

THE REGULAR MEETING of the ZONING BOARD OF APPEALS of the Town of Cortlandt was conducted at the Town Hall, 1 Heady St., Cortlandt Manor, NY on *Wednesday, October 19th, 2016*. The meeting was called to order, and began with the Pledge of Allegiance.

David S. Douglas, Chairman presided and other members of the Board were in attendance as follows:

Wai Man Chin, Vice Chairman
Charles P. Heady, Jr.
James Seirmarco (absent)
John Mattis
Adrian C. Hunte
Raymond Reber

Also Present

Ken Hoch, Clerk of the Zoning Board
John Klarl, Deputy Town attorney

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Mr. David Douglas stated before we begin, I'd just like to make a request that anybody who's speaking, please speak into the microphone. The person who transcribes our minutes has told us that we're not all being that good about doing that, the people on the board included. If everybody could just make a concerted effort to talk into the mic. It's recorded. It's available on cable T.V. and it's available on the Internet, especially given some of the applications. There may well be people in the town that will want to see it.

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ADOPTION OF MEETING MINUTES FOR SEPT. 21, 2016

So moved.

Mr. John Mattis stated I move that we accept the September 21st minutes.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the September minutes are adopted.

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CLOSED AND RESERVED:

- A. **CASE NO. 2016-18** **Charles McCay** for an Area Variance for the rear yard setback for an existing open wood deck on property located at **2 Arthur St., Cortlandt Manor, NY.**

Mr. David Douglas stated we expect to have a Decision and Order ready on that case next month.

Mr. John Klarl asked Ken, is that 62 days out or...

Mr. Ken Hoch responded I think we're short one day.

Mr. John Klarl stated so we have to do – is someone here on behalf of the applicant?

Mr. Ken Hoch stated John Lentini told me he would be here but I don't see him yet.

Mr. David Douglas stated why don't we put that over to the end of the meeting and then when Mr. Lentini comes we can just confirm with him that he'll agree to an extension.

- B. **CASE NO. 2016-21** **Michael M. Lanzano** for a Special permit for an Accessory Apartment in an accessory structure; an Area Variance for the height of the accessory structure with the accessory apartment, an Area Variance for accessory structures in the front yard for property located at **1419 Washington St., Cortlandt Manor, NY.**

Mr. David Douglas stated we have a draft of Decision and Order. I'll turn to Mr. Klarl.

Mr. John Klarl stated thank you Mr. Chairman. The proposed Decision and Order you have in front of you reads as follows:

This is an application by Michael M. Lanzano: 1) for a Special Permit for an Accessory Apartment in an accessory structure. 2) For an Area Variance for the height of the accessory structure with the accessory apartment. 3) For an Area Variance for three accessory structures (stone pump house, stone tool shed, and the accessory structures within the apartment) in the front yard on the applicant's property located at 1419 Washington Street. The applicant's property is located in the R-40 single-family residential district and consists of 3.53 acres. This property had contained two two-family dwellings constructed prior to zoning. In 2010, the applicant received a Building Permit and C of O to convert one of the two-family dwellings to a one-family dwelling, thereby reducing the non-conformity of the property. When he initially filed this application, the applicant proposed to convert the other two-family to a one-family

residence, with an addition. With two dwellings, the property would still be non-conforming, so an addition would not be allowed. The applicant therefore revised his application so as to propose converting the existing one-family dwelling to an accessory apartment in an accessory structure, allowed in the R-40 Zone by the Town of Cortlandt Zoning Ordinance Section 307-45 (B) (4). The Code does not have a maximum square footage for the apartment, just that it be no more than two bedrooms. The proposed accessory apartment in the pre-existing accessory structure requires a height Variance as follows: accessory structure height required 14 feet, prior to zoning: 18 feet, proposed: 18 feet, Variance sought: 4 feet or 28.6%. An Area Variance for three (3) accessory structures in the front yard is required (for the stone pump house, stone tool shed, and the accessory structure with the apartment). This Board notes as an initial matter, that this application presents a unique situation and the Board's decision should be seen as a narrow one that results simply from the particular, unique circumstances presented herein.

Regarding the area variances for the existing structures, the Applicant has reviewed the following factors as required under the New York State Town Law Section 267-b:

- 1) That the granting of the area variances herein will not produce an undesirable change in the character of the neighborhood or be a detriment to neighboring properties because these structures have existed on the Applicant's property for decades.
- 2) The desired result cannot be achieved by any other means except for the Applicant's planned improvements for the structures.
- 3) The variances are not substantial. The Applicant's property consists of more than 3.5 acres.
- 4) There are no adverse effects or impact on the physical or environmental conditions in the neighborhood or Zoning District. For instance, the structuring sits more than, we have to calculate it, 500 feet from the road and therefore has no impact upon any neighbors.

As a result of all the foregoing, and the testimony of the Applicant, and the detailed professional plans filed with the Town, this Board hereby GRANTS the following:

- 1) A Special Permit for an Accessory Apartment in an accessory structure.
- 2) An Area Variance for the height of the accessory structure with the accessory apartment to 18' high.
- 3) An Area Variance for three (3) accessory structures (stone pump house, stone tool shed, and the accessory structure with the apartment) in the front yard of the

Applicant's property. This is a Type II action under SEQRA. No further compliance is required. Thank you Mr. Chairman.

Mr. David Douglas stated thank you Mr. Klarl.

Mr. Raymond Reber stated I make a motion on case 2016-21 for 1419 Washington Street, Cortlandt Manor to approve the D&O as read.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Decision and Order is adopted. Variances are granted. Mr. Hoch, you'll speak with the applicant about whatever paperwork he needs to do.

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ADJOURNED PUBLIC HEARINGS:

- A. **CASE NO. 2016-10 New York SMSA Limited Partnership /d/b/a Verizon Wireless** for a Special Permit to install a wireless telecommunication facility on property located at **1065 Quaker Bridge Rd. East, Croton-on-Hudson, NY.**

Mr. Michael Sheridan stated good evening Mr. Chairman, members of the board. My name is Michael Sheridan, attorney for Snyder & Snyder LLP, the attorneys for New York SMSA Limited Partnership /d/b/a Verizon Wireless. As the Chairman indicated, Verizon Wireless is looking to locate a wireless telecommunications facility at 1065 Quaker Bridge Road, East. The facility will consist of a monopole together with equipment at the base thereof. On October 1st, a balloon test was conducted. Several members of the board came out to observe the balloon test as well as several neighbors and community members. At this time and in connection with the letter that I submitted to this board on October 17th, Verizon is requesting an adjournment of this matter until the November 16th meeting so that the results from the balloon test, the visuals can be submitted along with other responses to certain items and the board will have the time to review it and we also request that this board mutually agree to extend the FCC shot clock until that meeting at which time we can discuss a reasonable additional amount of time to extend the shot clock in connection with this board's review of those materials.

Mr. David Douglas stated first of all, for those of you sitting in the back, there's seats in the front if anybody wants to sit there. Mr. Sheridan, as discussed at the work session on Monday, I don't think the board is inclined to grant an adjournment of the case. We'd like to give the public an opportunity, if anybody's here from the public, to speak. We'll keep the meeting going on today. I think that's the fairest thing to the public.

Mr. Michael Sheridan stated understood.

Mr. David Douglas stated we will most definitely not adjourn – we will not close the public hearing today and I assume that next month, at our next meeting, you’ll be presenting your visuals regarding the balloon test as well as a response – I think you had said at our last meeting you’d be presenting a response to submissions by certain members of the public. So, you’ll be doing that next month?

Mr. Michael Sheridan responded correct.

Mr. David Douglas stated okay, and I think we had agreed – I think at the work session, that the shot clock would be extended until November with the understanding that we’re not going to close in November so that additional – it will be additional necessity of extending it past then which I think you said you’d be willing to consider as in November.

Mr. Michael Sheridan responded correct, yes.

Mr. David Douglas asked is there anything else you want to add today?

Mr. Michael Sheridan responded that is it at this time.

Mr. David Douglas asked anybody from the public wish to be heard?

Mr. Eric Alderborg stated good evening Chairman Douglas and members of the Zoning Board of Appeals. My name is Eric Alderborg and I’m giving a prepared statement on behalf of our neighbor Tom Secunda who unfortunately could not be here tonight as he is travelling on business. Please let the record reflect that the following statement is from Mr. Secunda and I support it fully. Thank you for continuing the public hearing concerning the Verizon cell tower at the Danish Home. We appreciate the recent balloon test and thank the Danish Home for allowing the public on their property. Given the leaf cover, it was difficult to fully understand the visual impact the tower may have during the half of the year following leaf fall. Thus, we support a second balloon test or a computer simulation that shows the proposed tower from both Quaker Ridge Road and the Croton Dam during the winter months. We really cannot assess the impact of the cell tower at this point as the test that was done was inconclusive. We would like to get all the facts before offering our opinion as to the placement of the cell tower. We would like the board to keep open this public hearing while a better test is done to assess the impact of the tower. Thank you.

Mr. David Douglas stated actually that raises an interesting question. Last month there was discussion about a balloon test that had been done previously and there was a question as to whether the – I forget off the top of my head if it was Verizon or the Danish Home needed to give permission for those not to be released. Mr. Sheridan, do you have more information about that?

Mr. Michael Sheridan responded Verizon’s visual consultants did speak with the Danish Home

and discussed the older balloon test that was done with leaf off conditions. Verizon's consultants are reviewing that test and will incorporate, I believe, at least one photo that tells the story of what the tower will look like with leaf off condition.

Mr. David Douglas stated by the way Mr. Sheridan, since you're up here let me ask you another question. You had another letter from Verizon with respect of the height of the tower?

Mr. Michael Sheridan responded this board had requested that Verizon supply something showing that they would not increase the height of the tower above the proposed 140 feet. In connection with the submission that will be given to this board prior to the next meeting, there's a letter from Verizon indicating that they have no intention of extending the tower above the proposed 140 feet.

Mr. David Douglas asked can we make that letter part of the record?

Mr. Michael Sheridan responded yes, I mean it will be part of the record next month.

Mr. David Douglas stated next month.

Mr. Michael Sheridan stated yes, it will be with the submission.

Mr. David Douglas stated okay, that's fine.

Ms. Jamie Black stated hello, my name is Jamie Black. I own a home at 35 Quaker Bridge Road and my concern is this, is that my ability to be in my home is directly proportional to my ability to continue to pay for the right to be on that property. If the Danish Home is having a financial difficulty, suggesting to them that leasing part of their property to Verizon for a cell tower, then it says that we revisit the Danish Home and their continuing the opportunity to be in our neighborhood. In the event that I had a financial challenge to be in my home, my home is situated in an area that enjoys almost a constant breeze. So does that say if I am challenged financially that I suggest to a company to establish a wind turbine on my property? The answer to that is 'no'. You relocate. You find another use. If they're finding it difficult to be financially responsible for that property, my hope is that they can look at some other type of residential development strategy instead of allowing Verizon to come in and to disturb the quality and the integrity of the neighborhood that I moved into, that I pay taxes to be part of and that I enjoy calling my community. With that, I really hope that Verizon is denied the opportunity to basically piggyback on a property that was put in our neighborhood to provide a suitable, comfortable, recreational habitat for people in their elder years. Thank you.

Mr. Eric Anderson stated my name is Eric Anderson, I'm the Administrator of the Danish Home and on the Board of the Directors. I just need to set the record straight. The Home is in no financial difficulty. As a registered 501c3 not for profit charity, we've been in business since 1906. We've been resident at 1065 Quaker Bridge Road since 1953. As a 501c3, our public finances are public. The IRS 990 is filed every year and a modicum of research would show that

financially we're where we need to be, we're very comfortable. This is not being done exclusively as a fundraising endeavor. We're looking forward to having a reception on the hill as well and I'll leave it at that.

Ms. Heidi Franco stated hi there. I'm Heidi Franco, 1059 Quaker Bridge Road, East. I'd like the record to reflect that Verizon has not collocated on Route 129 cell phone tower. They have not co-located on the Croton Municipal building. They have not co-located on Illington property's tower. Those are three towers in which Verizon could place their antenna. I would further like the record to reflect that last meeting, Verizon's attorney claimed that we weren't quite sure if it was legal to put antennae on existing structures. I reached out to Sandy Galef who is working with the Public Service Commission and Con Ed who assures me that there are two departments within Con Ed to place Verizon cell phone towers on existing power structure. There are places for Verizon to place their antenna that will add no more impact to our community. It would increase our RF map, not just for the Greater Teatown area but also for the Croton area as well. So, saying that there's no place else to put their antenna would be false. Also, in order to achieve duality, first we need singularity and singularity would be achieved first by placing antennae in a co-located position. Thank you.

Mr. Michael Valenti stated good evening ladies and gentlemen of the board. I'm Michael Valenti. I represent the Francos. I'm from Campanelli & Associates PC at 757 Merrick Avenue, Merrick, New York. Just a quick issues. Verizon mentioned that they submitted a letter where their intent was not to raise the tower any more than what is proposed by the plans as seen above. Of course, I'd love to see that before the next meeting and we'll come down to the Zoning Board to pick up those records when that submission is made. Also, I am here also on behalf of my clients. We also second, with the gentleman earlier who asked for a second balloon test when the leaves are off the trees. That will show the impact to the tower at its most invasive and we wish that the board would recommend that of Verizon. If there's any questions -- that's all. I'm just making sure. Thank you very much.

Mr. Bill Sherrer stated I'm Bill Sherrer. I live at 2126 Quaker Ridge Road. I am an attorney. I'm here sort of pro bono and on the owner's behalf, which is my wife. I sent a letter to Mr. Klarl about two weeks ago in which I pointed out that there is a provision in the code that permits the board to retain, at Verizon's expense, an expert to analyze and assist them in reaching a determination. I have no doubt that the board has wonderful expertise in determining whether or not there will be a visual impact caused by this tower; when the leaves are in bloom, when the leaves are off the trees. However, with all due respect, the board does not have any experience and could not possibly have the requisite experience in telecommunications. We're not in the court room and this is not litigation. However, it's kind of a fundamental principle that if someone makes a presentation purporting to have expertise, you need to have somebody to counterbalancing that expertise to analyze it. I have not had the chance to read all of the submissions but I've read a number of submissions that Verizon has made throughout the country and I have no doubt that they've submitted expert's reports in which they say that there are gaps in coverage, that this particular location is the only suitable location to fill those gaps in coverage, that there are other sites available which could be coordinated their coverage, but

without having someone acting solely on the board's behalf you can only take Verizon at its word. I'm not saying that they're not telling the truth as they see it but they are partisan. They have an agenda and the agenda is to get this tower approved. They have an agenda to get it approved at the least cost to them. I haven't gotten any response to my letter and I want to know that since the code clearly permits the board to hire an expert to assist them, since this is a question of considerable complexity, requiring considerable expertise. Is the board planning to hire someone, because waiting until November when Verizon submits its next submission and waiting until the shot clock or whatever it is gets extended, is just necessarily going to lead to 'we have no more time' and the next month is an ample opportunity to fund someone, hopefully someone who is not doing a lot of work for Verizon as well or for its competitors, who can assist the board in analyzing some highly technical information to determine whether or not Verizon's perspective is correct or it's colored by self-interest. I can't for the life of me, understand why the board is not taking advantage of the opportunity which the people who drafted the code back in 1998 recognize would probably be necessary when it came to telecommunications towers. I'd like to know, is the board planning to hire somebody or is the board not planning to hire somebody?

Mr. David Douglas responded we're mulling it over.

Mr. Bill Sherrer stated thank you.

Mr. John Klarl stated by the way, thank you for your letter which I shared with the board. I don't think you really wanted a responded. You said: I'd be happy to help the ZBA develop a list of professionals. The board has to decide if they're going that route and maybe would contact you if you have a list.

Mr. Bill Sherrer responded yes, and I will find out. I have a lot of contacts in the city with Civil Engineering experience.

Mr. John Klarl stated the town has a number of Special Permit applications like this and has handled them pretty well to date.

Mr. Bill Sherrer asked pardon me?

Mr. John Klarl stated the town has had a number of cell towers and is handling them pretty well to date, professionally...

Mr. Bill Sherrer asked with outside professionals or internally?

Mr. John Klarl responded not in recent times but a little down the road, there was...

Mr. Bill Sherrer stated I'll give you an example of what troubles me. Just an example that I think everyone should know about. There is a memorandum of lease on file at the County Clerk which describes the outline of the lease that was made and the lease provides for a 7,200 square

foot pad with 24 hours access and essentially gives Verizon the right under the lease to deploy trucks there on a non-stop basis. In other jurisdictions, Verizon has said there'll never be anybody there. They have to look at the place once or twice a month. There'll be a very quiet use but the lease reserves a totally different right, suggesting that they have other things in mind. There are several other locations in the community where the site is a quarter of the size, a fifth of the size, much smaller. An expert probably would be able to help the board in assessing whether or not that kind of a footprint is necessary in order to accommodate precisely what's going to be done. I can't understand why there's anything to mull here but obviously you have the discretion and the right to mull it.

Mr. John Klarl stated but thank you for your letter.

Mr. Bill Sherrer stated okay, thank you.

Mr. Larry Provost stated hi, my name is Larry Provost and I live at 116 Teatown Road. I'm a 40-year resident in the area. I have some material to project. To whom do I present that?

Mr. Ken Hoch stated we can't accept that. It has to go through our security first.

Mr. Larry Provost asked does anybody have a laptop? No, okay.

Mr. David Douglas stated I'd suggest that maybe what you could do is – I don't know what the procedures are in terms of security of the town for that but since it's going to be a hearing next month, in the interim.

Mr. Ken Hoch stated send it to our IT guy.

Mr. Larry Provost stated I'm going to talk a little bit about esthetic, science and civics and corporate citizenship. I'll hope you'll bear with me. I could not resist the show-and-tell aspect of this and I have here – I was an early adopter of cell phone technology and I have here my 1985 cell phone. It cost a dollar a minute. It might still work. I don't know. I love antennas. When I go on a vacation, you know some people take pictures of flowers or the beach. I take pictures of antennas. My coffee table reading material is antenna books. I have Antenna Physics on my coffee table currently. The ARRL Antenna Handbook and Vertical Antenna Classics which is by far my favorite. I really like antennas but as my ma said, beauty is in the eyes of the beholder and so is ugly. I really appreciate people that do not like antennas and think that they are a visual imposition of them. I would add that, of all the antennas that I photograph, they're usually on the top of a mountain, far, far away from any residences. You'll find them in the ski resorts. You'll find them on top of mountains. I have some very nice pictures that I could share with you but maybe next time. Onto science; a little bit about me. I got my first FCC license when I was 12 years old. I have a very nice picture of me that I can show you. Later, when I was 18, I got an FCC First Class Commercial License which is the top class license for broadcasting; it gives the holder the right to operate television stations, radio stations, anything in telecommunications in the United States exception of radar. I was, I believe at the time I got it,

the youngest person in the United States to get that license. Of course, that's past history because I'm not the youngest anymore. What I've learned from my study of antennas and radio and electronics is how little we know. We really don't know very much about it. We pretend to know more than we know. Now, the FCC has decided on safe limits for RF energy from cell towers. The concept that there's a safe limit implies that at some point it's dangerous and I can see it coming, you're not allowed to accept anything about the safety of it. I am aware of that.

Mr. David Douglas stated so you're aware of it? Our hands are tied on those issues.

Mr. Larry Provost continued and I am aware your hands are tied on it but I want you to understand that these numbers were developed in the early 1980s and the safe limit of RF, the danger at that time was thought to be heated.

Mr. David Douglas stated no the reason why I was leaning forward, and you guessed right, is that because we can't consider this as a factor, what I try to do is have everybody can talk as much as they want but I like to try and get it focused on things that we're allowed to factor in. We can't. The federal government says we don't have that power so we don't have it.

Mr. Larry Provost stated let me go where I'm going with this and then you decide if your hands are tied and you're forced to ignore the safety. When I looked at the numbers, I want to tell you, I was shocked at what I saw. The FCC's decided that a safe limit for RF energy from cell phones is 10 watts per square meter. Now, if you sat at your desk with 10 watts per square meter, your coffee would not get cold. That's a lot of power and this is such an outrageously high number that they parse it and talk about lower densities by going to milliwatts and microwatts...

Mr. David Douglas stated I'm not trying to be rude but there are a lot of people in this room that want to speak or hear about this case and other cases that are later on the agenda. Could you please confine your remarks to things that we can consider. You may be at one million percent correct in what you're saying and what you're going to continue to say but we can't – it's not relevant to what this board is allowed to consider. Can I ask you to just move on...

Mr. Larry Provost asked so you're telling me that RF safety isn't relevant?

Mr. David Douglas responded the federal law is the federal law. It's what it is. There's a hierarchy of law. It's called federal pre-emption and we can't do anything about so if you could just go on to the next – thank you.

Mr. Larry Provost stated the limits in the United States are 50,000 times higher than New Zealand, for example. They're 166 times higher than China and a hundred times higher than Russia but that's okay, we're not supposed to discuss whether this is safe for people or not. But, I can tell you that like water safety, if you're going to talk about fecal contamination in water...

Mr. David Douglas stated please sir, please. Look around you. There are literally dozens of

people, I want them to have a chance to be heard.

Mr. Larry Provost turned to the audience and asked am I boring anybody yet?

Members of the audience answered no.

Mr. David Douglas stated okay, fine. Just so it's clear. We are not allowed to consider any of these factors that you're talking about so I'm not trying to be insulting but you're wasting your time. We can't consider it.

Mr. Larry Provost stated well, I can tell you that when you talk about the fecal contamination in water, it's a lot easier to be complacent with somebody else's drinking water than your own or if you're talking about radium contamination in water like they have up at the Sunshine facility there, that can be diluted away – dangerous RF cannot be diluted away and they shouldn't be ignored. We'll cut to the chase. We'll leave whether it's safe or not to our fine friends at the FCC who developed their guidelines in the 1980s. Corporate citizenship. You know Verizon has gone by a lot of names: Ninex, New York Telephone, New York Bell, Bell Telephone but they've always been the phone company and in my experience, they suffer from the dual sins of Hubris and Sanctimony. They don't care about the public and they don't care about the general Teatown, Greater Teatown area. Just some anecdotal information: they allowed Croton to have the last rotary exchange in the United States maybe in the world. Now, when people used to come to visit, you'd have to tell them how to use the phones so you could pick them up from the train station. You'd say: put a dime in the phone, used to cost a dime, and dial the last four numbers because that's what you had to do. They didn't care. They let that system deteriorate until it didn't work anymore and they finally replaced it. In the mid-1980s the phones on Teatown Road were out several days a month for several days at a time and this was a long term, on-going problem. We finally got a petition to the FCC and we had every resident on Teatown Road sign the petition and we had our U.S. Senator present it to the FCC. At that point I got some attention from our friends at, I believe it was New York Telephone back then, and their lawyer told me that the phone company was not subject to the Telecommunications Act of 1934 and so that the FCC had actually no jurisdiction on what they were doing so they were not too interested in doing anything about fixing the phone. We come now to today when the phone company, and I'll call them that because they've got all these other names, they're hiding behind the skirts of the FCC. They're telling you, the Zoning Board, that you can't judge on whether it's safe or not in your community. They want to be on both sides of the fence. When it's to their advantage, they don't want to accept the FCC. When it's to their advantage they do want to accept it. Now, in the mid 1980s there was the telephone poles on Teatown Road are owned by the telephone company and I don't know how they got divvied up in the area but that particular stretch is controlled and owned and maintained by the phone company. The poles were falling down. The wires were dangling. It was pretty unsafe. After many, many phone calls I got a guy who told me: you know Mr. Provost, you don't have to worry about the poles falling down; the wires are going to hold them up. I don't know what to say. They don't have a good rep in my book and when you call them with a problem, you talk to people that don't have a last name. I challenge each and every one of you to pick up the phone tomorrow and call New York

Telephone about something and see if you can get a last name of somebody to write a letter to or follow up with and you know; you can't do it. These people hide behind the skirts. Is there anybody from Verizon here today, other than paid attorney? I didn't think so. They're distant. They don't care. They just plain don't care. There's the argument that the industry will self-regulate itself. I'm sure skirting your request not to talk about safety but since 1996 the FCC is only investigated two, count them: two cases of excess emissions from cell phones. Now, there are hundreds and hundreds of thousands of cell towers in this country and they had two cases where they exceeded guidelines. Hard to believe. Very hard to believe. The Wall Street Journal back in October of 2014 found that 10% of all cell sites exceed regulations as to what they're allowed, this 10 watts per square meter that we're not supposed to question, as being safe. I don't accept the argument that the industry will self-regulate. You know you've got to treat these people like they're teenagers. They want to borrow the car, you say: okay, where are you going? Who are you going with? What time are you coming back and then you check up on them. You pick up the phone and you call their friends to make sure they're doing what they said they were going to do. You just don't give them the keys and say: here you go. Tell me how it's going? Please be safe.

Mr. David Douglas asked sir, we're not the FCC. We're just the local Zoning Board.

Mr. Larry Provost stated I understand that. Is this my time to talk?

Mr. David Douglas responded yes, I'm just trying to keep it focused. We're not here to criticize or defend the FCC. Can you bring your remarks to a close? Is that possible?

Mr. Larry Provost responded I know your hands are tied. I'm trying to focus. I'm down to here.

Mr. David Douglas stated okay, that's great.

Mr. Larry Provost stated so, as a board, you got to know that the class action lawyers are circulent. They look at this as the cell phone emissions, as asbestos or tobacco. It's big money, it's people with deep pockets and they're just waiting, waiting for a poster child case to come along. I really don't want it to happen in my neighborhood and I don't want it to happen to my tax base which is where my practical suggestions, and I'm going to wound up now. If you decide to allow a cell tower to be built, I think you should require that there are independent tests for compliance and that they are repeated at intervals until you know that what's going on meets the FCC guidelines which we're not allowed to question. You should set out exactly what you're going to permit as to the power level, the frequency bands, the antenna gains, and whatever other technical criteria are necessary to know that you're not giving the kids the keys to the car without any restrictions. You should get indemnification from these people. If it's so safe, then they should indemnify the town and the tax payers from any lawsuit because it's just a matter of time before they happen and like asbestos, everybody is going to be on the wagon. Lastly, you should increase the taxes that the applicant pays on their real estate to adjust for the income that they're going to get from this non-conforming use that you're going to allow.

Mr. David Douglas stated we don't have that power.

Mr. Larry Provost stated you don't have that power.

Mr. David Douglas stated we're the Zoning Board.

[Inaudible 37:58]

Mr. Wai Man Chin stated excuse me, you have to come up and talk or don't talk.

Mr. Larry Provost stated the value of the neighboring properties are going to fall if this goes through and there should be some financial adjustment that the town makes to get that money back because if the property's worth less, the tax base is less and I can expect that people are going to be paying less taxes. That's my presentation. In closing, let me find it. I don't have the slide. The cover of this FCC document, which I'm sure you've read: A Local Government Official's Guide to Transmitting Antenna RF Emission Safety, Rules, Procedures and Practical Guidance. I assume that you guys have read that, yes? No answer.

Mr. John Mattis stated the Engineering Department does that...

Mr. David Douglas stated you were concluding your remarks.

Mr. Larry Provost stated I am concluding. I just wonder. Have you guys read this document?

Mr. David Douglas asked why don't you just please conclude your remarks?

Mr. Larry Provost stated I'm trying to. The front cover has a picture of two hands shaking and I submit that if you're going to shake hands with these people you should count your fingers after the handshake. Thank you.

Mr. Wai Man Chin asked can I ask you a question? You show us a cell phone that you have from 1985, can I ask you why you bought it?

Mr. Larry Provost responded why did I buy it?

Mr. Wai Man Chin responded yes.

Mr. Larry Provost stated so I could talk to people.

Mr. Wai Man Chin asked do you have a cell phone now?

Mr. Larry Provost responded I do, so does everybody else.

Mr. Wai Man Chin stated I'm sure 99.9% of the people have a cell phone.

Mr. Larry Provost stated I was an early adopter. I was the first kid on my block: \$2,500.

Mr. Wai Man Chin stated I had one in 1985 also. I had the same thing.

Mr. Larry Provost stated yes, okay, maybe we can clone them.

Mr. Jim Levitz stated I'm Jim Levitz and I live on Quaker Bridge Road in Ossining.

Mr. David Douglas asked what number Quaker Bridge?

Mr. Jim Levitz responded 35. There are several issues here. I'd be curious, do all of you live in Cortlandt?

Mr. David Douglas responded we all live in Cortlandt.

Mr. Jim Levitz stated you all live in Cortlandt.

Mr. David Douglas stated it's required. We have to. It's a requirement.

Mr. Jim Levitz stated my apologies for asking. I should have known.

Mr. David Douglas stated no, there's no reason you need to know this.

Mr. Jim Levitz asked do any of you, from your house, see a cell tower? Do you live in a multi-unit residence? So one of you do. I have had commercial properties where cell towers have been put on the roofs, high rise buildings. In the general character and nature of commerce, allows for placement, at times, on the roofs of commercial buildings or, as the gentleman prior to me mentioned, on tops of very high elevation locations where they're not really residential. I would submit to you that you need to put yourself in the place of the families who have valuable homes, this is a very lovely residential area, and see if you would want a cell tower, 140 feet, that's 14, 15 stories and with additions over time, put in your view of your property. I know Mr. Heady, I don't know you and I don't know you Mr. Chin and John Klarl, or any of you but I would suspect that if the place in this room was switched, you'd be standing here at the podium.

Mr. Wai Man Chin stated I lived in Cortlandt or Croton area for 40 years. I come out on my road and I turn the corner and I see a cell tower.

Mr. Jim Levitz stated and where is that cell tower?

Mr. Wai Man Chin stated that's right on 129.

Mr. Jim Levitz stated ah 129! Tell me about 129.

Mr. Wai Man Chin asked what about it?

Mr. Jim Levitz asked is it a nice, quiet country road with...

Mr. Wai Man Chin stated right behind you is East Mount Airy Road. It's all residential there.

Mr. Jim Levitz responded it is?

Mr. Wai Man Chin stated yes.

Mr. Jim Levitz stated so two wrongs make a right.

Mr. Wai Man Chin stated not saying that.

Mr. Jim Levitz stated I think really what I'm saying here is very clearly: this is not zoned normally for this. This is an area of beautiful houses, not \$300,000 houses. These are 500, 800, a million, two million dollar homes and their property values will get clobbered. If you're in a rather pedestrian suburban area, your property values don't get hit as hard so maybe you say, Mr. Chin, that doesn't matter.

Mr. Wai Man Chin stated I had a couple of houses sold recently off my property right there, it sold for a half a million dollars and they can see part of that tower.

Mr. Jim Levitz stated and you know something, there's no million dollar homes around you.

Mr. Wai Man Chin stated there is.

Mr. Jim Levitz stated yeah right, okay. I'm not going to debate it.

Mr. David Douglas stated let's not debate the relative property value of the houses in different parts of the town.

Mr. Jim Levitz stated yes Mr. Chairman. The rationale of, if you want good cell service, you've got your cell phone. That's the most absurd rationale I've ever heard. That's like saying: drink the poison if you want to have better service. I don't think one has to do with the other. The woman in the front row here made a very valid point, a really smart point. It said: there are many opportunities and many options and I know from being an owner of several buildings that have cell towers on them that there are all kinds of options for the cell tower for the phone companies. Why not go where it isn't going to be so disruptive where you have to have a Variance to change the use of the land in a residential location.

Mr. David Douglas stated a Variance isn't required.

Mr. Jim Levitz stated excuse me. What was the word?

Mr. David Douglas the way the law is set up. A Special Permit is required for any cell tower in this town, regardless of the location and there are various areas to be looked at first and there's issues about cell coverage and co-location and those are the factors that we look at, those are the factors that are in the law. So, we are looking at those factors.

Mr. Jim Levitz stated in cell coverage co-location, I don't know the terminology but I do know one thing: everybody can't have 5G. If you want to have everybody having 5G in every location, then you have a meltdown. Come on. You'll glow. To be here up in Cortlandt 30 miles or 20 miles from a beautiful neighborhood down south from here and be making a decision that is going to basically deface a beautiful residential area when there are other possible options, is downright irresponsible.

Mr. David Douglas stated if there are other options that can serve the purposes that's -- as of a matter-of-fact, that's one of the major things we're considering, exactly.

Mr. Jim Levitz stated then Chairman, I would ask -- I would reinforce the request that was made, I don't remember who made it, of take this to an independent level and have somebody else evaluate whether there are plausible options and it should be an independent consulting engineer. There's millions of them. Pick one that maybe -- just like they do an arbitration, you know? The concept of independently pick two and they pick one.

Mr. David Douglas stated well actually in arbitration, usually, each side has its own experts so that's not a good analogy but that's okay.

Mr. Jim Levitz stated maybe not, mediation, I don't know. The concept of fairness is what I'm getting at so please don't take me to task on technicalities or terminologies.

Mr. David Douglas stated I'm not trying to take you to task.

Mr. Jim Levitz stated but fairness of process, fairness of due process, it's sort of good civil liberties of taking care of our community. Thank you very much.

Mr. Andrew Sass stated good evening. I'll be very brief.

Mr. David Douglas asked your name?

Mr. Andrew Suss stated again, good evening. My name is Andrew Sass. I reside at 2210 Quaker Ridge Road. I don't envy you. You have a very tough job. There is no question about it. This is a serious issue. The Greater Teatown area is under an assault and I do mean and use the word in its right definition. What used to be and what we, as neighbors, want to preserve for future generation and our enjoyment, a beautiful, unique, residential area is now being attacked by a number of proposals that cut through the heart of what this area is all about. I am not telecommunication expert yet, I did go and see the balloon test. Even with full foliage, it was

visible. Do we really need another eyesore? Do we need another structure that is not going to bring any value to the neighborhood? On the contrary, it will raise serious issues in terms of mine and my neighbor's values, enjoyment of tranquility, peace and esthetical beauty of our area. Please consider another important factor. Verizon has options. It does not pay a great deal of technical expertise to see that they are viable, they are right there. Are they more expensive? Probably. Would I want to go the least, the path of least resistance as Verizon is following? Yes, but it is your job, as our representatives, as somebody who is on our side of the barricade, meaning: concerned with preservation of the law. Let's do one simple thing: make Special Permit really special. Thank you very much. By the way, my Verizon phone works very well on Quaker Ridge Road.

Mr. David Douglas asked anybody else want to be heard? If nobody else wants to be heard, Mr. Sheridan are you standing up or not? No, okay. As noted before, we're going to keep the public hearing open and we'll have – somebody will make a motion to adjourn it to next month. We'll continue next month.

Mr. Wai Man Chin stated I'm going to make a motion to adjourn to the November meeting.

Seconded with all in favor saying "aye."

Ms. Adrian Hunte stated it's November 16th.

Mr. David Douglas stated thank you. November 16th.

B. CASE NO. 2016-19 Desire Casado Miller for an Area Variance for the front yard setback to construct a porch on property located at 11 Ogden Ave., Cortlandt Manor, NY.

Mr. David Douglas stated Mr. Hoch, I believe that you said that Ms. Miller asked to adjourn this until next month, correct?

Mr. Ken Hoch responded they did and then they submitted plans so I don't know if they're here tonight.

Mr. Wai Man Chin stated we just got the plans now.

Mr. David Douglas stated we just got the plans. We're not going to deal with them.

Mr. John Mattis stated I'm going to move that we adjourn case #2016-19 to the November meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated case #2016-19 is adjourned until November.

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Mr. Ken Hoch stated Mr. Chairman? If you could, Mr. Lanzano just walked in so maybe we can tell him that he was approved.

Mr. David Douglas stated your Variances were approved. You won. You got what you wanted.

C. **CASE NO. 2016-20** **John Kane** for an Area Variance for the side yard setback to construct a garage with storage above, and an Area Variance to allow an accessory structure, a shed, in the front yard on property located at **14 Buena Vista Ave., Cortlandt Manor, NY.**

Mr. John Kane stated good evening, John Kane, 14 Buena Vista Avenue.

Mr. Wai Man Chin stated we see that you gave us a new revised plan.

Mr. John Kane responded I did.

Mr. Wai Man Chin continued dropping the Variance that you required or that you asked for down another two feet which is something that the board was looking for and based on what you did and everything else I have no problem with giving you that Variance based on that.

Mr. John Kane responded thank you.

Mr. John Mattis stated I concur.

Ms. Adrian Hunte stated I concur.

Mr. David Douglas stated I think we all concur. Want to make a motion?

Mr. Wai Man Chin asked anybody in the audience?

Mr. David Douglas stated oh sorry. Anybody want to be heard on this?

Mr. Wai Man Chin stated I'm going to make a motion on case 2016-20 to close the public hearing.

Seconded with all in favor saying "aye."

Mr. Wai Man Chin stated I'll make a motion on case 2016-20 to grant an Area Variance from side yard setback from a required 30 feet down to 10.92 feet for a two-car garage with a storage

room above and the Area Variance to allow an accessory structure, 10' x 20' shed in the front yard, 22 feet from the Birch Brook Road setback. This is SEQRA Type II. No further compliance is required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Variances are granted.

Mr. John Kane stated thank you very much.

Mr. David Douglas stated you'll see Mr. Hoch with whatever paperwork you need.

Mr. Ken Hoch stated I'll get in touch with you.

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NEW PUBLIC HEARINGS:

- A. **CASE NO. 2016-22** **Maria Tenesaca** for an Area Variance for playground equipment in the front yard on property located at **146 Locust Ave., Cortlandt Manor, NY.**

Ms. Maria Tenesaca stated hello. We're asking for a playground in the front yard because we don't have a backyard and all the backyard is just mountain basically.

Mr. John Mattis stated I went out and I looked at the front of the property. I actually drove up the neighbor's, on your right hand side as you're looking at your property and first of all you put a fence up, a solid fence but it's still very visible. It towers above the fence. Secondly, it's extremely visible to those neighbors every time they go in and out of their driveway. And third, on the right side of the property, if you'd clean that up a little bit, you could put either the trampoline or the swing set. You've got an old toilet sitting out there for Christ's sake.

Ms. Tenasaca responded yes, but right there...

Mr. John Mattis stated it's got to be cleaned up and you could fit some there and you have parking for about a dozen cars on the left side and that's level and you could put it there. Somebody has cut out, you do have a patio in the back and I couldn't see the rest of the property going up but if you really want a playground, I'd suggest that you cut out some property and you make it level there, you wouldn't need enough. It's totally, totally inappropriate to have it in the front yard. We've never granted that and this is very visible from the road and it's just an eyesore.

Ms. Tenasaca asked okay, can we get a Permit to cut up the backyard in order to put the

playground there?

Mr. John Mattis asked pardon me?

Ms. Maria Tenasaca asked would we get any permission, anything for us to cut some of the back so we can put a playground there?

Mr. Ken Hoch responded you'd have to file an application. You'd have to come in and talk to us about a topographical alteration.

Mr. Raymond Reber stated but you have quite a bit of space back there and it's a matter of picking a terrace. I've seen many properties where people, sometimes they have to go up a number of steps to get to another area and then they can kind of set up a terrace area and they'll have a patio or a playground or some people even put a pool which is up on the land. With that much land, there's got to be someplace where with obviously some rearranging and as Mr. Hoch says, you've got to work it out with the town and that's mainly because they don't want you to move a mountain. That's the issue. It's the extent to which you'll disturb the land but we do believe that there's got to be some space there that you can find that you can level enough for a playground.

Mr. John Mattis stated you're property goes back, what, several hundred feet in the back.

Ms. Maria Tenesaca responded well in the back it's only rock basically so that's why we asked for a playground in the front of the yard.

Mr. Raymond Reber stated there are ways to address it so I think you'd have to talk with the town and see what the options are because we do not – we have not approved anything for front yards like this.

Mr. David Douglas asked how do we want to handle this? We can either vote on it or...

Mr. John Mattis stated you've got an option. We can vote on this or you can withdraw the case, whichever you'd like to do.

Mr. David Douglas stated if you withdraw it and then go speak to Mr. Hoch and see what's necessary, that's one option. We can always vote and I think you see which way we're going to come out. It's really up to you.

Ms. Maria Tenasaca responded I'll withdraw the case.

Mr. David Douglas stated and please do speak with Mr. Hoch about different options as to you might be able to do something.

Ms. Maria Tenasaca responded okay.

B. CASE NO. 2016-23 Chi Ki Ho for Area Variances for the rear and side yard setbacks for existing additions on property located at 74 Cardoza Ave., Mohegan Lake, NY.

Ms. Nora Hildinger stated good evening Mr. Chairman and members of the board. My name is Nora Hildinger and I'm here representing to speak for the Ho's: Mr. and Mrs. Ho. I'm going to keep this very, very brief. A little background on this property, why we're seeking the two Variances. The original home, about 605 square feet of the home is prior to zoning and at some point – we're thinking approximately 1974 the dwelling grew, the footprint of the home grew and since around 1974 there's been no increase in the size of the home. We believe it's gone through a couple of owners but that's not really – we're not sure about that. What has happened is, Mr. and Mrs. Ho purchased the home approximately four months ago and they wanted to get a prior to zoning letter and when they went in to get a prior to zoning – which they need partially for the bank and also they wanted to do interior alterations. So when they went in to apply for the prior to zoning letter and to bring in plans for interior alterations, no alterations to the property, it came up that the home encroached on the side yard and in the backyard and the Building Department has told them they needed to go get a Variance. So for the following reasons I think the Variance should be granted: 1) the Ho's didn't create the situation, the situation has existed for many, many, many years. 2) That there's really no other way for them to live in the home and do the interior alterations they want without the Variance because they couldn't get a Building Permit to do interior alterations without the Variances. Because they don't have the Variances and they're unable to do the improvements on their home it's causing them a financial burden and also it goes even further that if they can't get the prior to zoning letter for the part of the house that was prior to zoning and the Variances they're going to have a problem with their financing. I think for a lot of reasons this would be a very logical two Variances to grant and that's it.

Ms. Adrian Hunte stated thank you. This is my case and the applicant is requesting the Area Variances for the rear and side yard setbacks for the existing additions. Of course, since they're already existing, the question is whether we will grant the Variances or make the addition have to be removed. Looking at the property, it appears as though on the left side of the property is vacant land.

Ms. Nora Hildinger responded yes.

Ms. Adrian Hunte stated and the right it appears that's not really an issue. To the rear there seems to be considerable distance between the property to the rear and also the property to the right. That property appears to be almost at the property line even closer than this particular 74 Cardoza Avenue is located. So, I don't see any undesirable change to be produced in the character of the neighborhood or any adverse impact or impact on the physical or environmental conditions in the neighborhood or district. It's not self-created since it was already existing so my inclination is to grant the Variances. My board members...

Mr. Wai Man Chin stated there's only one question: when they bought the property, the title company never picked this up at all?

Ms. Nora Hildinger responded they did not.

Mr. Wai Man Chin stated wow.

Ms. Nora Hildinger stated I think the property had changed hands a couple of times prior to this as well so it was just assumed that that was the size of the home. If you look at the home, you can see from the ridge line of the roof and everything that it's been like that for a long time.

Mr. Wai Man Chin stated I can see that but I'm just saying it's surprising that the title company didn't pick up that at all. Okay.

Ms. Adrian Hunte asked is there anyone in the audience that wishes to speak? I'll take that as a no. Hearing none, on case #2016-23 for a Chi Ki Ho for property located at 74 Cardoza Avenue for Area Variances for the rear and side yard setbacks for existing additions, side yard setback required 10 feet existing; proposed 4.7 feet, Variance of 5.3 feet or 53% and a rear yard setback of required 20 feet, existing 11.5 feet; proposed 11.5 feet which is 8.5 foot Variance of 42.5% I make a motion that we grant the Variances and I make a motion initially to close the public hearing.

Mr. Raymond Reber stated before we close on that, I had just a question for staff. Since this has never been reviewed, there was never any Building Permit or CO or anything issued. I think it's conditional that usually when we approve these things it's on the condition that it is certified by an architect, or engineer to the satisfaction of the town that these additions do meet code and that they're proper. Otherwise, we're approving something that maybe is not safe or properly constructed.

Mr. Ken Hoch stated the issue here is, Mr. Reber, is they have filed a Building Permit to basically remodel the entire home. At the time we're done, our thinking is they may not even need a prior to zoning. We're going to give them a CO, basically, for the whole house.

Mr. Raymond Reber stated that's fine. I just think that should be part – a condition of our approval that all that is...

Mr. Ken Hoch stated we haven't reviewed the building plans yet because we're waiting for the Variance but that's a possibility.

Ms. Adrian Hunte stated I believe I had a motion on the table to close the public hearing.

Second with all in favor saying "aye."

Mr. David Douglas stated public hearing is closed.

Ms. Adrian Hunte stated for the Variance, I make a motion that we grant the Variances. This is a SEQRA Type II action. No further compliance required.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the Variance is granted subject to the condition that Mr. Reber mentioned.

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Mr. David Douglas stated before we go to the last matter is Mr. Lentini here?

Mr. Ken Hoch stated Mr. Chairman, I checked the calendar again, we're within the 62 days.

Mr. David Douglas stated so we don't need...

Mr. Ken Hoch stated so we don't need him.

Mr. David Douglas stated thanks.

C. **CASE NO. 2016-24** **Hudson Ridge Wellness Center, Inc. and Hudson Education and Wellness Center** for an Area Variance for the requirement that a hospital in a residential district must have frontage on State Road on property located at **2016 Quaker Ridge Road.**

Mr. Bob Davis stated good evening. I'm Bob Davis, I'm the attorney for the applicant and with me tonight is our traffic engineer, Richard Pearson and also our professional engineer Ralph Mastromonaco. We've given you a very comprehensive submission. So tonight I'll try to summarize the key points. That's going to take me a few minutes and then Mr. Pearson will discuss traffic, which is perhaps the only pertinent issue before your board with respect to this Variance. Most of the issues are really within the purview of the Planning Board which will fully review this matter. We made application to the Planning Board in July of 2015 for a Special Permit and site plan approval for a specialty Hospital to serve people suffering from alcohol and other substance use disorders. We require a Variance, such as you've granted in the past, from the State road frontage requirement, which was first imposed on hospitals in 2004. The Town Moratorium prevented us from moving forward until this past July. This use is consistent with the historical use of the site, which from the 1920's until about 1950 was used by the Lamb Foundation for the very same type of specialty hospital use that we seek tonight. In fact, the buildings were specifically constructed for that use. Later there were other types of institutional uses of the property. Special permits were issued by this board in 1957 for IBM and in 1967 for the Hudson Institute which used the property from the '60s into the '80s. A special permit was

also issued by this board in 1989 for another hospital, but apparently that use never commenced. (All three of those special permits issued by the board allowed 225 people on the property which is far more than we propose.) Since Hudson Institute, the property has been owned by a variety of corporate entities, including the Maharishi's. Until our client purchased the property in 2010, it had been in disuse for some years and it was really vandalized by trespassers who did a great deal of damage to the buildings, which became dilapidated and graffiti covered. The property was basically a haven for some time for illegal parties and illegal hunting. Since our clients took over however, they not only secured the property and stopped a major public nuisance in the neighborhood but they've spent over a million and a half dollars in repairing the buildings and bringing them up to Code. They've also installed fencing and put in extensive landscape screening around the perimeter. To allay the concerns, which obviously exist about this particular use, it's important to note I think from the outset what this Hospital will be and what it will not be. Most people are familiar with the Betty Ford Clinic in California and perhaps with Silver Hill and High Watch in Connecticut on which this Hospital will be modeled. There is no such other hospital in Westchester and given the well-publicized epidemic of substance use disorder in the region, there can be no denying the need for one. This will be a high-end Hospital for patients referred by medical professionals. Most will probably attend through corporate sponsored programs. Importantly, there will be no clients from the penal system or who are government assisted. This will be a private pay Hospital. However, our client will make substantial special accommodations for Cortlandt residents. It's also important to note that all of the patients will either have undergone detox elsewhere before admission or won't require it. They'll be pre-tested to make sure they're not currently on alcohol or drugs and, of course, there'll be no such substances permitted on site. Even so, there'll be extensive pre-screening and background checks. There'll be no one who has any serious psychiatric history, violent or criminal backgrounds. Notwithstanding that, there will be 24-hour professional security, and a well-recognized national firm in the field will manage this Hospital. In short, it will be a wellness center, intended to provide a very private and peaceful setting. There will be no disturbance, let alone danger, to the neighborhood, and the patients clearly won't want to be drawing attention to themselves. They're there voluntarily to get well. Importantly for this board, this is also a very environmentally friendly use of this 20.83 acre property. Only the existing buildings, which were designed for that purpose, will be used. No new construction is proposed. Accordingly, there will be no impact at all on any sensitive environmental features, including any trees, slopes or wetlands. The substantial existing open space, which is about 75% of the property will remain. There's only 2% building coverage and that will stay the same. An affiliated company has also purchase the adjoining 27.8 acre undeveloped site to the south which will not be built upon, but will remain as a buffer for the Hospital. Our client is willing to put place a restriction on that site to prohibit its development so long as the Hospital use is there. Significantly, our expert analysis demonstrates that there will be no adverse traffic impact. The patients will not be allowed to drive or have vehicles. Visitation will be limited to only one weekend day per month per patient. Unlike a general hospital, there is that very severe restriction on visitation, there's no outpatients, there's no emergency room or the other type of traffic generators a general hospital would have. The traffic will generally consist of only staff which we've allotted to non-peak traffic hours. We expect to incorporate other ways to further limit the traffic, including by shuttling of staff off-site in vans. There is readily sufficient private

water and septic capacity on the site, so there's no use of any public infrastructure or need to create any. There should be no impact whatsoever on off-site wells. As we've noted in our materials, the use is consistent with the Town's 2004 Master Plan and its Open Space Plan where the property's specifically mentioned as well as the 2016 Master Plan and if you look at page 86 of that you'll see the site mentioned as a place where the Town was concerned that the property might be developed in the future and the Open Space on it would be lost and that's not happening. Unlike the case with certain other permitted uses, the site will remain on the tax rolls. Based on our analysis, the taxes on the property will increase by over half a million dollars annually, even though there'll be no new school children generated and there'll be little use of Town services. In sum, we've looked at this very carefully. We really think this is the best use of the site and we think ultimately that the Town will think so as well because the proposed use will have much less impact on the environment and the neighborhood than other permitted uses as of right such as a full scale residential subdivision of almost 50 acres combined or particularly the types of schools or religious uses which have expressed interest in the site to our client and which are not subject to the State Road frontage requirement. As reflected in the materials we've submitted, this is a very well thought out proposal. It won't have a significant impact on the neighborhood and it will benefit the Town as a whole. It should be noted that, unlike many applications, the perspective patients are a protected class under the Americans with Disabilities Act and they are entitled to reasonable accommodations in the application of local zoning laws, such as the issuance of a Variance. As our analysis points out, due to the lack of available residentially zoned properties in town with accessible State Road frontage, the denial of the requested Variance would essentially serve to prohibit this type of hospital in the Town. With specific respect to the Variance that's requested, as the board well knows, it has to evaluate our client's request by way of a balancing test where it weighs the benefits to the applicant of granting the Variance against the possible detriment to the health, safety and welfare of the neighborhood and community. There are five other specific Variance criteria as well. As discussed in greater detail in my Memorandum at pages 39-49 in particular, our client's entitlement to the Variance we believe, is premised in large part on the expert analysis that we've set forth in our voluminous Expanded Environmental Assessment Report. Let's just take a look at the criteria generally tonight before we focus in on traffic. The benefit to the client is clear. It can't use the property any longer as a Hospital without a Variance. That has great significant economic value to our client but it also enables our client's principals to fulfill a very deep commitment to helping those afflicted with the disease of addiction. On the other hand, the substantial record demonstrates that the Hospital will pose no detriment to the health, safety and welfare of the neighborhood and community, but in fact they will provide significant benefits to the community as well as to the neighborhood. Among the substantial benefits which the granting of the Variance would afford the neighborhood and community, which we think easily off-set the minimal impacts, if any, are the following: 1. the continued refurbishing of the property and the buildings thereon and the securing of it against the problems of further trespassing. 2. A projected increase in real property taxes to the Town of some \$515,000 annually, that's an increase above what they're paying now, without generating any school children and with minimal use of Town resources. 3. 75% of the 20.83 acre property will remain undisturbed Open Space as will the 27.8 acre adjoining it, in furtherance of the Town's Open Space Plan. 4. Given the absence of any new construction, which would occur with other

permitted uses of the property, there will be no disturbance caused by the substantial demolition and construction activities and there will be no disturbance whatsoever to any sensitive environmental features of this site, such as wetlands, wetland buffers, steep slopes and trees, none whatsoever. 5. The Hospital will give preference to Cortlandt residents by setting aside a reasonable number of beds at all time for those residents affording some annual scholarships to Cortlandt residents, and providing a favorable sliding scale fee type of structure augmented by the acceptance of their private insurance. 6. Our client will also work closely with the Town and community organizations on a no cost basis, to address the substance use epidemic in the Town and region including by providing speakers and programs for the Town and schools and local organizations such as D.A.R.E. and Cortlandt and coalitions with whom it's already been involved. With respect to the first specific Variance criterion, whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties. For all of the reasons we've stated already, we don't feel there will be any such detrimental change. The use is consistent with the historical hospital and other institutional uses of the site and the buildings. Only the existing buildings and existing access drive will be used. There will no additional buildings. Substantial additional landscape screening and fencing have been added. More screening has yet to be added. As I said, 75% of the property will remain as Open Space with only 2% building coverage; 20 is allowed by the way. 27.8 acres adjoining will remain undeveloped. The property is secured now from trespassing and will be. Our client has invested and will continue to invest substantial sums to repair and renovate the existing buildings, bring them up to Code. There are no demonstrable traffic or other negative impacts and there are other institutional uses and commercial uses to some extent in the near vicinity. With respect to the second criterion, whether the benefit sought by the applicant can be achieved by some other method feasible other than a Variance. The simple answer is no. Absent of Planning Board waiver of the Frontage requirement, which the Town has already indicated in the past, the disputes and is not forthcoming, a Variance from the State Road frontage requirement is necessary for the Hospital use. With respect to the third Variance criterion, whether the Variance is substantial. As the board knows, the courts require that that is not a determination made as a purely mathematical computation, which would lend itself really to this road frontage Variance anyway, either you're on the designated road or you're not. Substantiality must be reviewed under the law in context. For all of the reasons we've just stated, we feel that the Variance is not substantial. Moreover, while the Town's legislative history on the amendment in 2004 which we foiled, doesn't indicate this, presumably the State Road frontage requirement is intended to prevent the impacts of a high traffic use, such as a general hospital, on local residential roads. In this case, the expert analysis demonstrates that there will be no such significant traffic impacts from this particular type of specialty hospital. Also, the substantiality of the Variance is mitigated by the fact that the property otherwise far exceeds all of the applicable bulk requirements for a Hospital special permit. I've outlined those on pages 45 and 46 of my Memo, and they include such things that were twice as big as the minimum lot size requirement out of I believe five times the lot area required per bed and about 6 times the required frontage length for example. With respect to the fourth criterion, whether the proposed Variance will have an effect on the physical environment or environmental conditions in the neighborhood. Again, as we pointed out, there's going to be no adverse environmental impact. There's no new construction, so there's no impact on any sensitive physical or environmental

conditions. As demonstrated by the expert traffic analysis, which Mr. Pearson will go over the traffic impacts will be minimal at most. Substantial Open Space will be preserved on the property and the adjoining property. Wells and septic are in the jurisdiction of the County Health Department but given the substantial distance away of the nearest off-site wells, there should be no impact at all. The property is not located on an aquifer. It's not in an Aquifer Protection District. It's not in the New York City Watershed, not that it would affect those things in any event. There'll be very minimal medical waste generated on this property, so little that it's only picked up a couple of times a year. It's very limit in nature and quantity and we talk about that in our materials. With respect to the fifth criterion, whether the difficulty was self-created, which as you know is relevant but doesn't preclude the issuance of a Variance. We would submit, under the circumstances, there is no self-created difficulty with respect to the State Road frontage Variance. Given the long historical use of the property for the same type of specialty hospital and the construction of the buildings for that very use, the issuance of a special permit by this board, by court order in 1989 for a hospital with far more combined patients and staff than we propose. The other special permits issued by this board also before the 2004 amendment to IBM and Hudson Institute, all three of those special permits they must have been based one on the other in this regard and this allowed 225 people on the site. The access drive remains in the same location, isn't being changed. We had a precedent in 2010 by this board with the issuance of a similar State Road frontage Variance to the local Yeshiva, had occurred prior to our client's purchase. The status of our client, of course, is a federally-protected class. Finally, with respect to that Yeshiva precedent, certainly that we think provides strong additional support for the Variance even though we've met all the criteria. We discussed that at length at pages 13-17 of my Memorandum. In an essence, the Yeshiva permit allows far more people on its site, a total of 300, than we propose and our expert has analyzed that particular road that the Yeshiva's located on and it has pretty much the same traffic characteristics we found as Quaker Ridge Road. At this juncture, I thank you for your time and I'll turn the floor over to Rich Pearson, will take you through what we think is the germane issue for this road frontage issue which is traffic.

Mr. Richard Pearson stated good evening. My name is Richard Pearson. I'm a professional engineer and a professional traffic operations engineer. I'm a senior associate principal with JMC out of Armonk and I've been with the firm preparing traffic studies for nearly 33 years. I'm a fellow of the Institute of Transportation Engineers and our office prepared the expanded Environmental Assessment which was submitted to your board which included the traffic analysis that we prepared. Included in the report was level of service tables, which summarize the operations of the intersections that we studied. We looked at the site driveways as well as the three intersections to the south of the site driveway which is the intersections of Quaker Ridge Road and Glen Ridge Road and Glen Ridge Road Extension. Excuse me, Glendale Road, thank you. The results of traffic studies are quantified in terms of levels of service. Level of service is similar to a report card, in this case, with level service being the best when it is level service A or represents the shortest delays and longer delays are level service F. In this case, all of the movements that we analyzed during the peak hours of the roadways operated at a level of service A. This table 3C-2 represents conditions during the peak weekday a.m. hour and table 3C-3 represents conditions in the peak p.m. hour. All the movements operate at less than 10 seconds

delay and this represents conditions in the peak 15 minutes of the roadway peak hours, based on the several hours that we counted along the area intersections. This also includes a very conservative analysis of our traffic, which could potentially be generated by the site, as I will get into next. All the information was submitted to the board. I can turn this around if you'd like so that both can see. Whatever you prefer Chairman.

Mr. David Douglas stated that's fine. You can turn around. Whatever you prefer.

Mr. Richard Pearson stated again, all the information has been submitted to your board and the information that I'm providing is in those reports and I'm simply summarizing information that's on the table.

Mr. David Douglas stated if it makes members of the public feel any better, I can't read it from here either.

Mr. Wai Man Chin stated JMC, is that John Myers?

Mr. Richard Pearson stated we were formerly known as John Myers Consulting. We had a change in some of the ownership. I'm a portion of that ownership and we renamed ourselves a couple of years ago.

[Inaudible 1:28:15.]

Mr. David Douglas stated let's let him finish.

Mr. Richard Pearson stated this table 3C-4 has a comparison of traffic volumes from our use compared to other uses that could be provided on the site, as Mr. Davis had mentioned. Our use we vary it conservatively looked at the traffic generation without any credit for the anticipated use of vans and also we did not – we essentially combined the traffic from two shifts in the morning into one shift and we also superimposed our traffic on the area roadway peak traffic even though they are out of phase with each other. As you can see and what we submitted but can't see on what I have here, there is substantially more traffic that could be generated by the site. For example, a private school could generate approximately 212 peak hour trips during the weekday p.m. hour. A place of worship with religious school would generate up to 175 trips. General office building, a government office building would generate approximately 122 trips and a medical dental office building would generate approximately 124 trips in a peak hour.

Mr. David Douglas asked can I make a request for next – we're obviously not going to close the public hearing at the end of today, but for next month's meeting, could you coordinate with Mr. Hoch and get him the slide so that they can be put on – we have these large screens here and it seems to be better for the public to be able to see it. In fact, for the members of the board to be able to see it. We have the hard copy.

Mr. Richard Pearson stated I apologize and we will do that for the next meeting.

Mr. David Douglas stated that's fine.

Mr. Richard Pearson stated regarding the specific traffic to be generated by the site, it's table 3C-5 from our submission, it's on page 51 of the submission. There are shift changes at 6:00 a.m., 9:00 a.m., 2 p.m. and 10 o'clock p.m. and we, again shift, what we're calling shift 1 and shift 1A. Shift 1 being at 6:00 a.m. and 1A at 9:00 a.m. For the shift 1 there would be a total of 22 entering employees and 11 exiting employees. Again, the patients themselves would not be driving so it's employee-related traffic and then the occasional delivery. With a van there would be an expected reduction of 10 entering employees using that van and then the van itself would be a trip. So there would be a net 13 entering and 8 exiting during the 6:00 a.m. hour and at 9:00 a.m. there would be 19 entering and no exiting vehicles during that time. What we did, again, we conservatively did not take any credit for the van and we combined shift 1 and shift 1A for a total of 41 entering and 11 exiting although those numbers are higher than what's actually expected. At 2 o'clock p.m. there would be 34 employees entering and 41 employees exiting. Again, with the use of the van it would be expected to be approximately 28 entering and 32 exiting and what we have done with the traffic study, again, is to not take credit for the van and we have superimposed those vehicles over the peak roadway hours. Even with that conservative analysis you end up with level service A, the best possible levels of service. With the overview of the traffic mitigation factors that, again is in the information that we've submitted, the clients will not drive and there will be no visitors except on weekends when only 25% of the client's potential visitors will be permitted to come to the property. Clients will typically be transported to and from the hospital by shuttle vehicle operated by the Hospital which will pick them up and drop them off at their home, train station or other locations as required. The majority of the site traffic vines will be comprised of staff spread over four sifts. A portion of the employees will use the shuttle van and then other than shift 1A, the employees will be leaving at 5 o'clock and all of the traffic is out of phase with the peak hour of the roadways. The greatest number of trips occurs in the afternoon at 2:00 p.m. This is the time when it is not the peak hour of the roadway and, in general, all of the vines along Quaker Ridge Road are relatively low in terms of other traffic studies that we prepared at other locations. To provide a very conservative analysis, we have superimposed the shifts; combined shifts 1 and 1A and superimposed them onto the peak hour of the roadway. We have not, as I mentioned before but just to summarize, we have not taken any credit for the employees using the shuttle vans and have not deducted those from the roadway. Trips by third party providers such as delivery of food, perishable, pharmacy, paper, office supplies, garbage collection, laundry, ground maintenance will average approximately one vendor per week and that would be one or two per day. For each of those uses that I mentioned would have one per week so there would be a couple per day on average. The one year census for the specialty hospital is less at the beginning than what it ultimately would be. It would be expected to be approximately five years for a full utilization of the property. What we also did is we did a traffic count at the High Watch Facility in Connecticut and those volumes were lower than what we've projected for our use, considerably lower than what we projected. Rather than using those volumes and prorating them up to our number of beds we've done a more conservative analysis. That essentially summarizes my presentation.

Mr. Bob Davis stated if you have any questions we'd be happy to answer them.

Mr. David Douglas stated I don't think we do at this time, unless – no, I don't think we have any questions right now.

Mr. Bob Davis asked Mr. Chairman, I made copies of the outline I used in my remarks. May I give them to Mr. Hoch?

Mr. David Douglas responded sure. Anybody else would like to be heard?

Ms. Jamie Black stated good evening. I truly sympathize with anyone and anyone's family...

Mr. Raymond Reber stated for the recording, could you repeat your name.

Ms. Jamie Black stated her name, 35 Quaker Bridge Road. I live about 1,500 feet from the entrance to this specific property. Again, I sympathize with any person who is struggling with a drug addiction issue and any family who has a loved one who's struggling with a drug addiction issue. Again, the question really becomes: where is the location that can provide the best source of support for people who are being challenged with these issues, staying within the parameters of community? When you speak to this property, this property as you know, it borders the Town or Ossining also borders the Town of New Castle. Glendale Road; I don't believe it was mentioned, has a ten ton weight limit established on that road. Quaker Bridge Road, we have a ten ton limit established on our road. The Quaker Bridge has, I believe, a fifteen ton weight limit established on that. The reason that weight limits were established on our roads is because we do not have sidewalk. We do not have, what I would call safe and suitable roads but we do have children. We have people who are walking their dogs and we have kids who are riding bicycles. So that's why we established the weight limits, with the current level of traffic that we have in community. So if you were to permit this facility to go into operation, clearly we have a serious issue. One is; how are they going to get their goods? They are not going to get their goods by going on Quaker Bridge Road and they are not going to get their goods by going on Glendale Road and I can assure you of that. So, I'm not quite sure how these trucks that are supposed to service this facility are actually going to be able to transit in and transit out of the facility. Now, the statement about water: my well went dry so my house got put on public water. Talking about the distance of that property to an active well; 200 feet down the road #10 Glendale has an active well and they're taking their water and servicing their house from that well. So, the belief that that property and with the excessive amount of water consumption is not going to affect surrounding properties, that's a fallacy. We've invested in infrastructure so we do have sewer. We have public sewer. We have public water. With this facility, they don't have public sewer nor are they going to get access anytime soon to that resource. So the question is: where is all their sewage going to go? You have 96 people or 92 patients plus all the people that support them. Now, additionally, when you speak to community the question really becomes: what are we going to be? If somebody says; well that facility was a hospital. Well that facility may have been a hospital but it was a hospital before the surrounding community grew up around it. One can say; oh that's the fault of the surrounding community. No, that's how development works

and we have to look at what we are now versus what we were then. What I would ask you to do is to look at the situation of the property. If you have four shifts shifting in that neighborhood – my mailbox is right on Quaker Bridge Road right where it intersects with Glendale. The traffic level is very, very heavy in the mornings and at rush hour so I can't believe that it's going to be a situation that's not going to be severely affected by the addition of all of this staff to support this facility as well as the people who will come once a month to visit the people who are in residence. Now, additionally, the question always becomes with development and people who are looking to support community. Who are they? What's their track record? What are they really offering in terms of themselves back into community? Now, if I'm not mistaken, the applicant originally wanted to put a winery on this property. That was the vision. We're going to have a winery – we're going to sell wine to local supermarkets which obviously is illegal and in the interim we want to grow cash crops. Now, again, if I'm not mistaken, the applicant owned a home in Yorktown that actually caught on fire because there was an illegal pot growing operation in the basement. Okay, so that's not true. Now is the applicant also a person who had some responsibilities, legal responsibilities for people who was then identified as embezzling monies that were entrusted to him? Was that him? Now, the subpoena that got tacked onto my house that was supposed to go to 35 Quaker Ridge Road, the applicants bordering our neighboring property. Now, that subpoena was because they were being put into question for responsibilities for a lease that they were not adhering to. Is that this same applicant? Is that the same applicant or partner of the applicant who was arrested for a DUI who was found to be in possession of an illegal substance in their car? And then in terms of this graciousness about not developing the property next to it; that property got treed so much so that when you look at the deforestation report that property shows up because they almost clear-cut the property. And as far as being so gracious about not developing it, you can't develop a significant portion of it because it is wetlands. So, my request is to one: look who the applicant really is. Look at the history of the applicant and then look at sort of why the applicant wants to be in this property. Number four: look at the normal use of that area within community. That property has been fallowed for so many years; we now have a wonderful, quiet, residential community that is now living successfully in that area. So, I think what's really important with Cortlandt is you need to be sensitized to, and I know you are, to the needs of the applicant, obviously, but equally, if not more important is to the need and the successful operation and the maintenance of the property values of all of the people who now surround that property. Thank you very much for your time.

Mr. Mike Shannon stated good evening. My name is Mike Shannon. I live at 2022 Quaker Ridge Road. I'm an attorney. My property adjoins this site in question. If you look at that map, the dark land a little bit above it, that's my pine trees. I thank you for the opportunity to speak to you tonight. They are asking you to give them permission to proceed with a 92-bed drug rehab center with 92 employees, based on their filings with the Planning Board. This is a residentially-zoned area. One thing that was glossed over is that, while we may talk about protecting and trying to help those that have medical needs, this is a for-profit endeavor by them. There's a lot of issues that many people raised: environmental issues. My water is already impacted. We could talk about taxes. I guess I should appreciate that mine will likely go down quite a bit but I'm going to try to focus on two very narrow issues for you. These issues relate to their request that they be exempt from the requirement of having access to a State Road. There's a lot of shell

game activity going on here. They mentioned that some affiliate bought the property next to it some 27 more acres and they assure you that that's just going to sit dormant. When you look at the history of what happened here, there's a lot of questions, and two of those questions I think give rise to answers that require the denial of the application. First, under section 267-b of the town law, I just want to focus on two of the subdivisions: one is whether there would be an undesirable change produced in the character of the neighborhood or a detriment to nearby properties and the fifth test; whether the alleged difficulty was self-created. Now, in their presentation they talk a lot about the history, the fact that at one time this was a special use hospital. That was 68 years ago. Even I wasn't born then. If you look at the pictures that they present, there's one that's quite telling, it's on their exhibit 2A page 4. There's a picture of the facility. It looks like it's on the moon. There are no other houses there. So, what has happened since Dr. Lamb abandoned the hospital in 1948? There has been no hospital operating. They refer to the fact that in 1989 a special permit was granted for a hospital. That was not used and under your town law, within five years of non-use that became void. What did happen since 1948 is that the area became far more residential. The test I submit, when you look to your guidance under section 267 as to whether there's a change, you don't compare this to 1948. You ask yourself in 2016: is the operation of a drug rehab center in a residential community a change? And it is. Take a look at that picture carefully. See if you could find another home. My home on Quaker Ridge Road, I believe, is one of the oldest homes on the road. It's not there in 1948. It was built in 1986. Then go to the site, drive down Quaker Ridge Road. There are beautiful homes on both sides, keep going, go to Quaker Bridge Road. There are beautiful homes. They were not there in 1948 and I would suspect that if we put ourselves back in 1948 and Dr. Lamb were asking you, you would say 'no'. They had, for 68 years now, it was not used as a hospital. We have something else that happens in the meantime while these residences are being built. In 2004 the requirement was put in for a State Road; the requirement that they seek to be alienated of right now. It was not until 2010, according to their filing, that they invested the first dime into this property. They claim that one of their affiliates bought their property for a million and a half dollars and in 2012 transferred it to the applicant for zero. Their submission to the Planning Board of page 35 states in listing the ownership of the property, it lists the transfers that I just referred to; the acquisition in December 2010 and the transfer to the applicant in 2012 and it says right above it: some transfers which were in name only with nominal consideration are not listed. Why? I lived there since 2004. I saw – one thing I didn't see are all the wild parties that they refer to but I did see, starting after 2010, workmen. One went to cut down one of my trees. I asked him what he was doing, who he was working for. What were they doing to the property? Nobody would or could answer. This went on and on. They put a white fence between our properties. I asked the workers: who is this for? What's going on? My wife and I then tried to check with the town. Guess what? There were no filings. They give you the chronology of how they spent money beginning in 2010, how they did wonderful things for our community. How they put new roofs on. How they put a gate up. How they put some shrubs up and they tell you that they spent a million and a half dollars doing this. Five years of doing all these things and they didn't file anything with the town until July of 2015. So, I submit to you that there are two criteria under 267-b that you can deny this application for. One is the change in character, the detrimental change in character. This is not a locale for a special hospital. Secondly, you can deny it under the fifth ground in that this is entirely self-inflicted. They chose

a course of action of shell games, anonymity, secrecy, not conferring with the town, not filing with the town, not showing the courtesy of having their workers answer their next door neighbor's question and then they come in here and they say: we'll be harmed if we can't make a big buck. I'm sorry, the fact is that when they acquired the property, that rule was in place of requiring a State road. Whatever they did in fixing up the property was at their own risk. They chose to thumb their nose at this board. Finally, since I'm a lawyer I can't resist talking a little bit about the law. They cite as their principle authority to you the decision in the Yeshiva case. I thought it was quite interesting to look at that decision because it relates to the very criteria I'm talking to you about and that is what happened first. In Yeshiva, the decision allowing the permit stated in part: as a result, the town has no rational basis under New York State Law or compelling governmental interest under federal law to terminate the Yeshiva's use of its property on Furnace Woods Road. Terminate. It was not a situation of granting. It goes on to state that it also might be noted the requirement of a special permit under section 307 only came into the Town Code in 1994, 10 years after Yeshiva began its religious use of the property. That authority, I think, really dovetails nicely with the self-inflicted provision of 267. If they have a problem with the requirement of a State road, it's their own doing. They bought it. They bought the property knowing that restriction was in place. They did not explore with the community. They did not make any filings, exploring any permitted use and whatever they expensed, they expensed at their own risk. So, the choice that I think comes down to whether the hardship of these folks in trying to make a bigger buck on their profit. Obviously, the applicant has a no-cost basis having acquired it, zero, whether that should outweigh the substantial detriment to the community of entirely residential homes in the area. I thank you.

Mr. Brad Schwartz stated good evening Mr. Chairman, members of the board, Brad Schwartz from the law firm of Zarin & Steinmetz in White Plains. We represent Tom Secunda and a group of concerned citizens many of whom are here this evening and who also speak. I'm also joined by Nat Parish, a preeminent professional engineer and planner in the county for decades who has extensive experience in exactly these types of land use and zoning matters including SEQRA. Mr. Parish will also be speaking this evening. As we mentioned at the work session the other night, we just received a copy of Mr. Davis' memo late last week and a copy of the voluminous EA just yesterday. We're reviewing all those materials. I appreciate the board continuing this public hearing until next month when we will be making a written submission and addressing all of the technical and legal aspects of the application. We'll get that to your board before the November meeting. There are a couple of points I wish to make tonight. First, this application is fundamentally flawed because the applicant seeks an Area Variance rather than a Use Variance. The provision at issue, as has been mentioned a number of times tonight, is location on a State road in a residential district. That's a locational criteria which under the case law, and it's clear, Variances from location criteria require a Use Variance. This is not a dimensional requirement such as the setback, lot size, height. Dimensional requirements are – I should say Variances from dimensional requirements require Area Variances. This is a Use Variance application and we will brief that matter for you in our written submission. We believe, as a threshold issue, this application is null and void because it seeks the wrong type of relief from your board. Secondly, putting aside whether an Area Variance or Use Variance is appropriate here, we submit this application is very premature because the SEQRA process has

not started. We presumed that the Planning Board will serve as lead agency as part of a coordinated review. The Planning Board is processing the special permit application. My understanding is the Planning Board has not circulated intent to be lead agency, declared lead agency or has not made any determination of significance. When you have a coordinated review, your board, as an involved agency will rely upon the SEQRA review by the lead agency and all the documents that will be compiled and the studies performed. A number of the topics were mentioned by the applicant tonight in terms of trees, steep slopes, wetlands, traffic, consistency or we would argue inconsistency with comprehensive planning and the zoning. All of those issues will be analyzed during the SEQRA process which will allow your board to make an informed decision of the Variance application. We would submit at this juncture, the application belongs before the Planning Board and it comes back to the Zoning Board when the SEQRA process is much farther advanced. Again, we'll address that in our written submission. Last, you've heard a lot tonight about community character. You'll hear more about community character from many of the speakers and therefore, we would strongly encourage the board to schedule a formal site visit to come out to the site, experience the conditions firsthand and we think that will be very helpful to your board and your deliberations. I would now ask Mr. Parish just to come to the microphone and present his comments.

Mr. Walter Rizzi stated could I say something while he's passing those papers out?

Mr. David Douglas responded why don't you let Mr. Parish first? You'll speak after.

Mr. Nat Parish stated I'm Nat Parish. He's introduced me and I passed my resume around for the record. I'm a professional engineer in the state of New York. I'm also a full member of the American Institute of Certified Planners, IICP. I've been practicing planning, zoning, environmental impact consultant for over 40 years. I have appeared before your Planning Board on a number of occasions, Town Board. I haven't appeared before your ZBA. I'm quite familiar with the site. My former, many years partner Mike Weiner was the president of Teatown and I visited him in his home many, many times. I've just been retained a couple of days ago by Tom Secunda and the concerned citizens for responsible Hudson Institute Site Development. I haven't really had a chance to look at the whole record but I am convinced: number one that a full environmental impact statement will be required. There is no way, shape or form to look at it any other way. The fact that the applicant has submitted a 2 ½ inch volume, it doesn't pass for a full environmental impact statement because it's a whole process that's involved in that. We've seen that tonight, the deficiencies of that when we had Rich Pearson, who's a very competent engineer, present something that none of us could really see the charts he was talking from. He presented a lot of data but we can't analyze it because it's not in any written report that's there as part of a whole process. The SEQRA regulations, I should add, are very, very clear on the fact that producing a heavy amount of information as part of a long environmental assessment form, I don't want to get into too much into jargon but I'm trying to pass through that as against the orderly process that's required by the law and the regulations. This isn't met by just putting in a big volume with a whole bunch of things that isn't really on the record and available in a manner that the whole community can look at it and the hearings can talk about it and stenographic record with answers to questions etc. It's just a whole different process that

was put into place by the state specifically so there should be an orderly and comprehensive review. Now, in respect to this, I'm going to overly – coming months before your board. I assume this hearing is going to be held over and before the Planning Board look at a whole bunch of issues. The basically -- that I know exist here -- basically there's a question really of consistency with the comprehensive plan and it's been glossed over tonight. We're going to go over that in detail: consistency with the character of the community. There are various code interpretations including the whole issue of the state frontage requirement that require a lot of technical detail and examination. There's the whole range of SEQRA issues that can't be just: oh yes, we're going to have a well on the site. Oh yes, we're going to take care of drainage. We need to have detailed studies of those and that's what happens with SEQRA and that's one of the things certainly all my associates will review. There are specific road and traffic impact. Pearson put into the record some data that has to be looked at carefully. There are other qualitative issues. He addressed it purely as a quantitative matter. There are a whole bunch of qualitative issues that were not discussed: safety issues. And then lastly, the SEQRA process requires one very, very important element that's totally missing which is to study what alternatives are. The gentleman, and I'm sure others will discuss, why they're concerned about this project. Certainly, that requires as part of the process, a discussion of what practical alternatives may exist to this action either to mitigate it or other alternatives. Those have to be part of a process. I will be discussing those over time. With that, I hope there'll be time to watch part of the debate tonight so I'm going to cut short and I look forward to talking to it in the future hearing. Thank you very much.

Mr. David Douglas stated the gentleman that got up before. Do you want to go now?

Mr. Walter Rizzi stated I live at 48 Old Albany Post Road. I don't want to hear anything like that. It's a back road. Come in, but it goes through that neighborhood too, right up the back. I'm retired three years. I've been home for three years. You've all forgotten one thing: your kids, your grandchildren. What happens? What time do they get up in the morning to go to school and what time do they come home? Think about them for a while. Mine grew up already. Thank you.

Mr. Eric Alderborg stated hi again, my name is Eric Aldgerborg and I'm here to speak on behalf of Tom Secunda who's out of town this evening, but I support the statement that's from Tom here. Tom has been a town resident and active in this wonderful community for 25 years and I, have been here for nearly 20. We felt incredibly insulted when our neighbor Mr. Steven Locker and his team of representatives questioned our credibility and referred to our opposition of this application as 'hysterical.' We are concerned citizens who are engaged in our community and in this process. We raised our families here. We understand the process of which we are now a part of and we intend to make our voices heard. To that end the Hudson Wellness application must be rejected by this board or any other board in Cortlandt which may have authority to evaluate it. This type of specialty hospital should be placed in the medical-oriented district or MOD in accord with Cortlandt's award-winning comprehensive plan. The town proposed the MOD to improved patient outcomes among the wide ranges of medical services and the Hudson Wellness facility would benefit from its inclusion in MOD. In contrast, the town clearly did not

intend for specialty hospitals of this type to be situated on lots that do not front on State roads. The town zoning code makes this proposition crystal clear. Tonight, the citizens of Cortlandt simply ask you to abide by the town zoning code and the intentions of the Master Plan in evaluating and rejecting this application. As our professionals shall demonstrate during this process, there is simply no legal or factual basis to grant Hudson Wellness a Variance from this requirement. Thank you.

Ms. Daria Greg stated my name is Daria Greg. I live at 51 Old Albany Post Road in the Town of Ossining. The reason I'm here is just at the southern border of this property, the other side of Glendale Road is the Town of Ossining. I live in the Crotonville section of the Town of Ossining. We are the funnel, the small section of the larger funnel that everything goes through, for the most part, to get to the train station, to get to Route 9 and because of those weight limits that our previous speaker was talking about, it is also the way that fire trucks from Croton to service Cortlandt come through. All the school buses come through us too. The traffic study that he was talking about seemed to be very focused on Quaker Ridge Road but he's not looking at the impact of all that traffic funneling down through Crotonville which I moved to in '85 at which point dogs could lay in the middle of the road without having to worry about being run over and now you take your life every time you walk down the street. I think there's a reason why the Town of Cortlandt required these kinds of facilities be on a State Road; it's for safety and I would think you would address that issue of safety. Is this really going to be able to service properly if there was a major fire or any other big event? Thank you.

Ms. Coleen Kirk stated good evening. My name is Coleen Kirk. I am a resident at 3 Quaker Hill Court West in Croton. Thank you very much for the opportunity to speak with you. I have been asked to speak on behalf of some of our community members to tell you a little bit about the area where we live and the character of the area. My husband Manford and I have been married 30 years and we purchased our home two months before we got married. When we first visited this area, we fell in love with it. We loved that there were newly built homes throughout this residential area yet we had peace and quiet and we could sit on our deck with nothing but the animals and the rustle of the trees for company. It was like we were living in the countryside with farms everywhere and then old historic stone wall rimming through our property. Through the years, we have cherished our country haven in Westchester. Our neighbors down the road have horses and chickens with freshly laid eggs in the summer. For decades, there has been a wild turkey family and their descendants who regularly cross the road in front of the Hudson Institute. The mother at the front, the father at the back and all the little babies all in a line between them and I dare say that many people in this room have probably had to stop their car to make way for the turkeys. We cherish groundhogs, toads, tree frogs and all manner of magnificent birds from woodpeckers and all kinds of humming birds, gold finches and even an occasional oriole. I've even grown tolerant of the deer and remarkably I appreciate the soulful howls of coyotes, on occasion at night, when my windows are open. The stars are vivid and my children grew up mesmerized by the brilliance of the Milky Way on a clear night and by meteor showers from our deck at 3 o'clock in the morning. It is a special area. For this reason, I cannot fathom why anyone would even consider establishing a commercial facility in our neighborhood. Is this really what we want for Cortlandt that we succumb to suburban sprawl and we relinquish

the unique character of this area? The Hudson Ridge proposal refers to a commercial facility that ultimately would have up to 133 parking spaces with 94 full time residents and at least that many staff members. According to the proposal, the traffic to accommodate the hospital would mean that cars and trucks would enter and exit the facility 324 times a day from 6:00 in the morning until 5:00 in the evening. The lights from the facility at night are already visible well beyond the property and even now, neighbors tell us the sounds of voices and cars are disturbing the peaceful character of the area. I dread to think about what the traffic and noise will mean for the rustle of the leaves on the trees that I heard this afternoon as I wrote this. It seems to me that there is a good reason that current zoning law requires that specialty hospitals be located on a State Road which Quaker Ridge certainly is not. If you have ever been up here you will notice that these are narrow, winding country roads with no shoulders, no sidewalks and no lighting of any kind. There is rarely a day that goes by that I'm not driving our neighborhood roads and passing, very carefully: people walking, runners, bicyclists, dogs and children who enjoy these meandering roads as much as we do. What would this enormous increase in commercial traffic mean for them? These roads are perfect for the unique residential neighborhood. We appreciate it so much when we came here 30 years ago with two acre zoning. They are not designed for commercial traffic. Finally, I would be remiss if I did not address an additional major concern and that is access to the limited water supply. We have known, since we came here, that we do not have unlimited water and we cannot water our lawn or plants for more than an hour and a half before our well begins to run dry and we have to wait a couple of hours for it to refill. More significantly though, in the 30 years that we have been here, we have had multiple periods of drought where we cannot take multiple showers and run the dishwasher at the same time without risking running low on water. All of our wells in the neighborhood draw from the same local aquifer and this is a shared residential resource. The applicant themselves estimate that Hudson Ridge would pull close to six million gallons of water a year from the local aquifer. That is completely out of scale with the typical use of a residential neighborhood. To give you an example, houses in Cortlandt average 2.3 people per household. According to the Environmental Protection Agency and other estimates, the average household water use per day is approximately 100 gallons per day per person. So if there were 10 houses, for example, on the Hudson Institute property that means that the 10 houses would use less than 840,000 gallons per year; far less than the six million gallons per year proposed by this commercial facility. I don't know where they think this water will come from. On behalf of all the residents of the beautiful greater Teatown area I ask you to please preserve and protect the unique character of this residential area by keeping it residential. Thank you.

Mr. Steven Hampton stated hello my name is Steven Hampton. I live at 2013 Quaker Ridge Road. I've been a resident there for the past 24 years. First of all, I'd like to thank all my neighbors and friends, all you 'hysterical people' who have shown because this is of great concern to all of us. I would like to start by talking about the well because they made a comment about how it's not going to impact us. In July this year, I had serious problems getting water into my home. I called [Shir 2:17] company which has serviced my well since I bought my home 24 years ago. They came out. They pulled my well. The first thing they told me is: you need to drop your pump 150 feet. Now this is just without six million gallons being drawn from the aquifer. This is just because of what's going on with the drought. No one knows when this

drought will end. No one knows what the consequences will be as they start pumping six million gallons a year. I do have a receipt here. I know you like facts. If you'd like to see the receipt for the work that was done I have it here. One of my biggest concerns because I had a few other things I wanted to talk about but a lot of people have quoted them but one thing that the board needs to know; the property is within a thousand feet of Little Lake which is down on Glendale Road. Little Lake is surrounded by a preserved wetland area, was established in 2007 by the county. The site of which they would put the septic fields is within 500 feet of the preserved area of the wetlands. Little Lake drains directly into Indian Brook Reservoir. Indian Brook Reservoir has more than 6,000 Ossining residents hooked up – over 6,000 hookups that service 32,000 people in Ossining. Now I know and all these people know because we all are on wells there, when you have a well you have to have, just to throw out numbers if you have a thousand square feet of septic field you need a thousand square feet in reserve by the county. There is a reason for that. The reason is that septic systems fail. If their septic system fails, because they're trying to run six million gallons through it, they will pollute Little Lake. They will pollute the Indian Brook Reservation. I would suggest that the board needs to contact the Town of Ossining, the county, the state and the DEC to make sure that these residents are not impacted by what could be a catastrophic incident. Thank you.

Ms. Dane Levenberg stated good evening my name is Dane Levenberg. I'm the Town Supervisor of the Town of Ossining. Many residents have recently contacted my office to express their concern – residents of the Town of Ossining from Crotonville and from the Waterview area that this is going to have a negative impact. We'd like to be listed as an interested agency so we can get all of the information. I'd reached out to the Town Supervisor and was told there was no application. Based on what I'm hearing tonight, I believe there must be some application of some sort to the ZBA I guess. I would like to make sure that we get all of the information so we can make sure that any concerns that we have, as a town, of impact to water, sewer, traffic and other safety issues are all going to be addressed. Thank you.

Ms. Karen Wells stated good evening. Karen Wells, 28 Applebee Farm Road; nice to see all of you again. Tonight, I would like to talk about first, the Master Plan. Implementing our award-winning Master Plan, the first several applications that come before this board will test our community's commitment to that plan. As the board is aware, according to Cortlandt's Master Plan the right location for the medical facility discussed today is within the medical-oriented district. Within this zone, a hospital focusing on chemical dependencies would benefit from expedited zoning process and enhanced infrastructure. All of which will bring these services to the community in a way that best serves the whole community. Yet, instead of partnering with us in developing their project in the medical-oriented district, the applicant and the professionals they have retained, insult our community. First, they move forward with work without proper permits, then they file lawsuits against the town even though they were here during the Master Plan process, they claimed they were not aware of it nor were they thinking that we would enact a Moratorium as we did the last time we went through our Master Planning process. In addition, after challenging the Moratorium in their most recent filings and at a presentation to the Town Board, they insult the community by calling into question our credibility and again calling us 'hysterical community members.' We are not 'hysterical community members' just because we

are participating in this process in questioning a 92-bed hospital in a residential zone. What we would like to see instead and what we are prepared to do by hiring an attorney and hiring our own experts is to bring to this board factual information to show that this project does not belong here and we start with the fact that this is an area where commercial properties would be a Use Variance, not an Area Variance. This, as mentioned to you before, has not been used for a hospital for an extended period of time and just in case, as they seem to think we are a simple local, don't get it and are not awed by their glossy presentation, they continue to raise the specter of legal action. As I've mentioned before to this board, one of the things I love about living in Cortlandt is we will not be bullied. We will not – see, everyone loves that about us. We're a scrappy community. So, hopefully, as we go through all of these relevant points, we will find that our Master Plan should not be compromised. Thank you.

Mr. David Douglas asked anybody else want to be heard? Any comments from anybody on the board? Okay. As I said before, obviously we're not closing the public hearing. We'll adjourn this matter and we'll continue next month and that there'll be further submissions from at least one representative, maybe from others.

Ms. Adrian Hunte stated I make a motion on case 2016-24, applicant Hudson Ridge Wellness Center for an Area Variance for the requirement of a hospital in a residential district must have frontage on a State road that we adjourn the matter to the November 16th, 2016 Zoning Board of Appeals meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated so moved. Anybody have any other.

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ADJOURNMENT

Mr. John Mattis stated I move that we adjourn the meeting.

Seconded with all in favor saying "aye."

Mr. David Douglas stated the meeting is closed.

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**NEXT MEETING DATE:
WEDNESDAY, NOV. 16, 2016**