tower.

13 Tonight, if the Planning Board properly
14 applies SEQRA, which is the state
15 Environmental quality review, then the
16 conclusion can only be that adverse impacts
17 would be placed on this community if this
18 60 foot cell tower is built. These impacts on
19 our community would be far reaching and
20 irreversible. SEQRA law requires the Planning
21 Board to consider and address factors that may
22 negatively impact the community. These
23 considerations have social impacts, economic
24 impacts, aesthetic impacts, historical impacts
25 and more. I will review some of these

1 detrimental impacts that clearly warrant this
2 project's denial.

3 These can be found on page 14 of the
4 petition packet provided to each one of you
5 last week by Ms. Amy Fox.

6 Environmental and other impacts that I
7 feel will require project denial.

8 Verizon Wireless and Loudonville
9 Presbyterian have a 20 year automatically
10 renewable lease. This speaks to the
11 irreversible nature this tower will have if it
12 is erected.

13 In the event that the church and property
14 should ever be up for sale, Verizon has first
15 right of refusal to buy the property outright.
16 This is stated in the lease between Verizon
17 and the church.

18 Both Verizon and the church have
19 recognized the daily disruptions that this
20 project would bring to the neighborhood
21 environment by making provisions in the lease
22 that would restrict Verizon from any
23 maintenance on the cell tower during church
24 hours, yet in that same lease no provisions
25 exist to maintain a similar harmonious

1 environment for abutting properties. In other
2 words, with the exception of church hours,
3 Verizon can and probably will work on the cell
4 tower at all times of the day.

5 Also written in the lease, Verizon, at
6 any time has the right to add a fence to the
7 property. The fence protects the tower from
8 people entering its space, but it does nothing
9 from protecting people from debris coming off
10 the tower. In the event that damage should
11 occur to the cell tower - for example during a
12 common ice storm, people and the surrounding
13 trees could be injured. Since according to the
14 church and Verizon, these trees are supposed
15 to provide camouflage for the nearby historic
16 and residential community, the trees' health
17 and longevity must be considered.

18 Chairman O'Rourke, you raised a similar
19 concern about these very trees at the
20 January 12, 2010 Planning Board meeting.

21 Any decision to improve this tower would
22 establish this site as a multiple level tower
23 with several collocating cell carriers in
24 future years. It will encourage the legally
25 required necessity of clustering additional

1 towers at the site. If this tower is built,
2 other carriers will be legally required to
3 cluster their towers next to this one.

4 CHAIRMAN O'ROURKE: I'm sorry, ma'am.
5 Your time is up.

6 MS. BENDER: Thank you. Please try to
7 consider this tonight. Thank you.

8 CHAIRMAN O'ROURKE: Thank you for your
9 time.

10 Sandy Keeler, Old Niskayuna Road.

11 MR. KEELER: Good evening board members.
12 Thank you. I'm Sandy Keeler and I live at
13 37 Old Niskayuna Road. My family has lived
14 there for over 75 years and I was actually
15 born there.

16 I am vehemently opposed to the cell
17 tower, the almost six story structure. I think
18 that it's totally inappropriate in an old
19 residential area and really will become a
20 visual blight.

21 I'm here, however, to tell you that the
22 visual balloon test, I think, is invalid. I
23 passed out to all of you a summation, but I'll
24 read some of the key points.

25 Verizon Wireless' visual balloon test at

1 60 feet is unreliable because Verizon Wireless
2 states that its proposed facility must clear
3 all object to function properly. The tallest
4 trees are 65 feet. Therefore, Verizon Wireless
5 has failed to mitigate the visual aesthetic
6 impact on historic Loudonville. The Planning
7 Board must ensure mitigation to satisfy
8 SEQRA's legal requirements. If you all could
9 refer to the Exhibit 21A which was delivered
10 to you by Amy Fox last week - from the
11 petition to deny the cell tower -- it would be
12 very understandable what this is all about.
13 The tallest trees are 65 feet. Verizon has
14 said Verizon antennas need to be clear of all
15 natural and man made objects to function
16 properly. They stated this in August of 2009.
17 Obviously, the visual impacts have not been
18 mitigated.

19 There also is a seasonal issue in that
20 there are deciduous trees as well as conifers
21 and there are unavoidable season visibility
22 issues during spring, fall, and winter. I
23 looked at it today to validate that.

24 There is an issue also on the actual
25 height of the cell tower. The proposed tower

1 is published in www.antennasearch.com at
2 69.9 feet. This is 10 feet above
3 specifications. This is unacceptable.

4 In addition, we heard tonight that
5 Verizon looked only at four alternative sites.
6 There happen to be 58 telecommunications
7 towers, six registered and 52 pending, not yet
8 registered which are within four miles of the
9 area. There was no thorough mitigation search
10 to find a suitable location which could be the
11 collocator or roam from another carrier cell
12 tower.

13 In general, the balloon test was
14 inconclusive. In fact, they actual cropped the
15 visual 80 foot balloon from the photographs
16 that were sent to you. In summation, the
17 balloon test is not valid for a facility that
18 must clear the tree line to work properly. Any
19 increase in height would be even more visible
20 and would require a new setback with specs.
21 Mitigation has not been satisfied and too much
22 has been compromised.

23 I would call upon the board to
24 acknowledge that the tower cannot guarantee
25 the application specs of 60 feet and it cannot

1 satisfy the SEQRA review. Thank you for
2 entering into the record this in depth
3 testimony.

4 CHAIRMAN O'ROURKE: Thank you,
5 Mr. Keeler.

6 Wendy Allen, Reddy Lane.

7 MS. ALLEN: Mr. Chairman, members of the
8 board, thank you for the opportunity to speak
9 tonight. My name is Wendy Allen and I own one
10 of the parcels on the original piece of land
11 deeded by Lillian M. Reddy to the North
12 Colonie School District in 1924.

13 I'll focus on the aesthetic
14 inconsistencies presented by the construction
15 of this proposed cell tower. You may refer to
16 page 23, number 5 of the petition package, if
17 you like.

18 I took the time to seek out existing cell
19 locations in the immediate vicinity to examine
20 their settings. I have brought with me tonight
21 several photographs to document the
22 surroundings of these sites to demonstrate
23 visually what these sites look like in
24 reality, rather than drawings presented by
25 hopeful telecommunications companies.

1 I call your attention to several
2 characteristics shared by these sites. They
3 are commercial and industrial and not
4 residential areas. They are almost always
5 located near abandoned and run down buildings,
6 broken fences, cracked concrete, old tires,
7 overgrown in weed filled grounds and some even
8 contain discarded worn furniture left to decay
9 in the elements. I ask each of you to take a
10 hard look at each of these cell towers and the
11 adjoining landscapes. This is not the
12 aesthetic of Loudonville or any other
13 residential neighborhood in the Town of
14 Colonie. We certainly don't want our
15 neighborhoods to turn into these
16 industrialized dilapidated places. If this can
17 happen here, it will quickly migrate to
18 Colonie's other residential areas.

19 Verizon and the church will counter this
20 argument with: This cell tower will be
21 different. It will be hidden in a mock bell
22 tower and it won't look like these other
23 places. That, ladies and gentlemen, is like
24 putting lipstick on a pig. It is a cell tower.
25 When the church dissolves and Verizon owns the

1 property, you can expect this site to look
2 like what you're holding in your hand.

3 I was surprised tonight to hear
4 Mr. Cusack say that when Verizon is gone the
5 bell tower will remain. I am unaware that
6 Verizon plans to leave.

7 I'm going to drop an entire page of my
8 remarks because it's clear to me that the
9 board already appreciates the historic nature
10 of Loudonville and the issues regarding the
11 overlay and the historic registers.

12 To summarize, the photographs demonstrate
13 the clear contrast between aesthetically
14 consistent site for a cell tower and
15 Loudonville which could not be more
16 inconsistent, aesthetically. The historic
17 hamlet of Loudonville meets the criteria to be
18 considered a critical environmental area under
19 SEQRA and hundreds of years of history,
20 architecture, community and flora will be
21 sacrificed if this project, which is
22 aesthetically inconsistent with the
23 surroundings is allowed to progress. In my
24 opinion, it strains the boundaries of
25 credibility that this project was even

1 proposed. These towers belong in the source of
2 industrial commercial areas that you see in
3 the photographs and not in a historic and
4 residential area that is typical of what SEQRA
5 was designed to protect.

6 I ask the board to disapprove this
7 tonight. Thank you.

8 CHAIRMAN O'ROURKE: Thank you, ma'am.
9 Lisa Mirabile.

10 MS. MIRABILE: My name is Lisa Mirabile.
11 I live on 2 Liberty Way. I have a son in
12 Loudonville School and a daughter going in
13 this year. I pick my son up every day and I'm
14 on the phone a lot for my position and I
15 really don't get any dropped calls in the
16 parking lot of this school or on the corner. I
17 do use my hands free to do what I'm supposed
18 to do with the law. I guess I kind of agree
19 with what everyone said that there are places
20 that I know of and all sorts of areas that I
21 travel -- about 1,200 miles a week for work so
22 I do know everyplace on the thruway where I
23 have dropped calls. It's not a perfect system.
24 We'd all like to have everything 100%, but we
25 can't. I totally agree with what everybody

1 said.

2 We originally lived in Albany. We chose
3 to move to North Colonie. I'm a former
4 Boght Hills and Shaker student. I'm also from
5 Amsterdam so I really wanted to come to this
6 area to raise my family. I totally agree that
7 I don't live in the direct area, but I
8 obviously didn't sign up for that when my kids
9 were going to go to school at Loudonville.

10 Thank you for your time and I also wanted
11 to say I've never been to a Planning Board
12 meeting, but I've been really impressed with
13 the time that you've taken with the group and
14 I really appreciate it, so thank you.

15 CHAIRMAN O'ROURKE: Thank you, ma'am.

16 Diane Lemieur.

17 MS. LEMIEUR: I don't know what your
18 category was -

19 CHAIRMAN O'ROURKE: As long as it's in
20 particular to the project, ma'am.

21 MS. LEMIEUR: Thank you very much. My
22 name is Diane Lemieur and I'm a member of
23 Loudonville Presbyterian Church. I have been
24 in charge of grounds and I'm very proud of the
25 way that my grounds look. These are the

1 comments that I have written for today.

2 The Town of Colonie is the largest town
3 in size in the United States. We are also
4 ranked consistently with the top ten safest
5 communities in the United States. Our Police
6 Department has over 100 members consisting of
7 patrolmen, detectives, sergeants, lieutenants
8 and chiefs. The patrol cars and service
9 vehicles have radios, laptop computers, radar
10 devices, scanners for registrations and
11 portable radios. Certain positions with the
12 Police Department have the necessity to carry
13 cell phones which are radio wave
14 communications. We are fortunate to have a
15 strong protective group of men and women
16 protecting our community. In order for our
17 protectors to communicate with each other and
18 the public safety building, it is vital for
19 proper communications to work. Radio towers
20 have been placed throughout the entire town in
21 order for proper communications. They are all
22 around us and we don't even know where they
23 actually are. Some major ones - we know the
24 town hall, of course, has one and the Public
25 Safety Building has one. They are spread

1 throughout our community. Even with the
2 numbers of radio towers there are dead zones
3 within the town.

4 The bell tower, which we wish to put up
5 will support cell service in the community as
6 well as our Police Department; our safety. A
7 few people have commented about their schools
8 and I wish to add that piece in.

9 If you take a ride by Boght Hills
10 Elementary School and look up on a hill,
11 approximately 500 feet on the hill is an
12 extremely large cell tower. My children have
13 attended Boght Hills for 7 years. They are
14 happy, healthy, intelligent young men. We have
15 radio waves all around us. There are even
16 radio waves that are here around us right now.

17 I just wanted to also add that as far as
18 the aesthetics, there is a new home being
19 built on Old Niskayuna Road. How is that
20 aesthetically fitting into that neighborhood
21 as well?

22 CHAIRMAN O'ROURKE: Thank you, ma'am.

23 Ryan Horstmyer, 21 Reddy Lane.

24 MR. HORSTMYER: Thank you, Mr. Chairman
25 and members of the board. I speak tonight as a

1 resident of Reddy Lane - of the neighborhood
2 in question here and also as a representative
3 of the community in the Niskayuna Road,
4 Osborne Road and Reddy Lane neighborhood.
5 First of all I'll start with my personal
6 experience.

7 My family sought to buy a piece of
8 property in this neighborhood about eight
9 years ago. It's something that they wanted to
10 do for quite some time and that decision was
11 based upon the character of the neighborhood.
12 It has a historical character. It's a quaint
13 setting. We all know that, as many of the
14 speakers up here have described. I can tell
15 you that their perception of the character of
16 the neighborhood would be dramatically changed
17 if this project would be approved. Therefore I
18 am speaking in opposition to the project.

19 Also I would like to speak on behalf of
20 many of the other residents in the
21 neighborhood who have chosen not to come up
22 and speak, and that's their right. As their
23 elected representative and hearing a lot about
24 this issue and hearing the great anxiety and
25 the concern that's been brought about because

1 of it, I'd like to speak on their behalf and
2 echo the concerns brought up by Ms. Fox and
3 Mr. Mittleman about the change of character to
4 the neighborhood.

5 I think one of the earlier speakers
6 mentioned the possibility of clustering a
7 future tower and that would exacerbate any
8 kind of maintenance in traffic issue that
9 would be developed by approving this project.

10 I'd like to thank the board and the town
11 as a whole for its willingness to consider
12 residents' concerns. As well, as I'd like
13 thank members of the church congregation for
14 their willingness to speak with community
15 residents as well. It's been a difficult
16 decision and process. I sympathize with you.
17 I've been in these positions before. I
18 encourage you to consider all the facts and
19 your legal authority here to make a decision
20 that you think will be in the best interest of
21 the character and the well being of the
22 neighborhood. Thank you, very much.

23 CHAIRMAN O'ROURKE: Thank you, sir.

24 Amy Favreau, 19 Loudon Heights North.

25 MS. FAVREAU: If anybody wants to hear me

1 speak -

2 CHAIRMAN O'ROURKE: This is an open
3 meeting. Anybody can speak.

4 MS. FAVREAU: I'm Amy Favreau and I live
5 in Loudonville; 19 Loudon Heights North. I'm a
6 realtor at Caldwell Properties right there on
7 the corner of Loudonville Road and Menand.

8 I get cell service there, much to my
9 dismay because I'd much rather use the
10 landline and save some minutes to my cell
11 phone, but I get cell service there. I drive
12 all over town. I use my blue tooth now. I
13 don't get calls dropped. The only place I get
14 calls dropped is on Crumitie Road and I just
15 don't know what the purpose is having a cell
16 tower right there if we don't need it. Not to
17 mention the fact that I don't think that it's
18 going to be an attractive addition to our
19 community.

20 I just want to say thank you for
21 listening to us tonight.

22 CHAIRMAN O'ROURKE: Can I ask you one
23 question? In your professional opinion, would
24 this project effect real estate values?

25 MS. FAVREAU: I've already had people

1 call me in this are that have said to me, if
2 this goes up, we want to list our house.

3 CHAIRMAN O'ROURKE: So the answer would
4 be yes?

5 MS. FAVREAU: If I knew what was going to
6 happen with the real estate market, I would
7 have made some other decisions.

8 CHAIRMAN O'ROURKE: Thank you.

9 Reverend Paul Hartt.

10 REV. HARTT: I want to thank everybody
11 for this meeting, for coming and for the way
12 that it's been handled. I am really quite
13 impressed.

14 I'm an Episcopal Priest and I only
15 mention that because I have a son and he
16 attended Loudonville Elementary School and I
17 do live in Loudonville.

18 I want to say that there is more than one
19 kind of environmental harm. The environmental
20 harm that is reflected in this room as a
21 result of this project needs to be taken very
22 seriously. I will say as a colleague of my
23 colleague that I'm concerned that a church
24 would cause that kind of environmental harm.
25 I'm surprised by it. I do not believe that the

1 kinds of tax exemptions that are given to
2 churches to have church properties are
3 intended for any kind of commercial use. I
4 think that this tower, if it were
5 architecturally appropriate and relevant would
6 have been constructed initially. I think that
7 it's really about the revenue. I'm very
8 sympathetic to this problem.

9 We have a lot of dwindling churches,
10 synagogues, temples. We're in trouble. If we
11 had the kind of attendance at church that we
12 have here, we probably wouldn't not be having
13 Verizon approaching churches about cell
14 towers. It's a sign of our vulnerability. I'm
15 concerned about that environmental harm, while
16 I am sympathetic to the plight of our
17 churches. Thank you.

18 CHAIRMAN O'ROURKE: Thank you, sir.

19 Marilyn Mittleman.

20 MS. MITTLEMAN: You thought you'd only
21 hear from one Mittleman tonight.

22 CHAIRMAN O'ROURKE: I should have
23 distinguished families.

24 MS. MITTLEMAN: My comments are just
25 entitled enough is enough.

1 Let's keep our beautiful community
2 looking like the place that it deserves. This
3 comment is in regard to 22 Old Niskayuna Road.
4 I live right across at 33. There are Verizon
5 utility boxes that are along Old Niskayuna
6 Road. Those things are covered right now by
7 weeds. The truck service stops the traffic and
8 they park half on the road and half off. They
9 are a nuisance and they are dangerous to us on
10 Old Niskayuna Road, as residents.

11 One evening coming home I noticed that
12 the church sign had changed. It went from a
13 wooden sign to an illuminated sign that glows
14 all night long as a sign board. We said
15 nothing as neighbors.

16 Another night we noticed that the woods
17 are missing. The parking lot has been
18 expanded, paved, and three story lights now
19 shine into my neighbor's windows until all
20 hours of the night. Enough is enough.

21 This is a monster coming into Old
22 Niskayuna Road. It doesn't belong and it
23 doesn't fit. We need to step back and take a
24 look at the sacred place that we live before
25 it's too late because once this six story

1 tower goes up, there is no turning back. We
2 purchased our home with the understanding that
3 the community and the street that it is
4 located on was not going to experience
5 significant change. Let's face it, there has
6 been no changes on this road in the way of
7 commercialization ever until now. Most of us
8 simply believe that the town would never let
9 this happen. That's why there has been so
10 little involvement in public interest
11 displayed until recently. We simply thought
12 that there wasn't a need because the town and
13 the Planning Board would protect our
14 interests.

15 I ask you and I beg you as a mom to
16 please protect our neighborhood and deny this
17 application. As my neighbor Sandy Keeler said,
18 it's deplorable. It doesn't fit in our
19 neighborhood and I ask you to deny it this
20 evening.

21 CHAIRMAN O'ROURKE: Thank you,
22 Mrs. Mittleman.

23 Richard Woodhouse.

24 MR. WOODHOUSE: Good evening. I commend
25 both sides of the discussion tonight for

1 really putting in a lot of effort into this. I
2 would just like to draw the board's attention
3 to the questionnaire for a critical
4 environmental area which states that a CEA
5 means that it's a specific geographical area
6 designated by a state or a local agency having
7 exceptional or unique environmental
8 characteristics. The factual contents of this
9 petition substantiate that the Loudonville
10 area meets the criteria as a CEA. More
11 importantly than that, I would urge the board
12 to make a decision tonight and not delay any
13 further and please vote no. Thank you.

14 CHAIRMAN O'ROURKE: Thank you, sir.

15 Lisa Tidd, 11 Reddy Lane.

16 MS. TIDD: I didn't check the box, but
17 I'm dying to say something.

18 I don't see the green picture that
19 Mr. Cusack showed earlier. I'm one of the
20 trapezoids behind the church. Yes, I live at
21 11 Reddy Lane and this has been a very big
22 concern of mine.

23 I had wanted to make a technical point as
24 the second ear, nose and throat doctor to talk
25 to you this evening. I know a few things about

1 decibels and I would be very concerned to know
2 about the air conditioning noise levels.
3 Certainly there are OSHA standards for
4 exposure and since my children play outside
5 for hours - I think that the OSHA standard for
6 noise exposure for an hour is about 70 to 80
7 decibels; so we need to know that.

8 CHAIRMAN O'ROURKE: Thank you, ma'am.
9 Millis McLaughlin.

10 MR. GANNON: That was one of the people
11 that was submitted in writing, C.J.

12 CHAIRMAN O'ROURKE: Mark Calicchia,
13 Senior, 12 Reddy Lane.

14 MR. CALICCHIA SR: I'll let my son go
15 first. I'll go second.

16 CHAIRMAN O'ROURKE: Yes, sir.
17 Mark Calicchia, Jr., 12 Reddy Lane.

18 MR. CALICCHIA JR: My name is
19 Mark Calicchia, Jr., and I live on 12 Reddy
20 Lane and go to the Loudonville Elementary
21 School. I have three points to make tonight.
22 One is that my mom has Verizon Wireless and
23 she is a customer of it and she gets Internet
24 and she gets calling and she has a very good
25 connection.

1 My family's health - we live very close
2 to where the cell tower is and if it gets
3 passed -

4 CHAIRMAN O'ROURKE: We're not going to
5 say anything about health.

6 MR. CALICCHIA JR: Okay. Also it makes
7 everyone very nervous in my class. Everybody's
8 been talking about it lately and it makes
9 everybody nervous. That's why I think that the
10 board should decline the cell tower.

11 CHAIRMAN O'ROURKE: Thank you.

12 MR. CALICCHIA SR: Thank you. My name is
13 Mark Calicchia. I live at 12 Reddy Lane,
14 approximately less than 100 yards from where
15 this would be. We've lived there for 14 years.
16 We have four young children under 12 who play
17 in the yard extensively.

18 Whether the health concern is proven or
19 not, my family has a concern and we talk about
20 it often. It's not something that we signed up
21 for when we bought the property 14 years ago.

22 The second thing that I'd say is that I
23 was a Verizon customer for years. I've driven
24 through that intersection and used my phone
25 extensively in my house with no issues.

1 The only thing blocking my view of that
2 are some very large old trees. As pointed out,
3 trees die. Again, it's not something I signed
4 up for.

5 Lastly, it is pretty clear that this is
6 turning into more than a place of worship and
7 more of a commercial use property. Thank you
8 for your time.

9 CHAIRMAN O'ROURKE: Thank you, sir.

10 Sharon Holub.

11 MS. HOLUB: Good evening and I will be
12 brief. I do want to once again address the
13 historical aspects of our community. It's true
14 that I am the immediate past president of the
15 Greater Loudonville Association and that I'm
16 on the board of the Colonie Historical
17 Society. I'm also on the industrial
18 development board for the Industrial
19 Development Agency of the Town of Colonie and
20 the local development corporation, as well. I
21 understand the need for progress. I understand
22 the need for particularly redevelopment of our
23 area. I hope to be working with Joe and others
24 to bring this about in a healthy hopeful way.

25 At the same time I don't think even

1 though we all talk about it a lot, we don't
2 always appreciate just how historical our area
3 is. Just to say that first of all there is the
4 Loudonville historical district. Old Niskayuna
5 is a very old road and there are houses on the
6 historic register that are located on
7 Old Niskayuna Road. Two that immediately come
8 to mind are the Pruyn House itself and the
9 house known as Tremont Manor. I know that both
10 of those properties are on the register and I
11 know there are certainly other houses on the
12 road that are eligible to be on the register,
13 should their owners so decide and should we
14 have the support from the town and the funds
15 to make the applications, etcetera. I want to
16 tell you just a little bit about
17 Old Niskayuna Road, if I may.

18 I was taken back a bit when they said
19 that they've been here since the 50's and 60's
20 and they're part of our history. I'm taking
21 the long view.

22 As long ago as 1690, after a deadly raid
23 on the Schenectady settlement by the native
24 Americans, then referred to as Indians, a
25 Mr. Schermerhorn, a Schenectady resident,

1 jumped on his horse and rode to Albany along
2 this very road that is the Old Niskayuna Road
3 to warn the Albany settlement of imminent
4 danger.

5 It is recorded in his diary by George
6 Washington himself that he took a stagecoach
7 from Albany to Schenectady along the Albany
8 turnpike and/or Old Niskayuna Road. We know
9 from the historical record that Washington
10 himself traveled by horseback up the
11 Loudon Plank Road up to Lake George.

12 This area is so rich in history. Why can
13 we not celebrate our great heritage without
14 trying to litter historic roads and villages
15 with the ugly and potentially deadly trappings
16 of our cyber age. We, at the Greater
17 Loudonville Association, are not against
18 progress but we are for historic preservation
19 and simply do not agree with the destruction
20 of beautiful and historically significant
21 areas of our community, or littering our roads
22 and school yards with the under paintings of
23 an industrial society. Once the physical
24 history of our heritage is destroyed we cannot
25 rebuild it as if it were another display at

1 Disney World. We have the real physical gifts
2 from the past still standing in our community.
3 They are very worth protecting.

4 Thank you to everyone here tonight. I
5 think that we've had a very good exchange and
6 I think that we have a wonderful community and
7 I hope that we are successful in keeping it
8 that way.

9 CHAIRMAN O'ROURKE: Thank you.

10 Those are all the names that I had on the
11 speaking list. Is there anybody in the
12 audience that has not spoken?

13 Yes, ma'am.

14 MS. GERAGOSIAN: I did check the box. May
15 I speak?

16 CHAIRMAN O'ROURKE: Yes, you may speak.
17 Please come to the microphone and introduce
18 yourself.

19 MS. GERAGOSIAN: My name is Beth
20 Geragosian. I reside at 14 Fernwood Drive, a
21 short walk from Loudonville School.

22 I, and some of my neighbors submitted a
23 letter in opposition to the cell phone tower
24 last week. It's frustrating that corporate
25 bureaucracy could dictate how we live in our

1 community and what we're all concerned about.

2 I want to thank the board member who
3 mentioned quoting the Land Use Law as in the
4 obligation for help supporting the health,
5 safety, and welfare of town residents. I would
6 state that this must come before promotion of
7 corporate and private agreements for capital
8 growth. The board has an obligation to act on
9 behalf of the residents and of course the
10 students of Loudonville School and all schools
11 in the town and families living in the
12 neighborhoods across the town in the case that
13 this tower may set precedent for future cell
14 phone tower projects. If there is a plan to
15 triangulate towers within residential
16 communities, this must not be allowed.

17 Two other points that I don't believe
18 have been made this evening, which I will
19 quote from the SAFE at Loudonville report.

20 The proposed tower placement does not
21 meet the standard industry standard threshold
22 of one and a half to two times the tower's
23 height and distance away from the church
24 building and its preschool, including the open
25 spaces such as the outdoor preschool play

1 areas which was not recognized by the
2 applicant or Zoning Board in its SEQRA. This
3 is a dangerous hazard that needs to be
4 eliminated by the Planning Board in its
5 preparations.

6 An example of a proximity concern would
7 be a statistical increase from lighting
8 strikes which would be attracted to a cell
9 phone tower which could obviously cause
10 threats of fire and hazard to trees and those
11 in the proximity of the tower.

12 To conclude, I respectfully demand that
13 you vote against this cell tower project and
14 relieve our fears and anxieties over the
15 placement of this tower. Do not allow this
16 tower to be built, and please vote against it
17 this evening. Thank you.

18 CHAIRMAN O'ROURKE: Thank you.

19 Is there anyone else in the audience that
20 has not spoken that would like this
21 opportunity to speak?

22 ***(There was no response.)***

23 CHAIRMAN O'ROURKE: I just briefly want
24 to go through - again I really appreciate the
25 turn out this evening and unfortunately it got

1 to this level. Again, I believe that there
2 were some errors made along the route of this
3 project. Not just by the ZBA, in my opinion
4 that if they had the knowledge or some of the
5 turnout of you folks, it may not have
6 happened. Certainly the school releasing out
7 of the covenant was another issue that allowed
8 this project to move forward. So there were a
9 lot of ways that it didn't need to come to
10 this level. As the reverend spoke, I think
11 that it was very important about what he said
12 about what may profit a man - If I may
13 paraphrase.

14 Again, many of the residents that live in
15 this area and certainly as a former Siena
16 College attendee, I know what people used to
17 tell me and still to this day tell me about
18 the drive in and the historic nature of this
19 area. I think that it's very, very important
20 that we as a board consider those things in
21 our determination.

22 Again, I read extensively from the Land
23 Use Law 190.55 which requires this board to
24 review these site plans on their merits taking
25 into the consideration the special

1 characteristics of the area and having done
2 so, I at this point, would like to submit a
3 motion to deny this application.

4 MR. NARDACCI: C.J., I'll second.

5 CHAIRMAN O'ROURKE: Again, we will
6 provide written findings to the applicant in
7 regard to how the determination was made by
8 the board.

9 I have a second, all those in favor?

10 **(Ayes were recited.)**

11 CHAIRMAN O'ROURKE: All those opposed?

12 **(There were none opposed.)**

13 MS. VAIDA: I'm abstaining.

14 CHAIRMAN O'ROURKE: Okay, and one
15 abstention.

16 MR. CUSACK: We have some comments to
17 make in response to the public comment. If
18 it's not going to change anything -

19 CHAIRMAN O'ROURKE: Mr. Cusack, no, I
20 don't want you to feel like that.

21 MR. STUTO: C.J., he can make his
22 comments and if someone wants to make a motion
23 to reconsider it, you can do that, based upon
24 his comments.

25 MR. NARDACCI: I would like to hear what

1 he had to say.

2 CHAIRMAN O'ROURKE: I would absolutely
3 want to hear what you want to say.

4 MR. CUSACK: I'll try to focus on four
5 points, Mr. Chairman. First of all, a number
6 of issues that you heard about tonight are all
7 issues that are relevant and were raised
8 before the Zoning Board of Appeals. I guess
9 that we can say that we agree to disagree on
10 the thoroughness of that review of the
11 thoroughness of that application. But the
12 coverage needs were completely addressed.

13 We disagree with the SEQRA points,
14 especially the critical environmental area
15 designation and most importantly, merely
16 saying over and over again that this is a
17 commercial use. This does not make it a
18 commercial use. By law, it's a utility use
19 that's camouflaged into a religious use. We
20 have to object to that characterization
21 because it presents the project in a purely
22 inflammatory manner.

23 The roaming point that was also raised is
24 in violation of federal law. I understand
25 where the point comes from, but when it was

1 mentioned, I just want to make sure that you
2 understand that it's not a defense to an
3 application by a wireless carrier that Verizon
4 Wireless might be able to roam on Sprint or
5 someone else's service. That's clearly been
6 answered by the FCC in November of 2009; most
7 recently, in addition to being addressed by
8 several courts around the country.

9 Regulation of the use is what I heard
10 mostly and that is not a site plan review
11 issue. We understand that people are
12 dissatisfied with the radio technology that's
13 out there and we think that's the main driver
14 here. We also picked up tonight very clearly
15 the feeling as expressed by Mrs. Mittleman and
16 others that they're dissatisfied with the
17 church through its lights, its parking and
18 through everything else that the church is
19 doing. The fact of the matter remains that the
20 church is a completely allowable use in this
21 district. It's not doing anything that is not
22 authorized to do under the town's current
23 zoning.

24 As a result of this project, it seems
25 that the wireless use or the fears of the

1 wireless use are being used to more or less
2 attack a legitimate church objective of
3 putting a 60 foot bell tower next to a church
4 that is 35 or 40 feet tall itself. We don't
5 think that it's out of scale and we don't
6 think that it's inappropriate.

7 In any event we object to this constant
8 attacking of the use. We were here to talk
9 about the site plan. We would have liked to
10 talk to you a little bit more about some
11 alternatives. Nobody has come forward with any
12 alternatives. Where I was brought up part of
13 accountability was explained to me to be not
14 just pointing out problems but proposing
15 potential solutions. It's clear here however
16 that everything is just against us. The tide
17 is against us for reasons lined with community
18 pressure. I question the real reasons behind
19 that community pressure.

20 The petition that was referenced and was
21 filed by the SAFE - this was not provided to
22 us. We filed a request for information last
23 week. We have a response from the town as of
24 either Wednesday afternoon or Thursday
25 afternoon - I'll have to check my records

1 verifying in writing to us that no further
2 information was provided on this application.
3 I would have loved to have a chance to see
4 that information and comment on it and at
5 least have a chance to be apprised of what was
6 being presented against our project by this
7 well organized, well heeled and extremely
8 motivated opposition group.

9 CHAIRMAN O'ROURKE: Mr. Cusack, I would
10 say that we would retract the vote if you
11 needed time.

12 MR. CUSACK: I would like to know what it
13 is that is driving the opposition to the
14 project. You and I disagreed on a couple of
15 sections here, but there is this petition that
16 I haven't seen.

17 CHAIRMAN O'ROURKE: Excuse me folks,
18 we've had a very civil evening. I know that
19 it's getting late.

20 I think that we have looked at the law
21 and the board is choosing to look at it a
22 different way. Personally, I take offense. No
23 one has ever pressured me. I'm my own man.

24 MR. CUSACK: I guess where we're coming
25 from, C.J., on this is that you've made your

1 decision and anything that I say is going to
2 be futile to that decision being reversed.
3 It's up to you. You've got to give me an
4 opportunity to respond to that. I wish that I
5 knew about it. I wish I had a chance to go
6 through the materials and talk to you further
7 about it.

8 At the end of the day, I'm going to file
9 a response and it's going to be looked by you
10 as the board and if it's not going to change
11 your mind, tell me that it's not going to
12 change your mind.

13 CHAIRMAN O'ROURKE: I'm pretty certain in
14 my own mind and I'm one of six up here. The
15 decision isn't mine to make, Mr. Cusack. My
16 personal opinion is that my reading of the
17 Land Use Law and my interpretation therein
18 says that this project due to its site
19 plan -- our review of the site doesn't fit
20 with the character in terms of the law. That's
21 where my denial of the project comes from.

22 MR. NARDACCI: C.J., I'd like to reread
23 my statement for the record, just so that
24 Mr. Cusack is clear on where I'm coming from.

25 CHAIRMAN O'ROURKE: Sure. I have no

1 objection to that.

2 MR. NARDACCI: Remaining consistent to
3 statements that I've made publicly for a
4 number of months and under no pretext with
5 regard to radio frequency as the applicant
6 implied in his remarks, I will be casting a no
7 vote to this matter because cell phone tower
8 is out of character with the surrounding
9 neighborhood. Loudonville is a well documented
10 historically significant area listed on the
11 national register of historic places. To my
12 knowledge, commercial industrial structures of
13 this nature are non existent on private
14 property in this single family residential
15 area. The town's Land Use Law clearly states
16 that this board must consider the character of
17 the neighborhood. In my opinion, a cell phone
18 tower is inconsistent and should not be
19 permitted.

20 MR. CUSACK: I take from that your mind
21 is made up and I understand your position.
22 It's unfortunately something that we just
23 disagree with and we have gone through this
24 any number of times. This is a very
25 contentious application. The public is very

1 much against this application. I feel that the
2 application is being cited more on the basis
3 of the public opposition than the land use
4 reasons.

5 What troubles me about your statement,
6 Mr. Nardacci, is that in addition to hearing
7 it tonight is that it was made several times
8 in public, as you mentioned, outside of the
9 process for these meetings. I read it in the
10 newspaper. I read it in the newspaper at a
11 point in time before I even completed the
12 internal review process on the land use
13 requirements with the town designated
14 engineer. You stated that you intended to vote
15 against it so please understand that with no
16 offense to you personally, I feel that your
17 mind was made up and I feel that the public
18 pressure was on you at that point and you were
19 already announcing to the newspaper your vote
20 a full two to three months ahead of tonight's
21 meeting. That's why I'm troubled.

22 MR. NARDACCI: I'm going to stick by my
23 statement, but the fact of the matter is that
24 you're using words that are inflammatory with
25 regards to saying that my decision is based on

1 public pressure, when in fact public
2 statements that I made were prior to any
3 public pressure or PR. Nothing has changed.

4 MR. MAGGUILLI: I would just like to say
5 that each and every FOIL request that Mr.
6 Cusack or people on his behalf have made to
7 the Town Attorney's office - we have complied
8 with them according to the law and in a timely
9 fashion. If he didn't receive this petition
10 that he claims, then it has to do with the
11 timing of his FOIL request and nothing else. I
12 just would like to make that statement for the
13 record.

14 I would like to state that Mr. Cusack's
15 statements about his feelings are totally out
16 of order. For him to attack this board, I
17 think is unprofessional.

18 CHAIRMAN O'ROURKE: Thank you, Mike. I
19 must not be thin skinned because I didn't feel
20 attacked, but I certainly understand that
21 Mr. Cusack has worked long and hard and it's a
22 difficult thing to be told no. That's the
23 board's position and we will have some written
24 findings for you within a week, if we can
25 draft something.

1 MR. CUSACK: So there is no sense in
2 talking about alternatives or anything to this
3 sense -

4 CHAIRMAN O'ROURKE: Not in this board's
5 opinion right now. You have presented
6 alternatives to the ZBA.

7 MS. MAYBERRY-STEVENSON: We have provided
8 alternatives to this board in the package -

9 CHAIRMAN O'ROURKE: No, within the site.
10 I'm talking for one.

11 Would anyone on the board be interested
12 in looking at -

13 MR. NARDACCI: As I said, I feel that
14 we've given it a full and thorough review. The
15 documents that we have are this high
16 (Indicating). I personally read through every
17 single page of every document that was
18 submitted and I think that we've done our due
19 diligence and we've done our reviews.

20 Motion to adjourn.

21 MR. GANNON: I second the motion to
22 adjourn.

23 CHAIRMAN O'ROURKE: All those in favor?

24 **(Ayes were recited.)**

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*(Whereas the proceeding concerning the
above entitled matter was adjourned
at 11:03 p.m.)*

CERTIFICATION

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4 **I, NANCY STRANG-VANDEBOGART, Notary**
5 **Public in and for the State of New York,**
6 **hereby CERTIFY that the record taped and**
7 **transcribed by me at the time and place noted**
8 **in the heading hereof is a true and accurate**
9 **transcript of same, to the best of my ability**
10 **and belief.**

11
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13
14 **NANCY STRANG-VANDEBOGART**

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17 **Dated June 7, 2010**

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Legal Transcription

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